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## **RWT Deductions on Dividends**

### **Legislation**

NF 2(1) If a person makes a payment that is or includes resident withholding income and is required to deduct resident withholding tax from the payment, the person must make a deduction –

(b) to the extent to which that payment consists of dividends (not being non-cash dividends), of an amount calculated in accordance with the following formula:

$$(a \times (b + c)) - c$$

where –

- a is the rate of RWT, expressed as a percentage specified in schedule 14, clause 2
- b is the amount of dividend paid (before the deduction of RWT)
- c is the total of the following amounts:
  - (i) if the dividend is paid in relation to shares issued by an ICA company, the amount of any imputation credits attached to the dividend:
  - (ii) if the dividend is paid in relation to shares issued by a company not resident in NZ, the amount of foreign withholding tax paid or payable in respect of the amount of the dividend:
  - (iii) if the dividend is paid in relation to shares issued by a company resident in NZ, the amount of any dividend withholding payment credit attached to the dividend.

Schedule 14, clause 2: For the purposes of NF 2, the rate of the RWT deduction from payments of resident withholding income, being dividends or replacement payments, for every \$1 of those payments is 33 cents.

Following the introduction of the corporate tax rate of 30% (subject to the transition provisions).

Payers of dividends imputed to 30% will be required to deduct 3% RWT from the cash amount paid to shareholders. No RWT deduction will be required if the shareholder has a Certificate of Exemption from RWT. The RWT deduction is required, regardless of the shareholder's marginal tax rate.

The definition of a dividend includes a distribution from a unit trust and any amount paid in excess of available subscribed capital on any redemption from a unit trust. Many fund managers will continue to operate unit trusts under the existing tax rules (legacy products) alongside portfolio investment entities (PIEs). Unit trusts will pay tax at the 30% tax rate from the first day in their 2009 tax year.

ISI submitted on the Taxation (Annual Rates, Business Taxation, KiwiSaver, and Remedial Matters) Bill in a generic way. Further analysis has generated additional concerns that need to be brought to the attention of officials.

We understand that the Corporate Taxpayers Group submitted against the RWT deduction requirement (as a consequence of the May Tax Bill) but have since been informed by officials that registry providers such as ComputerShare can reasonably efficiently account for RWT at 3%.

The funds management industry has two substantial issues that should be considered for non Portfolio Investment Entities ie non-electing Units Trusts.

The first is, the notional realisation of international equities, where the fair dividend rate applies. Whether a unit trust holding a portfolio of international equities (i.e. grey list equities other than Australia) becomes a PIE or not, does not affect the requirement to conduct the notional realisation. Any tax due under this notional realisation is paid at 33% and spread over three years. Therefore the final tax payment would not be due until after the imputation credit transition period. This will substantially disadvantage those unit trusts.

Further the investment and insurance industry is going through a substantive program of taxation reform. Including:

- KiwiSaver
- Collective Investment Vehicles (PIEs)
- Fair Dividend Rate Regime
- Life Insurance Review

This is without including the general taxation reforms that being undertaken such as research and development tax credit reform. The industry has actively supported the implementation of these reforms at significant cost, both in terms of investment and human resource.

While listed corporates may not have a major issue given they use Computershare and other registry suppliers, fund managers have traditionally operated their own registry. This has largely been undertaken as necessity because of the specific taxation law around unit trusts. The industry has determined that a significant number of in-house registries will not be in a position to deduct RWT, without substantial programming changes.

Given the huge amount of IT resource being consumed by the industry at present we believe it would be fair to assume that many existing unit trust registry systems will not be able to automatically deduct and file RWT, especially on redemptions, in the short-term. Thus fund managers will need to develop manual processes to calculate, deduct, pay and account for RWT to IRD.

### **Recommendations**

The ISI recommends that each of these issues is legislatively managed separately.

The deferment of tax paid under the notional realisation, can be fixed by creating a deemed credit to the imputation credit account upon the notional realisation or on a date specified such as 01/04/08. The ICA transition rules would therefore work.

Alternatively allow unit trust to continue to impute at a 33/67 ratio for an extended period.

The inability of the industry to deduct Resident Withholding Tax should be acknowledged. We recommend that unit trusts are exempted from the deduction of RWT until the 31/03/11 (i.e. a three year relief period from the requirement to deduct RWT at 3%).

The ISI would welcome the opportunity to discuss this further with you.

Deborah Keating  
**EXECUTIVE OFFICER**