



PROFIT DISTRIBUTION PLANS (“PDPS”)

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SECTION I: DEFINITION

<p>(1) Definition of a Profit Distribution Plan</p>	<p>Profit distribution plan:</p> <ul style="list-style-type: none"> (a) Means a scheme comprising 1 or more steps undertaken by a company by which it: <ul style="list-style-type: none"> (i) Notifies some or all of its shareholders that shares are to be issued on a particular date; and (ii) Gives the notified shareholders an option to have some or all of the shares issued to them repurchased by the company. (b) Does not include an issue of shares under a share purchase agreement or a share purchase scheme. <p>The definition of “share purchase agreement” in s. CE 7 applies: meaning an agreement to issue shares to an employee that is entered into in connection with the employee’s employment.</p> <p>[s. YA 1 definitions inserted by s. 154(31) & (37) of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>
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SECTION II: WHAT IS A DIVIDEND

<p>(1) The issue of a share under a PDP is a dividend</p>	<p>(a) A share issued by a company under a PDP is a dividend.</p> <p>(b) The amount of the dividend is the amount offered by the company for the repurchase of the share.</p> <p>[s. CD 7B(1) & (2) inserted by s. 7 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>
<p>(2) The repurchase of a share issued under a PDP is not a dividend</p>	<p>When a company has issued a share to a shareholder under a PDP and the shareholder exercises the option to have the share repurchased by the company, the amount paid by the company to repurchase the share is not a dividend.</p> <p>Section CD 22, which contains rules for determining the portion of a payment by a company that is a return of capital (and is not a dividend), does not apply in relation to a share issued under a PDP and repurchased by the company as part of the plan.</p> <p>[s. CD 23B & 7B(3) inserted by s. 9 & 7 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>

SECTION III: WHAT IS AVAILABLE SUBSCRIBED CAPITAL

<p>(1) A share issued under a PDP is available subscribed capital</p>	<p>(a) When a share is issued under a PDP, the amount offered by the company for the repurchase of the share is included in “subscriptions” for the purpose of determining the company’s available subscribed capital (“ASC”) under s. CD 43.</p> <p>(b) A payment by a company to repurchase a share issued under a PDP is included in “returns” for the purpose of determining the company’s ASC under s. CD 43.</p> <p>(c) A share issued by a company under a PDP is a dividend.</p> <p>(d) The amount of the dividend is the amount offered by the company for the repurchase of the share.</p> <p>[s. CD 43(6)(ab) & CD 43(2)(c) inserted by s. 10 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>																
<p>(2) Tax accounting entries when a share is issued under a PDP</p>	<p>The tax accounting entries will be as follows:</p> <p>(a) <u>Upon issue of the share under a PDP:</u></p> <table data-bbox="507 981 1412 1070"> <tr> <td>Retained earnings</td> <td>Dr</td> <td>\$XXX</td> <td></td> </tr> <tr> <td>Available subscribed capital</td> <td>Cr</td> <td></td> <td>\$XXX</td> </tr> </table> <p>(b) <u>Upon repurchase of a share issued under a PDP:</u></p> <table data-bbox="507 1160 1412 1249"> <tr> <td>Available subscribed capital</td> <td>Dr</td> <td>\$XXX</td> <td></td> </tr> <tr> <td>Bank</td> <td>Cr</td> <td></td> <td>\$XXX</td> </tr> </table>	Retained earnings	Dr	\$XXX		Available subscribed capital	Cr		\$XXX	Available subscribed capital	Dr	\$XXX		Bank	Cr		\$XXX
Retained earnings	Dr	\$XXX															
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PROFIT DISTRIBUTION PLANS (“PDPs”)

SECTION IV: TAXABLE BONUS ISSUE

<p>(1) A share issued under a PDP is a bonus issue</p>	<p>Bonus issue:</p> <p>(a) Means the issue of shares in a company, or the giving of credit for or forgiveness of an amount unpaid on any share in a company, if the company receives no consideration for the issue, crediting, or forgiveness other than the shareholder choosing not to receive an amount as an alternative to the issue.</p> <p>(b) Includes the issue of shares under a profit distribution plan.</p> <p>[s. YA 1 definition amendment inserted by s. 154(2) of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>
<p>(2) A bonus issue that is a share issued under a PDP is a mandatory dividend</p>	<p>A bonus issue that is not a bonus issue in lieu or a share issued under a profit distribution plan is a dividend if:</p> <p>(a) The bonus issue:</p> <p>(i) Is issued fully paid from reserves of the company; or</p> <p>(ii) If a dividend, would not be exempt income under s. CW 10 (Dividend within New Zealand wholly-owned group); and</p> <p>(b) The company chooses under this section to treat the bonus issue as a dividend.</p> <p>[s. CD 8(1) amendment inserted by s. 8 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>
<p>(3) A share issued under a PDP is a taxable bonus issue</p>	<p>Taxable bonus issue means:</p> <p>(a) A bonus issue in lieu.</p> <p>(b) A bonus issue that a company chooses to treat as a dividend under s. CD 8 (Elections to make bonus issue into dividend).</p> <p>(c) In the case of a bonus issue made before the enactment of this Act, a bonus issue that the company chose to treat as a dividend under a provision of an earlier Act corresponding to s. CD 8.</p> <p>(d) A bonus issue that is a dividend under section CD 10 (Bonus issue by foreign unit trust instead of money or property)</p> <p>(e) A bonus issue that is a share issued under a profit distribution plan</p> <p>[s. YA 1 definition amendment inserted by s. 154(39) of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>
<p>(4) The amount of the dividend includes any RWT payable</p>	<p>The amount of the dividend is the money or money’s worth offered as an alternative.</p> <p>[s. CD 7(2) amendment inserted by s. 8 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p> <p>Previously, the amount was “minus any RWT payable in relation to the dividend”.</p>

SECTION V: CALCULATION OF THE TAX ON SHARES ISSUED TO NZ RESIDENTS

<p>(1) Rule for non-cash dividends other than bonus issues in lieu does not apply</p>	<p>The general rule in s. RE 14 that applies to non-cash dividends other than bonus issues in lieu to NZ residents will not apply to shares issued under a PDP.</p> <p>Section RE 14 applies when a person makes a payment of resident passive income that consists of a non-cash dividend other than:</p> <ul style="list-style-type: none"> (a) A bonus issue in lieu: (b) A share issued under a profit distribution plan. <p>[s. RE 14(1) amendment inserted by s. 147 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>
<p>(2) The tax calculation rule for bonus issues in lieu will apply to shares issued under a PDP</p>	<ul style="list-style-type: none"> 1. Section RE 15 applies when a person makes a payment of resident passive income that consists of a dividend that is: <ul style="list-style-type: none"> (a) A bonus issue in lieu: (b) A share issued under a profit distribution plan. 2. The amount of tax for the payment is calculated using the formula: $[\text{Tax rate} \times (\text{alternative amount} + \text{tax paid or credit attached})] - \text{tax paid or credit attached}$ <p>Tax rate is the basic rate set out in schedule 1, part D, clause 5 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits): 33%.</p> <p>Alternative amount is, as applicable:</p> <ul style="list-style-type: none"> (a) The net amount of money offered as an alternative to the bonus issue before the amount of tax is determined; or (b) For a share issued under a profit distribution plan, the net amount offered by the company for the repurchase of the share before the amount of tax is determined. <p>Tax paid or credit attached is the total of the following amounts:</p> <ul style="list-style-type: none"> (a) If the dividend is paid in relation to shares issued by an ICA company, the amount of an imputation credit attached to the dividend. (b) If the dividend is paid in relation to shares issued by a company not resident in New Zealand, the amount of foreign withholding tax paid or payable on the amount of dividend. (c) If the dividend is paid in relation to shares issued by a company resident in New Zealand, the amount of an FDP credit attached to the dividend. <p>[s. RE 15 as amended by s. 148 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012]</p>

SECTION VI: CALCULATION OF THE TAX ON SHARES ISSUED TO NON-RESIDENTS

(1) Calculation of the tax on shares issued to non-residents	<p>Section RF 10 applies when a person makes a payment of non-resident passive income that consists of a non-cash dividend to the extent to which the amount is not fully imputed.</p> <p><u>Dividends that are not fully imputed:</u></p> <p>The amount of tax, when the payment is a taxable bonus issue, is calculated using the formula:</p> <p style="text-align: center;">(Rate A × dividend payment) + (rate B × amount paid).</p> <p>(a) Rate A is the rate of tax set out in section RF 8: 30%.</p> <p>(b) Dividend payment is the amount of the dividend paid calculated under s. CD 7(2), CD 7B(2) (in the case of a share issued under a PDP, the money offered by the company for the repurchase of the share), or CD 8(3) (which relate to bonus issues):</p> <p style="padding-left: 20px;">(i) Other than a dividend referred to in the item bonus issue:</p> <p style="padding-left: 20px;">(ii) To the extent to which the amount of the dividend is not fully imputed or fully credited for FDP (as described in s. RF 9 and RF 14), before the amount of tax is withheld.</p> <p>(c) Rate B is the rate of tax set out in section RF 7: 15%.</p> <p>(d) Amount paid is the amount of the dividend calculated under s. CD 7(2), CD 7B(2), or CD 8(3) together with the amount of an FDP credit attached to the dividend to the extent to which the amount of the dividend is fully credited for FDP, as described in s. RF 9(4), before the amount of tax is withheld.</p> <p>Note: The rate of withholding tax will be adjusted down to the maximum rate that applies under a relevant tax treaty.</p> <p><u>Fully imputed dividends:</u></p> <p>When a payment of non-resident passive income consists of a non-cash dividend, the rate of NRWT payable on the amount is 0% to the extent to which the amount is fully imputed.</p> <p>[s. RF 10(5) as amended by s. 151 of the <i>Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012</i> coming into force on 1 October 2012 and s. RF 10(5B)]</p>
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