

Reprint
as at 1 October 2019



Tax Administration (Binding Rulings) Regulations 1999 (SR 1999/236)

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 26th day of July 1999

Present:

The Right Hon Jenny Shipley presiding in Council

Pursuant to sections 91I and 224 of the Tax Administration Act 1994, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Inland Revenue Department.

Regulations

1 Title and commencement

- (1) These regulations may be cited as the Tax Administration (Binding Rulings) Regulations 1999.
- (2) These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

2 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Tax Administration Act 1994

applicant means a person who applies for a private ruling, a product ruling, or a status ruling

application means an application for a private ruling, a product ruling, or a status ruling

private ruling means a ruling of the Commissioner under section 91E of the Act

product ruling means a ruling of the Commissioner under section 91F of the Act

short-process ruling means a ruling of the Commissioner under section 91EK of the Act

status ruling means a ruling of the Commissioner under section 91GB of the Act.

Regulation 2 **short-process ruling**: inserted, on 1 October 2019, by section 375 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

3 Fees

- (1) Subject to subclause (1A), the fees payable in respect of an application for a private ruling, a product ruling, or a status ruling are as follows:
 - (a) an application fee of \$280 plus any GST, which must accompany the application:
 - (b) a further fee,—
 - (i) if the application for a private ruling, a product ruling, or a status ruling is received by the Commissioner on or after the commencement of these regulations, calculated at \$140 plus any GST per hour (or part hour), beyond the first 2 hours, spent in consideration of the application by the Commissioner, including any time spent by the Commissioner in consulting with the applicant; or
 - (ii) *[Revoked]*

- (c) reimbursement fees in respect of—
 - (i) any fees paid by the Commissioner to any person, if the Commissioner requires external advice in relation to the ruling; or
 - (ii) any costs and reasonable disbursements incurred by the Commissioner in relation to the ruling.
- (1A) No fee is payable under subclause (1)(b) for the time spent by the Commissioner (if any) in consideration of the following issues, including any time spent by the Commissioner in consultation with the applicant about those issues:
 - (a) the apportionment of income or expenditure under section YD 5 of the Income Tax Act 2007;
 - (b) the determination of an arm's length amount of consideration under sections GC 6 to GC 14 of that Act.
- (1B) For a short-process ruling, an application fee and further fees are payable at rates that are lower than those set out in subclause (1)(a) and (b), as determined and published by the Commissioner.
- (2) If an application for a private ruling, a product ruling, or a status ruling is withdrawn, the applicant is liable to pay all fees incurred before the Commissioner received notice of the withdrawal.
- (3) The Commissioner must ensure as far as is reasonably practicable that every effort is made to minimise the fees to which an applicant is liable in respect of an application for a private ruling, a product ruling, or a status ruling.

Regulation 3(1): amended, on 13 December 2001, by regulation 3(1) of the Tax Administration (Binding Rulings) Amendment Regulations 2001 (SR 2001/342).

Regulation 3(1)(a): amended, on 2 November 2012, by section 265(a) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Regulation 3(1)(b)(i): amended, on 2 November 2012, by section 265(b) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Regulation 3(1)(b)(ii): revoked, on 2 November 2012, by section 265(c) of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

Regulation 3(1A): inserted, on 13 December 2001, by regulation 3(2) of the Tax Administration (Binding Rulings) Amendment Regulations 2001 (SR 2001/342).

Regulation 3(1A)(a): amended, on 1 April 2008 (effective for 2008–09 income year and later, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Regulation 3(1A)(b): amended, on 1 April 2008 (effective for 2008–09 income year and later, except when the context requires otherwise), by section ZA 2(1) of the Income Tax Act 2007 (2007 No 97).

Regulation 3(1B): inserted, on 1 October 2019, by section 376 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

4 Commissioner to provide estimate of fees payable in excess of application fee

- (1) The Commissioner must provide an applicant with the Commissioner's estimate of the fees that will be payable (if any) in excess of the application fee.

- (2) If the Commissioner considers that an estimate provided to an applicant under this regulation is incorrect, the Commissioner must as soon as practicable revise that estimate and notify the applicant of the revised estimate.

5 Indication of time for issue of ruling in certain cases

- (1) If the Commissioner considers that it will take longer than 4 weeks to issue a private ruling, a product ruling, a short-process ruling, or a status ruling, the Commissioner must provide the applicant with the Commissioner's estimate of the likely date by which a ruling is expected to be issued.
- (2) If the Commissioner considers that an estimate provided to an applicant under this regulation is incorrect, the Commissioner must as soon as practicable revise that estimate and notify the applicant of the revised estimate.

Regulation 5(1): amended, on 1 October 2019, by section 377 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

6 Waiver of fees

- (1) The Commissioner may waive all or part of a fee payable under these regulations if the Commissioner considers it is fair and reasonable in the circumstances to do so, having regard to the nature of the issue that is the subject of the application, the level of skill and experience required in the consideration of the application, and any other relevant factors.
- (2) Subclause (1) applies if a person's application for the relevant binding ruling was received by the Commissioner on or after 7 September 2010.

Regulation 6: substituted, on 7 September 2010, by section 212 of the Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109).

Regulation 6(2): amended, on 18 March 2019, by section 378 of the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5).

7 Goods and services tax

[Revoked]

Regulation 7: revoked, on 2 November 2012, by section 266 of the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88).

8 Revocation

The Tax Administration (Binding Rulings) Regulations 1995 (SR 1995/80) are consequentially revoked.

Marie Shroff,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Tax Administration (Binding Rulings) Regulations 1999 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Act 2019 (2019 No 5): sections 375–378

Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012 (2012 No 88): sections 265, 266

Taxation (Annual Rates, Trans-Tasman Savings Portability, KiwiSaver, and Remedial Matters) Act 2010 (2010 No 109): section 212

Income Tax Act 2007 (2007 No 97): section ZA 2(1)

Tax Administration (Binding Rulings) Amendment Regulations 2001 (SR 2001/342)