

9 October 2019

Mr Anthony Jordan
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Dear Mr Jordan

Thank you for your request made under the Official Information Act 1982 (OIA), received on 15 September 2019. You requested the following:

...information that confirms whether or not:

- 1/ Monies obtained from any ACC arrears payout, will be taxed in the year in which the Arrears were derived or not*
- 2/ Inland Revenues Interpretation of the word 'Derived'*
- 3/ Given many payouts are significant sums, what tax coding is used*

Question One

Monies obtained from any ACC arrears pay-out will be taxed in the year the amount is derived.

The general rule for which income year an amount of income is allocated to is the year in which the amount is derived, unless there is a specific provision in the Income Tax Act 2007 (ITA) which provides for allocation on another basis.

Payments of ACC weekly compensation are classified as PAYE income payments. PAYE income payments include salary and wages which are defined in section RD 5 of the ITA to include an accident compensation earnings-related payment.

Section RA 5(2) of the ITA provides that an amount of tax withheld from a PAYE income payment must be withheld at the time the payment is made. This means that withholding will take place in the year it is paid.

Question Two

Section BD 3(3) of the ITA states that the interpretation of derived must give regard to case law.

The interpretation statement "When is income from professional services derived" provides a summary of the interpretation of "derived" and some relevant case law. The interpretation statement is available here:

<https://www.classic.ird.govt.nz/technical-tax/interpretations/2016/>

In line with relevant case law, current practice treats salary and wages (which includes ACC weekly compensation payments) as being derived on a cash basis.

Question Three

ACC weekly compensation is treated as employment income and standard tax code rules apply. Section RD 10 of the ITA provides that tax on PAYE income payments must be withheld in accordance with Schedule 2 of the ITA.

The rates for tax codes are set out in Schedule 2 of the ITA and the rules for the use of tax codes are set out in Schedule 5 of the Tax Administration Act 1994 (TAA). Schedule 2 Part A of the ITA sets out which tax codes apply to salary and wages and how the Commissioner's weekly PAYE table applies to these amounts.

A tailored tax code, formerly known as a special tax code, may be used to obtain a more accurate withholding rate. Schedule 5 Part B of the TAA sets out details around tailored tax codes.

Thank you for your request. I trust the information provided is of assistance to you.

Yours sincerely



Mike Nutford
Policy Lead, Policy and Strategy