



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

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W Edmonds

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Tēnā koe W Edmonds

Thank you for your request for information submitted on 19 December 2018.

You have asked about the rules and legislation which the Ministry of Social Development (the Ministry) follows when applying tax to an arrears payment that a client was entitled to several years earlier.

The Ministry completes retrospective actions using the current tax year and rate to determine the tax deduction. This is in line with the Income Tax Act 2007, administered by Inland Revenue (IRD), and based on the premise that tax is deducted at the rates that apply when any amount is physically paid. This treatment applies regardless of the period the payment is actually for.

In the case you have outlined, the back payment would be considered an 'extra pay' under the Income Tax Act 2007. The relevant sections are listed under Subpart RD-Employment-related taxes and are as follows:

- RD 7 – defines extra pay
- RD 10(2) and RD10(2B) allows the employee to elect the rate that is deducted, provided it is not less than the amount that would be deducted in RD17 (included below)
- RD 10(2C) and (2D) includes the amount of tax for non-resident seasonal workers and rates for extra pays for non-notified tax codes (when a tax code has not been provided to an employer)
- RD 17, references how the calculation of tax on an extra pay is calculated as an annualised figure.

You also ask about guidance provided to staff to apply these rules.

I can advise that these regulations/rules are built into our systems that create payments for clients. They are not applied individually.

It may also interest you to know that for all benefit types (excluding New Zealand Superannuation), are taxed using the M tax code.

If you, or anyone you know, has questions about the amount of tax deducted from your benefit, I would recommend that you approach the Inland Revenue to discuss your concerns.

Thank you again for writing. I hope this information helps with your research.

Nāku iti noa, nā

Elisabeth Brunt
General Manager
Ministerial and Executive Services