

# Draft Standard Practice Statement ED0208 Tax payments – when received in time

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*CA ANZ submission*



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Dear Rob

### **Draft standard practice statement: Tax payments – when received in time EDO208**

Thank you for the opportunity to comment on this exposure draft.

The key change in the Commissioner's standard practice regarding when a tax payment will be considered to be made on time is in relation to post-dated cheques. It is stated in the exposure draft and publicised in the media that Inland Revenue will no longer accept post-dated cheques for payment of taxes from 1 February 2019.

Our submissions are:

- The exposure draft should offer simple alternative means of payment for taxpayers who cannot or are unable to use internet banking.
- The Commissioner should continue to allow taxpayers to pay tax using post-dated cheques.
- The exposure draft should clarify the Commissioner's practice if a post-dated cheque is received but there is insufficient time for Inland Revenue to return it to the taxpayer.
- Should the Commissioner's change in practice regarding post-dated cheques proceed the phase in period should be extended to coincide with Phase 3 of Business Transformation.
- The Commissioner should consider accepting electronic payments as having been received on the date that the transaction has been initiated.
- The availability of payment facilities via Westpac ATMs should be confirmed.

### **Tax payment options**

Based on current trends it is likely that cheques will one day cease to be legal tender. Notwithstanding this, until that day comes, Inland Revenue should make every effort to ensure that any barriers to access to electronic payment options are removed; and that all taxpayers have simple options available to pay their tax on time without hassle or having to take on increased risk.

While we understand the drivers for the Commissioner's change in practice we are concerned that the change will unfairly disadvantage some taxpayers and make it more difficult for them to pay their taxes on time. Those most adversely affected include taxpayers living in the regions where postal services and banking/internet facilities are limited, or in some cases, non-existent. This may be affecting an increasing number of taxpayers with many of the

main banks (including Westpac) closing its branches in smaller towns around the country. Many affected taxpayers are elderly and/or vulnerable, or they are not computer literate. The exposure draft does not offer the aforementioned groups of taxpayers a simple alternative means of payment of taxes once Inland Revenue stops accepting post-dated cheques. We recommend that it does.

The exposure draft should also consider taxpayers whose only means for payment of tax is by cheque because, for example, there is a need for joint signatories. This is common for trustees of a trust. Internet banking is not usually an option for entities that require joint signatories/approval for payment as there is no facility for dual authorisation of payments. Therefore it would be imprudent for these taxpayers to adopt internet banking (i.e. it would increase the fiduciaries' risks of liability and compromise commercial standards). We acknowledge that under the Commissioner's revised practice taxes may continue to be paid by cheque, however, the change in stance regarding post-dated cheques may make it more difficult for this group to comply (especially in cases where post-dating is used as a strategy to alleviate the effects of an unpredictable/changeable postal service).

We recommend that the Commissioner continues to accept post-dated cheques from certain taxpayers such as those mentioned above. The exposure draft should also provide simple, efficient and workable tax payment alternatives. Furthermore, the Commissioner could consider introducing a pre-approval process to allow certain taxpayers to pay taxes using a post-dated cheque. This will ensure that taxpayers who are currently paying tax using post-dated cheques will be able to continue to comply with their tax obligations and that it will remain easy for them to do so.

### Insufficient time to return post-dated cheque

The exposure draft states that "Inland Revenue will use its best endeavours to identify post-dated cheques and return them to taxpayers if time permits." However, it does not explain what action will be taken if time does not permit the return of the post-dated cheque. The exposure draft should clarify this and confirm, for example, whether in these circumstances the cheque would not be presented and the taxpayer treated as having not paid the tax; or whether the cheque would be presented when received irrespective of the post-date (as currently drafted this appears to be implied in paragraph 17 of the exposure draft); what communication the Commissioner would send to the taxpayer and how that communication would be made; how the Commissioner will determine whether or not there is sufficient time for her to return the post-dated cheque to the taxpayer.

We note that the introduction in the exposure draft states that after 1 February 2019 Inland Revenue will present cheques for tax payments to a bank for payment at the time they are received. However, this statement is not included in the main body of the exposure draft (paragraph 17). When this statement in the introduction and paragraph 17 are read together it is not clear what the Commissioner will do with a post-dated cheque if received. This undesirable effect is further exacerbated where taxpayers/advisors read only the introduction and not the full document. The exposure draft should be reviewed and amended to ensure that the Commissioner's practice is clearly and consistently stated.

### Lead-in time for change in practice

Paragraph 17 of the exposure draft states that Inland Revenue will no longer accept post-dated cheques for payments of taxes from 1 February 2019. From the date of announcement on 24 October 2018 to 1 February 2019, this is a lead time of only a little over three months. In reality the lead time period is shorter as the period includes the Christmas/New Year holiday period.

The 1 February 2019 cut-off appears arbitrary and the reason for it is not explained in either the exposure draft or Inland Revenue's accompanying press statement on 24 October.

Notwithstanding our position that the Commissioner should continue to accept post-dated cheques, if the Commissioner's change in practice proceeds, we recommend that the application date for the change be reconsidered.

It would be appropriate to transition the change in practice as part of Phase 3 of Business Transformation which is scheduled to begin in April 2019.

### Electronic payments

Paragraph 4 of the exposure draft states that to be accepted as having been received on a specific day, internet payments must be completed before the end of the bank's online business hours for that day.

We understand from our members that it is not uncommon for many taxpayers to initiate transactions/payments using internet banking in the period after the bank's online business hours but before midnight on that day. It would be appropriate for the Commissioner's practice to reflect this by accepting that a payment of tax is received on the date that the internet payment is initiated rather than the date the payment is processed by the bank.

We suggest that the Commissioner make appropriate inquiries of the banks to determine whether their systems are capable of providing Inland Revenue with sufficient information to enable this approach. Alternatively, the Commissioner could consider accepting other means of evidence/information to support accepting a payment of tax made by internet banking as having been received on the date the payment is initiated (for example, a screen shot of the electronic notification or receipt from the bank). The Commissioner could also consider other ways to achieve the same result, for example, allowing a one day grace period for processing.

### Payments via Westpac ATMs

Paragraph 12 of the exposure draft states that tax payments may be made via Westpac ATMs, provided they have a payment slip with a bar code.

Members have advised us that this facility may not be available on all Westpac ATMs. It would be helpful if Inland Revenue obtained confirmation of this, including how the required payment slip can be obtained, and revise the statement in paragraph 12 accordingly.

We are happy to discuss our submission with you. Please contact Lindsay Ng in this regard.

Yours sincerely



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