

TAX GUIDE FOR ELECTED MEMBERS >>

LOCAL GOVERNMENT
NEW ZEALAND >>

AUGUST 2022 >>



THIS GUIDE IS BASED ON THE LAW AND INLAND REVENUE'S POLICY AS AT AUGUST 2022. IT SHOULD ONLY BE USED FOR GENERAL ASSISTANCE AND IS NOT REGARDED AS PROVIDING DEFINITIVE ADVICE ON YOUR TAX OBLIGATIONS AS AN ELECTED MEMBER. IF YOU HAVE ANY QUERIES ABOUT YOUR TAX POSITION, PLEASE OBTAIN PROFESSIONAL ADVICE (OUR CONTACT DETAILS ARE ON THE BACK PAGE) OR CONTACT INLAND REVENUE.

Introduction

Due to the unique nature of the relationship between you and Council, your personal tax obligations are not as straightforward as you may believe them to be.

As a result, PwC and Local Government New Zealand (LGNZ) have put this guide together to help you understand these obligations.



What's in this guide?

- **Inland Revenue's view of your tax status as an elected member.**
- **The income tax consequences of this status, including:**
 - // How your remuneration is taxed.
 - // The tax obligations for you and Council regarding your remuneration.
- **The types of expenses that you may incur and be able to deduct for income tax purposes.**
- **A summary of the potential obligations that you and your Council may have in respect of:**
 - // Goods and Services Tax (GST)
 - // Fringe Benefit Tax (FBT)
 - // Accident Compensation Corporation (ACC) levies.

It also contains a Frequently Asked Questions (FAQs) section that covers some common queries that we have received from elected members.



Your tax status:

Inland Revenue views the relationship between an elected member and a Council as a statutory relationship of service, rather than an employer/employee relationship. As such, you are not an employee of Council for income tax purposes; your relationship with Council is more akin to that of a self-employed person.

How your remuneration is taxed:

// SCHEDULAR PAYMENT

Remuneration for work or services that you receive from Council is a form of schedular payment and is subject to withholding tax. Payments for travel time are also subject to withholding tax. The standard rate of withholding tax is 33% although there are a number of exemptions and exceptions that may lead to a different rate applying.

// INAPPLICABILITY OF COMPANY EXEMPTION

Remuneration for work or services that you receive from Council is a form of schedular payment and is subject to withholding tax. Payments for travel time are also subject to withholding tax. The standard rate of withholding tax is 33% although there are a number of exemptions and exceptions that may lead to a different rate applying.

// REIMBURSEMENTS

Payments received for reimbursements for expenditure incurred in attending to Council business are not subject to withholding tax.

This means that Council is not required to deduct withholding tax from these reimbursements. However, these reimbursements are considered to be taxable income to you as an elected member and should be accounted for in your end of year tax return. You can claim a deduction for expenditure incurred in attending to Council business which should offset the corresponding taxable income.

Tax obligations for the Elected Member and Council regarding your remuneration:

TAX CODE DECLARATION FORM (IR330C)

You are required to complete and provide Council with an IR330C for the remuneration you receive for work and services as an elected member and for any payments for travel time.

When completing the IR330C, you must use 'WT' as your tax code and enter activity number 22 for 'Public office holder (fees)' in the second box.

Once Council receives your IR330C, Council will deduct withholding tax at a rate that you choose for your remuneration for work or services. The standard rate for this type of schedular payment is 33% however you can nominate your own tax rate for your situation as long as the nominated rate is not lower than 10%.

If Council does not hold a valid IR330C for you at the time of payment, withholding tax will be deducted at 45%.

By way of example, refer to the correctly completed IR330C extract below;

CERTIFICATES OF EXEMPTION AND TAILORED TAX RATE CERTIFICATE:

If you have little or no other income, significant expenses or available tax losses, you may be able to obtain either a certificate of exemption or a tailored tax rate from Inland Revenue.

If Council holds a copy of a valid certificate of exemption, or tailored tax rate certificate, on file at the time of payment, this will determine the extent to which Council is required to withhold tax from payments to the member. As such, if you obtain such a certificate, you should provide a copy to Council as soon as possible. It is your responsibility to establish entitlement, and obtain such a certificate from Inland Revenue.

2. Your tax rate

You must complete a separate *Tax rate notification for contractors (IR330C)* for each source of contracting income.

Refer to the flowchart on page 2 and enter your tax rate to one decimal point here. %

Refer to the table on page 3 and enter your schedular payment activity number here.

Your tax code will always be:

WT

INDIVIDUAL TAX RETURNS

Your remuneration and any reimbursements paid by Council to you as an elected member must be declared as taxable income on your personal income tax return for each year ended 31 March. Any tax that Council has withheld from your remuneration during the year should also be shown in the tax return and this will be credited against your tax liability when you file your tax return. You are also able to claim deductions for any expenditure incurred (e.g. this could be amounts that correlate to the reimbursements you have received or other deductions you can claim - refer over for more details).

Depending on the level of your total taxable income, you may have further tax to pay, or be entitled to a tax refund from Inland Revenue.

The table below sets out the income tax rates for individuals for the 2022/23 income year:

// FOR EACH DOLLAR OF INCOME	// TAX RATE
Central Otago District	3
Clutha District	3
Dunedin City	6
Environment Southland	3
Gore District	3
Invercargill City	5
Otago Regional	3
Queenstown-Lakes District	5
Southland District	3
Waitaki District	3

PROVISIONAL TAX:

If you are a provisional taxpayer you should consider how the remuneration received from Council affects your provisional tax calculations.



Allowances and reimbursements:

Reimbursements that Council pays to you for expenditure that you incur as an elected member while on Council-related business, or any allowances (other than travel time allowances) that you receive from Council, are not subject to withholding tax.

TRAVEL TIME ALLOWANCE

A travel time allowance is only paid when you undertake Council-related travel. Such payments are considered to be a payment for the work or services that you perform and, as such, are subject to withholding tax.

VEHICLE EXPENSES

Vehicle expenses can be deducted to the extent that you use your vehicle for Council-related business. Travel from home-to-work (i.e. the place where the meeting is held) is not deductible unless your home is the base of your work as an elected member, in which case, the cost of travel may be deductible.

The deduction you are allowed for the Council-related use of your vehicle is calculated using this formula:

$$\text{DEDUCTION} = \text{ACTUAL EXPENDITURE INCURRED} \times \text{BUSINESS PROPORTION}$$

The business proportion is the Council-related expenditure and this can be determined by using a number of methods, for example using the number of kilometres travelled for Council business divided by total kilometres travelled.

Inland Revenue issued the Operational Statement 19/04a which is relevant to claiming kilometre rates as an elected official.

If you do not know the actual expenditure incurred (i.e. do not have all receipts etc) you can elect to use Inland Revenue's standard kilometre rates. These rates are typically reviewed annually (in May). **For the 2021/22 year, the kilometre rates are:**



BUSINESS
PORTION
OF FIRST
14,000 KMS
OF TRAVEL

● ● **\$0.83**
PER KM

BUSINESS
PORTION
OF ANY
TRAVEL OVER
14,000 KMS

● ● **\$0.31**
FOR PETROL OR DIESEL
VEHICLES PER KM

\$0.18

FOR HYBRID VEHICLES
PER KM

\$0.10

FOR ELECTRIC VEHICLES
PER KM

For subsequent years, we recommend checking the rates on Inland Revenue’s website – using the search term “claiming vehicle expenses”.

Alternate methods are available if you keep a logbook to record all private and non-private use. You should consult with your accountant on which method is best for you.

HOME-USE EXPENSES

Home-use expenses can be deducted to the extent that you use your home for Council business. Examples of such expenses include heating, lighting, rates, interest on mortgage payments, rent, and house and contents insurance.

If you have a room set aside in your home as an office, then your deductions could be calculated using this formula:

$$\text{DEDUCTION} = \left(\frac{\text{AREA OF ROOM}}{\text{AREA OF HOUSE}} \right) \times \text{DEDUCTIBLE EXPENSE}$$

Square metre rate option:

You can also use Inland Revenue’s square metre rate option to calculate your home office expense. This method uses a square metre rate that is determined by Inland Revenue based on the average cost of utilities per square metre of housing, but excludes mortgage interest, rates and rent. You will be able to claim a portion of the mortgage interest, rates and rental costs that you paid during the year based on the percentage of the floor area being used for Council related business purposes.

This is calculated by using the formula below:

$$\text{DEDUCTION} = (A \times B) + (C \times D)$$

Where:

A // total amount of actual mortgage interest, rates and rent (as applicable) you have paid during the year.

B // the business proportion, determined by dividing the business floor area in square metres by the total floor area of the building (e.g. 10m² office / 100m² buildings = 0.10).

C // total square metres of any separately identifiable parts of your home being used primarily for business.

D // the rate per square metre that is published by Inland Revenue, based on the average cost of utilities per square metre of housing, but excluding mortgage interest, rates or rent. For the 2021/2022 year this is \$47.85 per square metre but this should be checked annually.

Note: it is not mandatory to apply this method. If you do not have a separate office, and you use any room in your house for Council business for part of a day, then your deductions could be calculated using this formula:

$$\text{DEDUCTION} = \left(\frac{\text{AREA OF ROOM}}{\text{AREA OF HOUSE}} \right) \times \left(\% \text{ OF TIME USED FOR COUNCIL-RELATED BUSINESS} \right) \times \text{DEDUCTIBLE EXPENSE}$$

TELEPHONE AND INTERNET EXPENSES

If you have a separate telephone account for your Council related calls this will be 100% deductible. If you use your personal phone (mobile or landline) for Council related calls, Inland Revenue has historically accepted a deduction of at least 50% of the cost of your telephone line-rental, plus the cost of any business calls.

You may even be allowed a deduction of more than 50% if a higher percentage of actual Council-related use of the telephone can be supported.

COMPUTER EXPENSES

You can claim a portion of depreciation on your computer, and consumables expenses, based on the proportion of Council-related use to total use.

Child care allowance

You can claim a childcare allowance from Council provided the childcare meets the criteria. This payment is a reimbursement of expenditure, rather than a payment for work or services provided by you, and as such, there is no obligation for Council to withhold tax on the reimbursement. However, you should return the reimbursement as income in your tax return. A corresponding deduction for childcare costs incurred will not be allowed as child care costs are private/ domestic in nature.

ICT ALLOWANCE

In some instances, Councils may provide an annual allowance to you for using your own equipment to communicate with local authorities or ratepayers. The allowance may cover equipment costs such as:

- // the use of a personal computer, tablet or a laptop
- // docking station
- // multi-functional or other printer
- // other ICT consumables (eg. paper, ink cartridges)

This payment is a reimbursement of expenditure, rather than a payment for work or services provided by you, and as such, there is no obligation for Council to withhold tax on the reimbursement. However, you should return the reimbursement as income in your tax return. A corresponding deduction (or depreciation expense) for any equipment costs incurred by you will be allowed based on the proportion of Council-related use to total use.

MISCELLANEOUS EXPENSES

Other miscellaneous expenses may be deducted if incurred on Council-related business, so long as you keep records of your expenses along with receipts.



Other

taxes

GOODS AND SERVICES TAX ●●

For GST purposes, an elected member is not considered to be undertaking a taxable activity. This means that:

- // You cannot register for GST as an elected member.
- // The remuneration that you receive as an elected member will not include GST.
- // You should not issue a tax invoice to Council for the services that you provide as an elected member.
- // You cannot claim GST input tax in respect of any Council related expenditure that you incur.

This applies **regardless** of whether you are registered for GST for other activities.

FRINGE BENEFIT TAX ●●

Any non-cash benefits that you receive from Council, or as a result of your position as an elected member, will be subject to FBT. The onus is on Council to return FBT on such non-cash benefits.

If you receive any non-cash benefits due to your position as an elected member, such as gifts (for example, tickets to a local concert at a non-Council venue), you are required to inform Council so that Council can assess whether it needs to return FBT. The onus is on Council to identify and return FBT on these amounts.

ACC OBLIGATIONS ●●

ACC levies are not to be paid by Council and are not included in the withholding tax deducted from your remuneration. You are responsible for paying your own ACC levies. The amount of your levy is based on your liable earnings and the relevant industrial classification code. The appropriate code for elected members is Management Service to Local Government and other statutory bodies M696296.

FAQS :

Q If I ask Council to redirect my remuneration to my company, does Council still need to deduct withholding tax?

Yes, Council is still required to deduct withholding tax.

Q If I am registered for GST for other purposes, can I invoice Council through that entity and charge GST?

No. This is because your engagement as an elected member is specifically excluded from the taxable activity that you are GST-registered for. Note that rules that became effective from 30 June 2014 covering situations where there is a fiduciary obligation to on pay such fees, do not apply to an Elected Member's remuneration.

Q Can my business claim GST input tax on the expenses that I incur as an elected member?

No - for the same reasons as outlined above.

Q If I am enrolled for KiwiSaver, does Council have any KiwiSaver obligations (ie to make employer contributions etc)?

As you are not an 'employee' for KiwiSaver purposes, Council does not have any KiwiSaver obligations in relation to elected members.

Q If I am part of a delegation that is sent overseas for Council-business, will I be reimbursed for my costs (i.e. flights, accommodation, food etc)?

In most instances yes, provided that you are authorised to incur such expenditure on Council's behalf, and retain sufficient records (receipts etc.) to substantiate the expenses.

Q If my spouse joins me, can I also be reimbursed for the costs that my spouse incurs?

In most instances, we would not expect you to be reimbursed for such expenditure; however, as this is largely dependent on each individual Council policy, we recommend that you confirm this with your respective Council.

Q What income should I declare in my income tax return?

Payment for all work or services including any reimbursement of expenses irrespective of whether withholding tax has been withheld or not. You are able to claim expenses incurred in earning this income and a credit for withholding tax deducted at source.

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