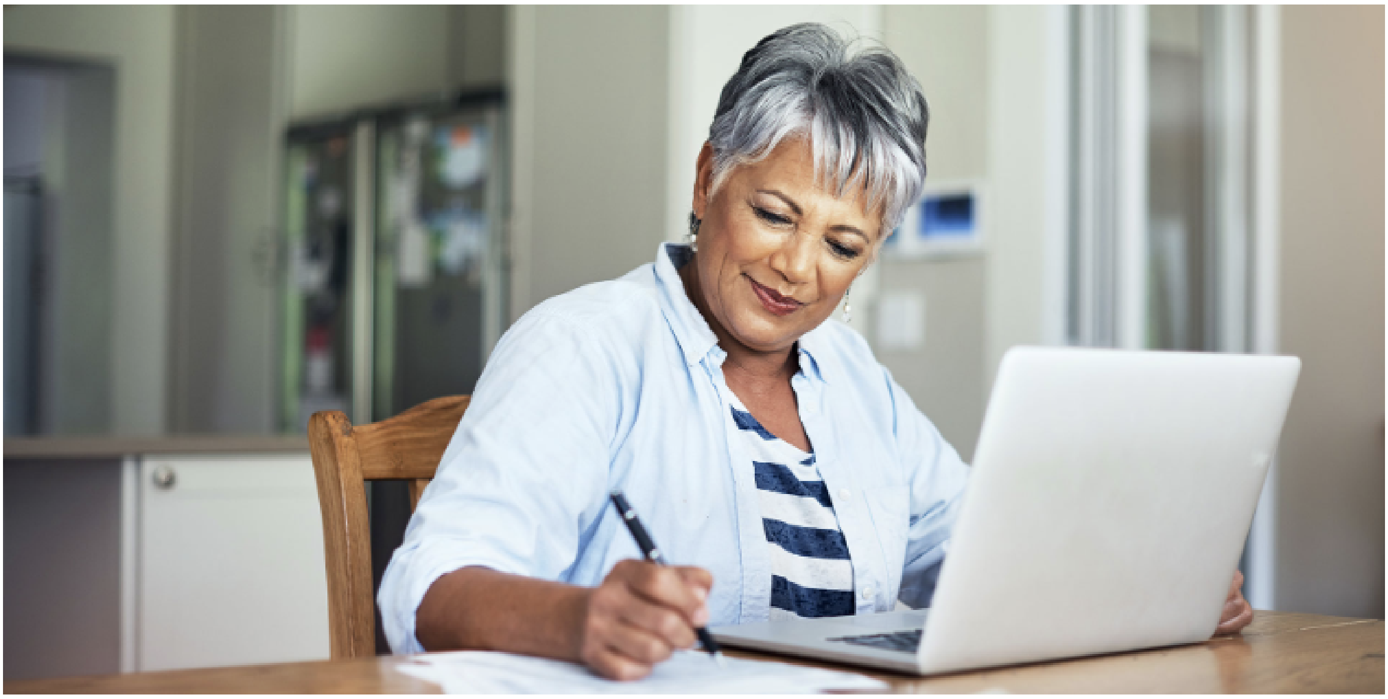
A-Z Guide

SUPERANNUATION FUND CONTRIBUTIONS



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Overview

Contributions made by employers to superannuation funds are liable to be taxed; contributions made to specified superannuation funds are liable for ESCT.

ESCT may be calculated using one of two rates.

Funds withdrawn early from an employer's contributions to specified superannuation funds are liable for a five percent fund withdrawal tax unless they are exempt.

Since 1 April 2012, all employer contributions are subject to ESCT.

Introduction

Contributions paid by employers for the benefit of their employees to superannuation funds are liable for either employer superannuation contribution tax (ESCT), or fringe benefit tax (FBT). ESCT was formerly known as specified superannuation contribution withholding tax (SSCWT).

Only a contribution made to a superannuation fund that has been registered under the Superannuation Schemes Act 1989 and which an employer makes for an employee's benefit is a specified superannuation contribution. Specified superannuation contributions are liable for ESCT. If an employee requests his or her employer to pay a portion of their wages or salary into a superannuation fund this is not a specified superannuation contribution.

Contributions made in other circumstances are not specified superannuation contributions and are liable for FBT instead of ESCT.
Employees who make early withdrawals from the funds against employers' contributions are penalised (there are exceptions) and are liable to pay fund withdrawal tax.

How to Tax

From 1 April 2012, employers must calculate ESCT at the ESCT threshold amount set out below:

ESCT threshold amount:	**ESCT rate:**
Up to $16,800	(10.5%)
Between $16,801 and $57,600	(17.5%)
Between $57,600 and $84,000	(30%)
Between $84,000 and $216,000	(33%)
$216,001 +	(39%)

Alternatively, employers can treat the employer contribution as salary or wages and tax your employee, by agreement, under the PAYE rules.

However, where the specified superannuation contribution is treated as part of an employee's total income it will be liable for the ACC earner levy and will affect how much that employee is liable for student loan repayments and child support, and their entitlement to family assistance. There is no tax advantage in this option unless the employee's income is less than $38,000 per annum including the superannuation contribution.

Kiwisaver – ESCT on Employer Contributions

The minimum employer contribution rate for employees who make contributions to KiwiSaver is three percent of all gross wages and salaries as defined by the Income Tax Act.

KiwiSaver employer contributions are not compulsory after an employee has been in the scheme for five years and is 65 years or older.

Until 1 April 2012 employer contributions of up to two percent to a KiwiSaver Fund or a complying fund were exempt from the Employer Superannuation Contribution Tax (ESCT). After 1 April 2012, this exemption no longer applies.

The law is silent on whether the employer must pay ESCT in addition to the employer contributions or if it is deducted from employer contributions.

It has always been an assumption that ESCT is deducted from the employer contributions. However some important points need to be made:

- The terms of any employment agreement setting out the contribution rate will be important.
- IRD have advised they will accept employer contributions that have had ESCT deducted as long as the ESCT is accounted for in the appropriate return. If the gross amount of KiwiSaver contribution is forwarded to IRD under KiwiSaver, then IRD will be seeking ESCT in addition.
- For clarity, employers may wish to include a clause in the employment agreements that states:
  “The amount of any employer contributions includes any ESCT the Inland Revenue Department requires to be paid to them”

For further information and guidance on calculating ESCT please refer to the Inland Revenue website: ESCT

Fund Withdrawal Tax

Employees who make withdrawals from their employers’ contributions to a specified superannuation fund may be liable to pay fund withdrawal tax (FWT) on those withdrawals. The FWT rate is five percent. If an employee’s total income including the withdrawals made against the employer’s contributions to a specified superannuation fund exceeds $60,000 then their personal tax rate for that income moves into the top tax bracket; in addition to the higher rate of tax the employee will be liable to pay a further 5% on the withdrawal.

There are many exceptions to the liability to pay FWT. Employers have to be able to provide information about their employees to superannuation funds so that where an early withdrawal is made liability (or exception) to pay FWT can be assessed and the correct tax is deducted by the fund and paid to the IRD. The information employers are expected to be able to provide relates to the employee’s period of employment, their income details and the employer’s superannuation contribution details. Permitted KiwiSaver and complying fund withdrawals are not subject to fund withdrawal tax.

Employer’s Obligations

Superannuation Fund Contributions

When the actual contribution to the superannuation fund is made, you are required to calculate the ECST and pay it to the IRD at same time as the PAYE deductions. Failure to pay ECST on time is an offence under the Tax Administration Act 1994.

An employer who makes contributions to a specified superannuation fund must complete an Employer Deductions form (IR346) with each payment.

Refer to the **A-Z Guide** on **PAYE** for information about liability for the failure to pay ECST on time.

Remember

- Always call AdviceLine to check you have the latest guide
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

Published: **December 2023**

ema.co.nz I 0800 300 362