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FINANCE

COMPULSORY EMPLOYER CONTRIBUTIONS TO KIWISAVER

QUICK GUIDE

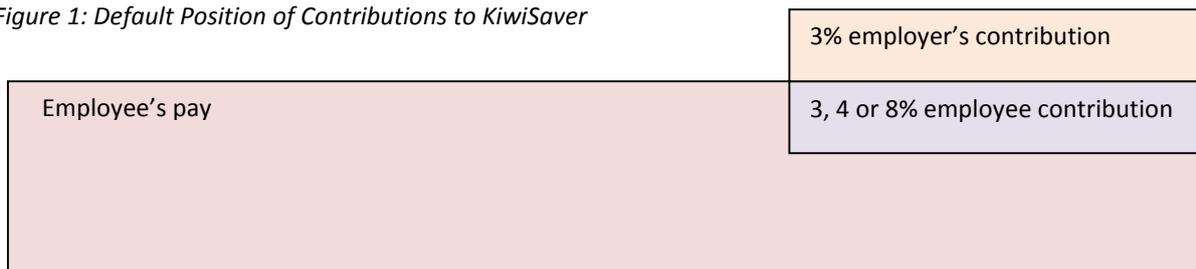
This Quick Guide explains the current rules regarding employer’s contributions to KiwiSaver. It does not provide detailed financial advice and before implementing any approach to remuneration employers should discuss the financial implications with their accountant.

HOW MUCH DO I HAVE TO CONTRIBUTE?

Employers only need to make a contribution for employees who are members of the KiwiSaver scheme. Employees are required to contribute 3, 4 or 8% of their gross earnings to KiwiSaver. If an employee does not indicate a contribution amount, the employer is required to assume the default 3% contribution applies.

Employers are currently required to contribute a minimum of 3% of a member employee's gross earnings as their contribution to the employee’s KiwiSaver fund

Figure 1: Default Position of Contributions to KiwiSaver



Whilst the default position is that the compulsory employer contribution be paid in addition to an employee’s gross salary or wages (see Figure 1) the law also permits an employer and employee to agree upon contractual terms that disregard this requirement e.g. an employer and employee can agree that a **specified amount** of the employee’s remuneration will be recognised as part or all of the compulsory employer contribution (see Figure 2). These arrangements are often referred to as “total remuneration” policies and enable an employer to provide an agreed level of remuneration but the employee is then free to determine whether part of that remuneration should be spent on KiwiSaver or another scheme or not at all. This arrangement means that those who do not wish to contribute to KiwiSaver or are not eligible to join KiwiSaver are not disadvantaged and furthermore an employer has a higher level of certainty around remuneration costs.

Figure 2: Total Remuneration Approach



There is nothing preventing an employer from paying employer contributions over and above the minimum requirement of 3%). However the amount of contributions that will be tax-free are limited (see below).

[NB The Court of Appeal in its decision (CA 175/13) has ruled that the permissive provisions of the KiwiSaver Act must be read subject to the mandatory provisions of the Minimum Wage Act so that it is not lawful to apply a total remuneration approach in such a way that it would result in an employee receiving less than the statutory minimum wage]

HOW ARE EMPLOYER CONTRIBUTIONS TAXED?

Employer contributions are taxable under the ESCT (employer superannuation contribution tax) regime. The actual rate will be dependent upon the employee's marginal tax rate.

WHAT REMUNERATION IS INCLUDED IN THE CALCULATIONS?

Following is a general guide of what earnings are included and excluded when making KiwiSaver deductions. Contact the Employers' Chamber or your accountant for more information on this.

Included:

- Salary
- Wages
- Bonuses
- Commission
- Extra salary gratuity
- Overtime, and
- Any other remuneration of any kind before tax.

Excluded:

- Redundancy payments
- Reimbursing allowances
- Accommodation benefits or allowances, and
- Overseas living costs

CAN AN EMPLOYEE CHANGE THEIR CONTRIBUTION RATE?

An employee can request that their contribution amount be adjusted to either 3, 4 or 8% of their gross salary. If an employee requests a reduction in their contribution ask them for this request in writing, preferably by completing a KiwiSaver reduction form (KS2) available from the IR.

There is no need to inform IR of this request.

CAN I REDUCE MY CONTRIBUTION TO THE MINIMUM REQUIREMENT OF 3%?

To the extent that the employers' contribution is a condition of employment, employers will need to re-negotiate employment terms with employees if they wish to reduce their employer's contribution, i.e. both the employer and employee will need to reach a mutually acceptable outcome.

For further information regarding KiwiSaver or other aspects of Employment Relations, please contact the Canterbury Employers' Chamber of Commerce, email info@cecc.org.nz or phone 03 366 5096.