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2021 Levy Consultation

Minister for ACC's levy-related proposals

Contents

Minister's Levy-related proposals – 2021 Levy Consultation	3
About classification units	3
Should the Classification Units (CUs) for retail and wholesale trade businesses change?	4
Proposed changes for non-store retailers	4
Proposed changes for commission based sellers and traders who do not store or handle goods 5	
Should the CUs for cricket change?	7
Proposed changes for cricket	7
Should the CUs for prime contractors change?	9
Should the rate of credit interest payable be updated to reflect current market rates?.....	11

Minister's Levy-related proposals – 2021 Levy Consultation

The Minister for ACC would like your feedback on several proposals included in the 2021 Levy Consultation.

Have your say on proposed changes to:

- how retail and wholesale trade businesses are classified
- how professional and community cricket is classified
- how prime contractors are classified
- the amount of credit interest payable.

It's easy to have your say. Please go to ShapeYourACC.co.nz and fill out our feedback forms, or you can email your submission to us <mailto:ShapeYourACC@acc.co.nz>

Submissions close on Tuesday 5 October 2021.

About classification units

All employers and self-employed people working in New Zealand pay a Work levy. This money pays for supporting injuries that have been caused by work-related accidents.

Businesses pay different levy rates depending on the level of risk in their primary business activity (the risk of injury in relation to the type of work employees are doing).

After assessing a business's risk, businesses are allocated into one of 539 classification units (CUs). The CUs are grouped into one of 142 levy risk groups (LRGs) based on injury risk profiles (the frequency and severity of injury, plus how long it takes for an injured worker to return to work - represented by the estimated total cost of claims, compared to wages paid).

ACC sets the levy rates for businesses at the LRG level. All CUs in each LRG are charged the same rate. When a CU's risk profile no longer reflects the risk level of the LRG in which it is placed, then we look at transitioning the CU into a more suitable LRG.

We regularly review how we classify businesses and recent claims histories to ensure the CUs reflect changes in New Zealand's business activities. We also consider feedback we have received on what we can do better.

As a result, we're proposing changes to how we classify:

- retail and wholesale trade businesses
- cricket players and clubs
- prime contractors

Should the Classification Units (CUs) for retail and wholesale trade businesses change?

The way retail and wholesale traders are classified currently is unnecessarily complicated.

We're therefore proposing several changes to simplify how we classify these businesses. We believe this will better reflect the current New Zealand trading environment and improve a business's ability to select the correct CU.

The scope of these proposals includes:

- non-store retailers, such as those with an online store, market stall or telemarketing sales
- commission-based sellers and traders who do not store or handle goods.

Proposed changes for non-store retailers

Non-store retailers, such as those with an online store, market stall or in telemarketing, currently pay a flat levy rate of \$0.34. However, store-based retailers are classified based on the products they sell, so pay different levy rates (currently between \$0.12 and \$1.52¹).

This means an online book retailer and an online furniture retailer pay the same levy rate. However, a store-based book retailer and a store-based furniture retailer pay different levy rates that reflect past injuries for similar businesses.

In the 2018 levy consultation, we received feedback from submitters that:

- this distinction should no longer exist
- online retailers should be classified based on the products or services they sell, instead of the channel they use to reach their customers.

We agree with this approach as it aligns the levy to the level of risk in handling different types of goods. We also believe this approach better reflects the greater uptake of contactless sales methods being used by businesses.

What it might mean for you

For businesses who are moving to a different CU, there are two impacts on levy rates to consider:

1. The impact of moving to a CU with a different risk rating and therefore levy.

Based on the current prescribed levy rate, we estimate 900 non-store businesses, including online furniture retailers, supermarkets and other food retailers, would move to a higher risk-rated CU.

However, 1,200 businesses would move to a lower risk-rated CU, with 550 businesses likely to remain in a similar risk group to what they are now.

Our analysis shows this change would not have an impact on the overall levy rates for the retailing CUs that these businesses move into.

2. The impact of updating claims experience and aggregate rates.

¹ The retailing CU with the lowest levy rate is 52510 Pharmaceutical, cosmetic and toiletry goods retailing, while the retailing CU with the highest levy rate is 52592 Firewood, coal and coke retailing.

ACC is also consulting on proposed changes to levy rates. Through this review, levy rates for each CU are updated to reflect any changes in the claims patterns of businesses.

This means levy rates for some businesses will increase or decrease, consistent with their recent claims history.

Non-store retailers will be reallocated from their current CU - with a flat rate of \$0.34 - to the specific classification that reflects the products they sell. These retailing CUs pay different levy rates which are proposed to be between \$0.12 and \$1.40 in 2022/23, depending on the products sold.

Online businesses that sell on behalf of third parties, such as online auction houses and businesses that do not store or handle goods (e.g. drop-shippers) are not in scope of this proposal. These businesses are affected by the commission-based trade proposal below.

How it would work

Our proposal would mean the 1,500 businesses and 1,200 self-employed who operate exclusively by non-store methods would be reclassified depending on the products they sell.

CU Number	CU Name	Proposed Change
52595	'Non-store retailing'	Disestablish CU Reclassify businesses depending on the products they sell
52590	'Store-based retailing (not elsewhere classified)'	Rename CU to 'Retailing (not elsewhere classified)'

Proposed changes for commission based sellers and traders who do not store or handle goods

Retail and wholesale commission-based sellers share a similar risk profile, but the current distinction between them is unnecessarily complex.

We therefore propose removing the retail and wholesale distinction for these businesses.

What it might mean for you

This proposed change would simplify the options for businesses when they select their CU and result in these sellers paying a comparable rate.

This would affect businesses such as:

- a commission-based cosmetics seller who sells to pharmacies
- an online seller of sporting goods, who organises for overseas manufacturers and freight companies, to produce and dispatch their products directly to the consumer – this includes businesses who do not store or handle goods directly (i.e. drop-shippers).

These businesses have had fewer or less serious accidents since the current levy rates were set in 2018. Overall, this means they will move to a lower levy rate based on their recent claims history:

- Approximately 2,200 commission wholesalers would move from their current levy rate of \$0.21² in 2021/22 to a new rate of \$0.17 in 2022/23.
- Approximately 1,300 commission retailers would move from their current levy rate of \$0.34³ in 2021/22 to a new rate of \$0.17 in 2022/23.

How it would work

CU Number	CU Name	Proposed Change
52597	'Retail commission-based buying and/or selling'	Disestablish CU Move businesses to CU 47991
47991	'Wholesaling – commission-based or excluding storage and handling of goods'	Rename CU to 'Trading – commission-based or excluding storage and handling of goods' with a new levy rate of \$0.17

LRG Number	LRG Name	Proposed Change
331	'Commission-based Wholesaling'	Rename LRG to 'Commission-based Trading'

Provide your feedback

- Should ACC classify non-store retailers based on the type of products they sell, the same way as store-based retailers?
- Should ACC simplify how it classifies commission based sellers and traders?

² 2021/22 levy rate for 47991 Wholesaling – commission-based or excluding storage and handling of goods.

³ 2021/22 levy rate for 52597 Retail commission-based buying and/or selling.

Should the CUs for cricket change?

NZ Cricket (NZC) have told us the way we classify them doesn't reflect their area of the sporting sector. The changes we propose will result in levies that better reflect the risk profile of these businesses.

Proposed changes for cricket

The sporting sector is divided into four levy risk groups (LRGs). The lowest LRG reflects community activities such as club administration and coaching. The highest LRG is for professional athletes in contact sports and those who support these sports.

Domestic cricketers, who play at a professional level, are currently grouped in the same classification unit (CU) as community cricket organisations with a separate CU for international cricket professionals.

However, given the risk profile of domestic cricket professionals is now similar to that of international cricket professionals, the Community and Domestic cricket CU was moved to a higher Levy Risk Group to reflect their combined risk. NZ Cricket raised concerns that community cricket associations do not have the same risk profile as either domestic or international cricket professionals.

In recognition of this, we are proposing that all cricket professionals (at both domestic and professional level) are grouped in the same CU with these players remaining in the medium-high levy risk group. Community cricket associations would then have their own CU and move to a lower-risk group, meaning they would pay a lower levy rate in line with their recent claims history.

What it might mean for you

This proposal would lower the levy rate for the 45 organisations and individuals responsible for community cricket from \$2.67 in 2021/22 towards a new rate of \$0.57 by 2024/25.

All cricket professionals (at both domestic and international level) would continue to pay a similar levy rate.

The scope of this proposal relates only to people who are employed in the sporting sector, such as professionals or club administrators. Injuries from recreational sport (where players are not paid to play) are funded separately and are not impacted by this proposal.

How it would work

CU Number	CU Name	Change
93174	'Sport and physical recreation – community cricket'	Move this CU from levy risk group (LRG) 917 'Equine and Sporting Activities' (medium-high risk group) to LRG 911 'Sporting and Recreational Activities' (lower-risk group).
93194	'Sport and physical recreation – professional cricket'	No change - this CU stays in current LRG 917 'Equine and Sporting Activities' (medium-high risk group).

Provide your feedback

- Should all cricket professionals belong to the same CU? This would allow the CU for community cricket associations to pay a lower levy rate, while professional players (domestic and international) would pay a rate similar to what they pay today.

Should the CUs for prime contractors change?

There are inconsistencies in how we classify businesses who offer construction services without directly employing trades professionals. These businesses may employ project managers and quantity surveyors but use sub-contractors exclusively for the trades required.

- Building completion services (e.g. plastering or carpentry) and property developers who subcontract all trades work currently have their own CU and pay a lower levy than their sub-contractors.
- However, prime contractors engaged in building installation (e.g. plumbing or electrical services) or building structure services (e.g. brick laying or roofing) are levied based on the projects they work on, not the work they do, even when they subcontract all trades work.

As an example, a prime contractor specialising in residential construction projects pays a work levy of \$0.44, compared to the subcontracted trades professionals on that job. However, a prime contractor doing similar non-trades tasks but specializing in bricklaying jobs pays the same as a bricklayer i.e. \$2.23.

This has led to the prime contractor sector raising concerns about the inconsistency in levy rates within the sector.

We propose all prime contractors across the construction sector should pay the same levy rate.

What it might mean for you

Under this proposal, approximately 600 employers and individuals would receive lower ACC levies. The new levy rate for prime contractors is proposed to be \$0.43 in 2022/23, in line with their recent claims history.

How it would work

CU Number	CU Name	Change
42595	'Construction services and property developers – all trades subcontracted'	New CU with levy rate \$0.43 in 2022/23

CU Number	CU Name	Change
42592	'Building completion services – all trades subcontracted'	Remove CU
77110	'Residential property operators and developers (excluding construction)'	Rename CU to 'Residential property operators'
77120	'Non-residential property operators and developers (excluding construction)'	Rename CU to 'Non-residential property operators'

LRG Number	LRG Name	Change
323	'Plumbing and building completion services'	Rename LRG to 'Plumbing services'
673	'Property development and operation'	Rename LRG to 'Property operation and subcontracted construction services'

Provide your feedback

- Should prime contractors, who may offer construction or property development services but subcontract all trades activities, pay the same levy rate?

Should the rate of credit interest payable be updated to reflect current market rates?

Payment of credit interest by ACC

The Work levy payable by an employer is calculated on the amount of earnings paid by that employer to their employees, during the applicable year.

Credit interest is applied when the amount collected through provisional levies (invoices based on an estimate of the levies payable) is more than \$1,000 higher than the final levy assessment. ACC does not charge employers interest if provisional levies are less than the final levies.

Self-employed and private domestic workers are not charged provisional levies, so aren't eligible for credit interest.

Current approach to credit interest

ACC issues a provisional levy invoice. At the end of the levy year, we issue a final levy invoice, including the balance of any underpayment. If an employer has overpaid levies by more than \$20, we refund or credit any overpayments.

Currently the rate of credit interest is 6% per annum. We have held this credit interest rate consistent for several years. However, given current low interest rates in New Zealand, this rate is no longer representative of the wider market. We're therefore proposing to change the credit interest rate which applies to levies.

Proposed approach

We're proposing to update the credit interest rate payable to align to the three-year Government Bond Rate. This is currently 0.925%⁴.

How it would work

As ACC is recommending levy rates for three years to provide certainty to levy payers, this means the credit interest rate will also be locked in for three years.

- The rate of credit interest payable would be set as a fixed rate in the Work Account regulations based on the three-year Government Bond Rate that is in place when the proposal is approved.
- This rate would next be reviewed in 2024 for the 2025/26 levy year.

Setting a single rate of interest payable for three years means that businesses who overpay their levies could be unfairly advantaged or disadvantaged, depending on the movement of future interest rates.

PAYE employers can ensure their provisional invoice is as close as possible to their end-of-year levy by providing ACC with an estimated payroll update. This reduces the chance of significant overpayment or underpayment of levies at the end of the year.

⁴ This rate reflects the 15/5/24 bond as at July 2021 month end. It will be updated to reflect the latest rate when final Cabinet decisions on this proposal are made at the end of 2021.

Your estimated payroll can be updated through your MyACC for Business online account, via phone or email.

Provide your feedback

- What do you think of updating the amount of credit interest payable, to align to the 3-year Government Bond rate?
- What do you think of fixing the amount of credit interest payable for a three-year period?