

COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill

Commentary on the Bill

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Minister of Revenue

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CONTENTS

Overview of the Bill	5
Income tax	9
Depreciation on non-residential buildings	11
Increase in the provisional tax threshold.....	14
Increase in the low-value asset write-off threshold	16
Research and development tax credits – broader access to refunds	18
Tax administration	21
Use of money interest remission.....	23
Information sharing.....	25
Social assistance	27
Removal of hours test from the In-Work Tax Credit.....	29
Winter energy payment	30
Working for Families tax credits entitlement for emergency benefit recipients	31
GST on COVID-19 related social assistance payments.....	33

Overview of the Bill

BILL OVERVIEW

This Bill introduces taxation and social assistance amendments that are aimed at assisting the Government's response to the economic impacts of the COVID-19 outbreak. The Bill includes targeted measures aimed at providing relief to those that have been economically affected by the COVID-19 outbreak. The Bill also includes measures aimed at addressing the broader economic impacts of the outbreak.

This Bill includes proposed changes to income tax, tax administration and social assistance.

Income tax

The income tax proposals in this Bill include:

- restoring depreciation deductions for non-residential buildings;
- increasing the low-value asset write-off threshold;
- increasing the provisional tax threshold; and
- bringing forward the application date for the broader refundability rules for R&D tax credits.

These proposals are aimed at assisting the broader economic recovery from COVID-19 by incentivising businesses to bring forward investments and continue spending.

Tax administration

The tax administration proposals in this Bill include:

- enabling Inland Revenue to remit use of money interest for taxpayers affected by COVID-19; and
- allowing Inland Revenue to share information with other Government agencies to assist those agencies in their response to COVID-19.

Allowing interest on late tax payments to be remitted would provide relief to taxpayers financially affected by COVID-19. Allowing Inland Revenue to share information would assist the efficient and effective delivery of the Government's COVID-19 response.

Social assistance

The social assistance proposals in this Bill include:

- removing the hours test eligibility requirement for the in-work tax credit;
- ensuring GST does not apply to payments of the COVID-19 wage subsidy and leave payments;
- reducing the winter energy payment rates to their current levels from 2021 after a temporary increase in 2020; and
- allowing people on a temporary visa to qualify for Working for Families if they are receiving an emergency benefit.

These social assistance proposals are aimed at ensuring those financially impacted by COVID-19 receive the support they need.

Income tax

DEPRECIATION ON NON-RESIDENTIAL BUILDINGS

(Clauses 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 29(2), 29(4), 29(6), 29(7), 29(8), 29(9) and 30)

Summary of proposed amendment

New Zealand allowed depreciation for buildings in the tax base until it was removed in a package of tax reform effective from the 2011–12 income year. The proposed amendment would restore building depreciation but only for buildings that are not primarily used for residential accommodation.

Application date

The proposed amendment would apply for the 2020–21 income year.

Key features

A deduction for depreciation of buildings other than residential buildings would be allowed from the 2020–21 income year. It would apply to buildings owned at the beginning of that income year and also going forward to newly acquired buildings and capital improvements made to existing buildings. The depreciation rate would be 2% declining value or 1.5% straight line. This is a permanent measure.

Background

New Zealand allowed depreciation on all buildings in the tax base until 2010. Building depreciation was suspended for long-lived buildings from the 2011–12 income year. Long-lived buildings have an estimated useful life of 50 years or more. Buildings with a shorter estimated useful life have continued to be depreciable.

New Zealand's position disallowing tax depreciation for almost all buildings is unusual internationally. International studies generally find that buildings do depreciate. The Tax Working Group reviewed this setting and recommended renewing depreciation for industrial, commercial, and multi-unit residential buildings. It did not recommend renewing depreciation for other types of residential buildings because data shows these buildings have a slower rate of economic depreciation than other buildings.

Detailed analysis

Depreciation of long-lived non-residential buildings would be allowed from the beginning of 2020–21 income year. The proposed depreciation rate would be 2% declining value or 1.5% straight line.

Opening tax book value

For buildings that were owned by the taxpayer in the 2010–11 income year, the tax book value for the beginning of the 2020–21 income year would be:

- the adjusted tax book value at the end of the 2010–11 income year, less fit-out deductions taken under the section DB 65 transitional rule if applicable; plus
- non-deductible capital expenditure incurred with respect to the building from the end of the 2010–11 income year to the start of the 2020–21 income year.

For buildings acquired after the end of the 2010–11 income year, the opening tax book value for the 2020–21 income year would be:

- the cost of the building; plus
- non-deductible capital expenditure incurred with respect to the building from the time it was acquired until the beginning of the 2020–21 income year.

Straight line depreciation

If a taxpayer elects to use the straight line method, the building’s cost for the purpose of calculating the depreciation deduction would be the opening tax book value for the 2020–21 income year and not the original cost (if different).

Depreciation recovery

If a building is sold, its depreciation recovery income would be calculated taking into account depreciation deductions taken before 2011–12 (if any) and depreciation deductions taken from 2020–21. The cost base would also reduce by the amount of deductions taken under the section DB 65 transitional rule.

Non-residential buildings

A non-residential building is any building that is not a residential building.

A residential building would be defined as:

- a dwelling as defined in Section YA 1; and
- a building in which accommodation is ordinarily provided for periods of less than 28 days at a time if the building, together with other buildings on the same land, has less than four units intended for separate occupation.

The definition of “dwelling” encompasses owner-occupied houses and apartments, and houses and apartments subject to residential tenancies.

The proposed additional category including some buildings accommodating short-term stays is to ensure there is certainty that the definition of “residential building” includes buildings such as a bach that the owner uses but also rents out on a short-term basis, and also buildings used exclusively for some short-term accommodation provided by owners such as Airbnb properties. These may be within the definition of “dwelling”, but this would put it beyond doubt those buildings remain non-depreciable. The less-than four units provision is meant to exclude larger commercial operations such as motels from being treated as a residential building.

Repeal of the 2010 transitional rule

As a result of reinstating depreciation on non-residential buildings, the transitional building fit-out rule introduced as part of the 2010 reforms would no longer be required. Accordingly,

section DB 65 would be repealed, and the tax book value of the building adjusted for past DB 65 deductions.

Special depreciation rate

The ability to receive a special depreciation rate from the Commissioner would be restored for non-residential buildings.

INCREASE IN THE PROVISIONAL TAX THRESHOLD

(Clauses 21–28 and 29(5))

Summary of proposed amendment

This measure would permanently increase the residual income tax threshold for being required to pay provisional tax from \$2,500 to \$5,000. As a result, a number of taxpayers would no longer be required to make provisional tax payments throughout the year, which would assist those businesses with cashflow issues including during the COVID-19 outbreak.

Application date

The proposed amendment would apply for the 2020–21 and later income years.

Key features

This measure would change the threshold for paying provisional tax so that less taxpayers are required to pay provisional tax instalments throughout the year. For taxpayers with residual income tax of between \$2,500 and \$5,000, instead of paying provisional tax throughout the income year as under the current law, they would only have to pay by 7 February following the end of the income year.

Example 1: Increase in the provisional tax threshold

Jenny is a tour guide who provides tours of the Lord of the Rings filming location sites around Wellington through her company Jenstar Tours Limited (JTL). She gets the majority of her customers from tourist ships visiting Wellington. In the 2019–20 income year, JTL's tax liability was \$8,000, but because of the recent changes to restrict tourist ships in response to COVID-19, JTL's tax liability in 2020–21 is expected to be half of that amount.

The Government's proposed change to the provisional tax threshold from \$2,500 to \$5,000 would mean that JTL would not be a provisional taxpayer for the 2020–21 income year. Instead of paying tax in instalments throughout the 2020–21 income year, JTL would not have to pay tax until 7 February 2022, which would improve its cash flow during the year.

Background

Section RC 3(1)(a) of the Income Tax Act 2007 currently provides that a person whose residual income tax year is more than \$2,500 is required to pay provisional tax. This threshold is used several times throughout subpart RC and elsewhere, such as for dealing with:

- voluntary provisional tax payments;
- the standard uplift method;
- provisional tax instalments; and
- the GST ratio method.

The threshold referred to in these sections, and others, would be changed in accordance with the implementation of this measure (with the exception of a terminating provision in section RZ 1).

Provisional tax is paid in three equal instalments over an income year. The requirement to make these payments imposes compliance costs on taxpayers. It also has an impact on cash flow as provisional tax instalments comprise cash that a taxpayer is unable to use during the year before terminal tax is due.

The proposed measure would remove around 95,000 taxpayers from the provisional tax regime.

INCREASE IN THE LOW-VALUE ASSET WRITE-OFF THRESHOLD

(Clause 8)

Summary of proposed amendment

This measure would temporarily increase the low-value asset write-off threshold from \$500 to \$5,000 in the short term before decreasing this threshold to \$1,000 on a permanent basis. This would allow taxpayers to immediately deduct expenditure on assets that cost up to \$5,000 (and subsequently \$1,000) rather than depreciating them over the life of the asset. This would decrease the tax liabilities of taxpayers in the short term and therefore assist with cashflow including during the COVID-19 outbreak. It may also encourage continued investment in businesses in the short term.

Application date

The proposed amendment to increase the low-value asset write-off threshold to \$5,000 would apply for property purchased on or after 17 March 2020. The proposed amendment to subsequently lower this threshold to \$1,000 would apply for property purchased on or after 17 March 2021.

Key features

This measure would increase the value of property that is eligible to be written off in the year of purchase from \$500 to \$5,000, before decreasing that threshold to \$1,000. This means that expenditure on assets up to the threshold can be deducted immediately, so that all of the tax benefit is claimed up front. This would provide increased cashflow in the short term.

The \$5,000 threshold would apply for property purchased on or after 17 March 2020 only while the \$1,000 threshold would apply for property purchased on or after 17 March 2021.

Example 2: Increase in the low-value asset write-off threshold

Capes Comics Limited (Capes) is a comic store that sells comics and comic-related merchandise. The store's owner, Clark, wants to expand by investing in two new display cabinets worth \$4,600 in total. Clark believes that this will increase his sales of high-value action figures.

However, with the COVID-19 restrictions, he is anxious about investing \$4,600, especially given that he can only deduct the cost of the cabinets over time through tax depreciation (rather than immediately).

The Government's proposed change to the low-value asset write-off threshold would mean that Capes can claim an immediate deduction for the cost of the cabinets. This would allow Capes to reduce its tax paid this year by \$1,288 (28% of \$4,600), instead of that amount being spread over a number of years.

Background

Since 2005, the threshold value in section EE 38(2)(b) of the Income Tax Act 2007 for low-value asset write-offs has been \$500. Assets costing up to this threshold can be immediately expensed, which provides all of the tax benefit in the year the asset was purchased.

For example, capital expenditure on property that cost \$2,000 exceeds the low-value asset write-off threshold and so must be depreciated over a number of years. Expenditure on an asset costing \$300, however, can be immediately deducted so that all of the tax benefit is generated in the year of purchase, even if the asset lasts much longer than one year.

RESEARCH AND DEVELOPMENT TAX CREDITS – BROADER ACCESS TO REFUNDS

(Clauses 15, 16, 37 and 38)

Summary of proposed amendment

The proposed amendment brings forward the application date of broader refundability rules, so that these can apply from the first year of the R&D Tax Incentive scheme.

Application date

The proposed amendment would apply from the 2019–20 income year.

Key features

The proposed amendment changes the rules for R&D tax credit refunds to make refundable credits more accessible for businesses. It does this by bringing forward the application date of broader refundability rules to the 2019–20 income year (year one of the R&D Tax Incentive scheme). These rules would otherwise have applied from the 2020–21 income year (year two of the R&D Tax Incentive scheme).

Limited refundability rules currently apply in the 2019–20 income year (year one rules), which only allow businesses who meet certain corporate eligibility and R&D wage intensity criteria to access refundable credits. A \$255,000 cap applies to limit the total amount of credits that can be refunded.

Broader refundability rules apply from the 2020–21 income year (year two rules). These rules remove the corporate eligibility and R&D wage intensity criteria, and replace the \$255,000 cap with a cap based on labour-related taxes. The year two rules are aimed at enabling more businesses to access R&D tax credit refunds, and would also enable more of these businesses to access greater amounts of refundable credits.

The proposed amendment would shift the application date of the year two broader refundability rules, so that these apply one year early (from the 2019–20 income year).

It is proposed that the broader refundability rules would apply by default to all claimants in the 2019–20 income year. Businesses would have the option of using the year one limited refundability rules if they prefer. When filing an R&D supplementary return, each business would be asked to confirm which set of refundability rules they intend to apply to their claim.

From the 2020–21 income year onwards, all businesses would have to use the year two broader refundability rules.

Background

COVID-19 has caused significant disruption to all businesses in New Zealand. There is a significant risk that this disruption could cause many R&D-performing businesses in New Zealand to reduce or stop their R&D. While ceasing R&D saves businesses money now, it

means some New Zealanders would lose their jobs, fewer innovative products would be developed, and there would be a deeper and more protracted decline in economic activity. This weakens our economy's ability to recover once the global economy has stabilised.

The Taxation (Research and Development Tax Credits) Act 2019 introduced an R&D Tax Incentive regime from the 2019–20 income year (year one). The R&D Tax Incentive was developed under tight timeframes, so there was insufficient time to develop comprehensive refundability rules before the legislation was enacted. As a consequence, in year one of the Incentive, limited refundability rules (based on another R&D scheme, the R&D Tax Loss Credit) were put in place to provide refundable credits for a small portion of eligible R&D tax credit claimants.

The Government reviewed the R&D Tax Incentive's refundability rules in 2019 and developed some new, broader refundability rules. The year two rules were put into place by the recently enacted Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020, and apply from the 2020–21 income year (year two).

To provide cash to businesses now and encourage them to continue with their R&D despite COVID-19, this proposed amendment would bring the application date of the broader year two refundability rules forward. Instead of applying from the 2020–21 income year, the year two rules would apply from the 2019–20 income year. This would enable more businesses to access refundable R&D tax credits, and would provide some businesses with larger refunds than they would have obtained under the existing year one limited refundability rules.

Detailed analysis

The proposal brings forward the application date for the broader refundability rules introduced in the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020. Instead of applying from the 2020–21 income year, these new rules would apply from the 2019–20 income year.

The broader refundability rules (default option)

It is proposed that broader refundability rules would apply from the 2019–20 income year, and would apply by default unless a business chooses to apply the limited refundability rules in section LZ 14 (section LA 5 (4B), (5B), (5C), and (5D)).

A loss-making business can be eligible for R&D tax credit refunds provided it is eligible for the credit more generally. It can obtain R&D tax credit refunds up to a labour-related tax cap. The cap is made up of any labour-related taxes (PAYE, ESCT, and FBT):

- paid by the business; and
- paid by companies the business is controlled by or which sit within the same wholly-owned group, if these companies have allocated amounts to the business for the purposes of the cap.

No cap applies to refundable R&D tax credits paid to levy bodies, or derived from eligible expenditure on approved research providers.

Note that it is proposed that the “transitional 2020–21 amount” portion of the refundability cap formula (see section 101 of the Taxation (KiwiSaver, Student Loans and Remedial

Matters) Act 2020) would be deleted. The “transitional 2020–21 amount” is not needed if this proposed amendment is passed, because businesses would be able to apply the year two broader refundability rules if they provide a better outcome for them in the 2019–20 income year.

The limited refundability rules

Proposed new section LZ 14 sets out the limited refundability rules, which businesses can choose to apply instead of the broader refundability rules if they prefer. A business can obtain R&D tax credit refunds under the limited refundability rules, provided it is a company and:

- is in a tax loss position, or has insufficient income tax liability to utilise all of its R&D tax credits in the 2019–20 income year;
- satisfies the R&D tax loss cash-out corporate eligibility and wage intensity criteria in sections MX 2 and MX 3;
- does not derive exempt income, and is not associated with a person who derives exempt income;
- is not a listed company, and is not associated with a listed company; and
- does not have an outstanding tax liability.

Only the first \$255,000 of the business’s R&D tax credits is refundable, which is the equivalent of \$1.7 million of eligible expenditure. Any remaining R&D tax credits may be carried forward to the 2020–21 income year if the shareholder continuity requirements in section LY 8 are met.

Choosing between the year one and year two refundability rules

Businesses would have the option of applying the existing year one limited refundability rules in the 2019–20 income year if they prefer (proposed new section LZ 14). Businesses may choose to use the limited refundability rules or the broader refundability rules in the 2019–20 income year, but they cannot use both. Only the broader refundability rules would be available from the 2020–21 income year.

Example 3: Applying the broader refundability rules

Moppy’s Chicken Factory (“Moppy”) has brought forward tax losses from the 2018–19 income year. It claims R&D tax credits in the 2019–20 income year, but does not have enough income tax to pay to use all of its credits. Moppy determines that it will be able to receive more refundable R&D tax credits if it applies the broader refundability rules, because it has \$500,000 of surplus R&D tax credits and has paid \$500,000 of PAYE in the 2019–20 income year (so its refundability cap is \$500,000).

Moppy files its income tax and R&D supplementary returns soon after 31 March 2020. It advises Inland Revenue that it would like to apply the broader refundability rules. Inland Revenue processes Moppy’s claim and refunds Moppy \$500,000 of R&D tax credits.

Tax administration

USE OF MONEY INTEREST REMISSION

(Clause 33)

Summary of proposed amendment

Use of money interest (UOMI) is charged when a taxpayer fails to make a payment of tax on time. There are some legislative mechanisms that allow UOMI to be remitted, however, these are not fit for purpose to respond to the nature of the economic shock caused by COVID-19.

The proposal would allow the Inland Revenue to remit interest on a late payment if the taxpayer's ability to make the payment on time was significantly adversely affected by the COVID-19 outbreak. This would include both when a taxpayer is physically unable to make a tax payment on time and when a taxpayer is financially unable to make a tax payment on time because of the economic nature of the COVID-19 outbreak.

Application date

The proposed amendment would come into force on the date of enactment of the Bill (the date on which it received the Royal assent). However, the amendment would give the Commissioner the ability to remit interest that has accrued on tax payments due on or after 14 February 2020.

The proposed ability for the Commissioner to remit interest related to COVID-19 would expire 24 months after the enactment date unless extended by an Order in Council.

Key features

Interest remission

The proposal would add new section 183ABAB to the Tax Administration Act 1994. This section would allow the Commissioner of Inland Revenue (the Commissioner) to remit use of money interest if a taxpayer's ability to make a tax payment on time is significantly adversely affected by an outbreak of COVID-19. This would include both where a taxpayer has been physically unable to make a payment on time, for example, because they have been quarantined, and where a taxpayer lacks the financial means to make a payment on time because of the economic impacts of COVID-19.

The Commissioner's discretion to remit interest would only apply to interest that has accrued on tax payments due on or after 14 February 2020.

For the Commissioner to remit interest the taxpayer must ask the Commissioner to remit the interest and the Commissioner must be satisfied that the taxpayer has asked for the relief as soon as practicable and made the payment of tax as soon as practicable. The interest would not be remitted until the core tax debt has been paid.

Inland Revenue is developing guidance on when a taxpayer would be considered eligible for interest to be remitted and this would be published following the Bill being enacted.

Preliminary guidance is available at <https://www.ird.govt.nz/covid-19-novel-coronavirus/tax-relief/uomi>

Sunset provision

The Commissioner's ability to remit interest would only apply for 24 months following the enactment date. However, this period would be able to be extended by an Order in Council made on the recommendation of the Minister of Revenue. This Order in Council would need to be made within the initial 24 months during which the Commissioner can remit interest.

The extension to the time limit would expire after the period given by the order or 6 months after the order came into force if the order did not specify a time limit. However, the time limit could be extended further by subsequent Orders in Council so long as they are made before the date on which the preceding order would expire.

In recommending the making of an Order in Council, the Minister of Revenue would need to be satisfied that the ability of taxpayers to pay tax on time is likely to continue to be significantly adversely affected by COVID-19 beyond the expiry of the time limit. As such, it is unlikely that the time limit would be able to be extended by Order in Council once the COVID-19 outbreak has concluded.

Background

The purpose of UOMI is to compensate the Government for the loss of use of money from taxpayers underpaying their tax. It applies to all tax types administered by Inland Revenue, including income tax and GST. UOMI also applies to underpayments of tax that are withheld at source, such as PAYE and RWT. UOMI also applies to Working for Families debt.

In certain circumstances the Commissioner may remit UOMI on a late tax payment. For the remission of interest in response to emergency events, the current rules provide for an Order in Council process to allow the Commissioner to remit UOMI where a taxpayer is "physically prevented" from making a payment. However, the Commissioner cannot remit interest for a taxpayer that is financially unable to make a payment on time because of the emergency event.

The current rules around remitting UOMI in emergency events are directed at situations or events where public safety is of paramount concern because of the risk of injury or death, typically due to a natural disaster. However, the current statutory framework is not fit for purpose to respond to the nature of the economic shock of COVID-19 where a taxpayer may be financially unable to pay their tax on time.

INFORMATION SHARING

(Clauses 32 and 34)

Summary of proposed amendment

The proposed amendment would allow Inland Revenue to share taxpayer information with other government departments to assist the efficient and effective delivery of the Government's COVID-19 response. The amendment would only apply for up to two years.

Application date

The proposed amendment would apply from the date of announcement of the change, being 17 March 2020. The amendment would apply for a period of two years only unless extended by an Order in Council. This would allow the Government to continue sharing information, if required, in response to COVID-19 after the two-year period.

Key features

The proposed amendments would allow Inland Revenue to share information with other government agencies in order to respond to the COVID-19 outbreak. This proposal would be targeted, time limited, and only used when existing legislative provisions are not adequate to share information.

The other agencies Inland Revenue would share information about persons or entities with are Government departments, the New Zealand Police, ACC, and Kāinga Ora. The information would only be shared for the purpose of enabling those agencies to provide assistance to individuals and businesses, fulfil any obligation or function, or exercise any power in response to the COVID-19 outbreak. The information shared would not be available for use in administering other assistance not related to COVID-19.

The information that could be shared would be both individual and non-individual information and may include, but is not limited to, identifying information, contact and location information, financial information, and family information. The provision would also enable information to be shared to enable the government agency to undertake compliance activity related to that COVID-19 assistance.

An example of where the information could be provided is to assist in determining entitlement to any temporary income assistance package or the auditing of any assistance claims to counter fraud.

Currently, tax legislation requires those persons who have access to taxpayer information to keep that information confidential and not disclose or use it for a purpose other than that for which it was provided. This requirement would also apply to the proposed information sharing provision to assist the response to the COVID-19 outbreak.

As a safeguard, Inland Revenue would retain a discretion as to whether to share information and sharing would only occur where the information is readily available, it is reasonable and practicable to share, and it is not undesirable to share the information.

Background

Currently, tax legislation requires Inland Revenue staff to keep taxpayer information confidential unless a specific legislative exception authorises the disclosure. There are a number of exceptions in the tax legislation enabling Inland Revenue to share information with other agencies. These existing exceptions will be used, where possible, to share information with other agencies to assist in the response to the COVID-19 outbreak.

However, there may be situations where, as a result of the outbreak, it is desirable for Inland Revenue to share information with other agencies with which Inland Revenue does not have any existing arrangements or where the existing arrangements are not flexible enough to allow the required sharing to occur.

A similar provision to the one outlined in the Bill applied during the Canterbury earthquake and allowed Inland Revenue to share information with other government agencies as part of the government's response to the Earthquake. The proposed amendment is modelled on that provision.

Social assistance

REMOVAL OF HOURS TEST FROM THE IN-WORK TAX CREDIT

(Clauses 17, 19, 20, and 29(3))

Summary of proposed amendment

The In-Work Tax Credit is an income-tested cash payment to working families with children of \$3,770 per year (plus an additional \$780 per child for 4th and subsequent children). This amendment would remove the requirement for recipient families to normally be working at least 20 hours per week as a sole parent or a combined 30 hours per week as a couple.

Application date

The proposed amendment would apply from 1 July 2020.

Key features

The removal of the hours-test would allow families that work variable hours or less than the required 20 (sole) or 30 (coupled) hours per week to receive the In-Work Tax Credit. The remaining eligibility criteria for the In-Work Tax Credit would remain unchanged. Therefore, recipient families must still be deriving income and cannot be receiving an income-tested benefit or student allowance, as per the existing requirements.

Background

The effect of this proposed change would be to allow all Working for Families recipients that have income from employment and do not receive an income-tested benefit or student allowance to receive the In-Work Tax Credit, regardless of the number of hours they work. Currently, families that work a fluctuating number of hours from week to week or are unable to increase their hours of work do not receive the In-Work Tax Credit for weeks that they do not work 20 (sole) or 30 (coupled) hours.

WINTER ENERGY PAYMENT

(Clause 36)

Summary of proposed amendment

This amendment would reduce the rates of winter energy payment back to \$450 for single people with no dependent children (down from \$900) and \$700 for couples or single people with dependent children (down from \$1,400).

Application date

The proposed amendment would apply from 1 May 2021.

Key features

The proposed amendment would ensure that the doubling of the winter energy payment rates for 2020 as part of the COVID-19 Recovery Package are only temporary. It would reduce the rates back to \$450 and \$700 for the 2021 winter period.

Background

As part of Phase One of the Recovery Package in response to the economic impacts of COVID-19, the Government agreed that the annual rates of WEP payments for 2020 would be \$900 for single people with no dependent children, and \$1,400 for couples or single people with dependent children. The increase is double the normal rate and is only intended to be temporary. Single people would receive \$40.91 each week, and couples would receive \$63.64 each week for the 2020 winter period (1 May to 1 October), these rates would be reduced back to their previous levels for the 2021 winter period.

The temporary WEP increase provides further support to beneficiaries and superannuitants to help cover their heating costs this winter. It is estimated that around 850,000 WEP recipients would benefit from the proposal to temporarily double the WEP rates. If partners of recipients are included, over one million people are expected to benefit.

WORKING FOR FAMILIES TAX CREDITS ENTITLEMENT FOR EMERGENCY BENEFIT RECIPIENTS

(Clause 18)

Summary of proposed amendment

The proposal would allow people on a temporary visa who wouldn't otherwise meet the Working for Families (WFF) residency criteria, to qualify for WFF, if the Ministry of Social Development (MSD) has granted them an emergency benefit. This would ensure that people on a temporary visa who are granted an emergency benefit would qualify for the same WFF components as other beneficiaries.

Application date

The proposed amendment would apply from 1 April 2020.

Key features

If MSD grant an emergency benefit, to a person on temporary visa, that person would be able to qualify for the same WFF payment as other beneficiaries. That is, they could qualify for family tax credit and Best Start. They would not qualify for the In-Work Tax Credit or minimum family tax credit because these payments are not available to a person who is in receipt of a main benefit.

Background

Currently, emergency benefit recipients with dependent children and who are on a temporary visa, do not qualify for WFF tax credits. This is because they do not meet the residency criteria for WFF. The result is a difference in the financial support that these families can access, compared with other main benefit recipients with children.

In general, to receive a main benefit (including an emergency benefit) a person must be a New Zealand citizen or permanent resident and have resided in New Zealand for at least two years since becoming a citizen or resident. However, MSD has discretion to grant an Emergency Benefit in other circumstances¹ when those residency criteria are not met.

The WFF legislation does not contain any comparable discretion. The WFF residency requirements can be met by the child or the parent.

The WFF residency requirements can be met by the child if:

- the child is ordinarily resident in New Zealand; and
- is present in New Zealand for the period of entitlement.

¹ These circumstances can include not being eligible for another benefit, that they are in hardship and unable to earn a sufficient livelihood.

The WFF residency requirements can be met by the parent if:

- the parent is ordinarily resident in New Zealand; and
- has been in New Zealand for 12 months continuously at any time.

Those on a temporary visa are specifically excluded from the definition of New Zealand resident for WFF. This exclusion was intended to prevent short-term visitors from accessing WFF. It was not intended to prevent those in exceptional circumstances from accessing WFF.

The proposed amendment would ensure that families on a temporary visa who are granted an emergency benefit are able to access a comparable level of financial support to other recipients of main benefits.

GST ON COVID-19 RELATED SOCIAL ASSISTANCE PAYMENTS

(Clause 35)

Summary of proposed amendment

The proposed amendment ensures that COVID-19 Leave Payment and the COVID-19 Wage Subsidy (the payments) which were paid between 17 March 2020 and 23 March 2020 are not subject to GST.

The amendment is necessary because the Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 (the 2020 Order) came into force on 24 March 2020. This Order added the payments to the schedule of non-taxable grants and subsidies in the Goods and Services Tax (Grants and Subsidies) Order 1992, however, it did not have retrospective effect. This means that the payments are only non-taxable from 24 March 2020, which is not the intent.

Proposed section 89 of the Goods and Services Tax Act 1985 ensures that payments made between 17 March 2020 and 24 March 2020 are non-taxable grants and subsidies for the purposes of the Goods and Services Tax Act 1985 for the period between the Government's announcement of the payments and the commencement of the 2020 Order. This means that recipients of the payments would not need to return GST on them, irrespective of when they were received.

Application date

The proposed amendment would come into force on the day the Bill is enacted, and would apply retrospectively from 17 March 2020.