

Part K

Credits of tax under family income assistance scheme

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KA 1 What this Part does

This Part identifies the credits of tax to which a person is entitled in a tax year under the family income assistance scheme.

Defined in this Act: credit of tax, family income assistance scheme, tax year

KA 2 Relationship with core provisions

Adjusted income tax liability

- (1) Section BC 6(3) (Income tax liability of filing taxpayer) adjusts the income tax liability of a filing taxpayer by subtracting their allowable rebates from their unadjusted income tax liability.

Surplus credits

- (2) Section BC 8 (Surplus rebates) deals with how a credit of tax arising under this Part is applied.

Defined in this Act: adjusted income tax liability, allowable rebates, credit of tax, filing taxpayer, income tax liability, unadjusted income tax liability

KA 3 Excluded income

A credit of tax that a person has under this Part is excluded income of the person.

Defined in this Act: credit of tax, excluded income

Compare: 2004 No 35 s KD 8

KA 4 Calculation of amounts of credit producing negative amounts

If a calculation under this Part produces a result that is negative for the amount of a credit of tax or the amount of a component of a credit, the amount of the credit or component is zero.

Defined in this Act: amount, credit of tax

Compare: 2004 No 35 s KB 3

KA 5 Advice from outside agencies

In determining a person's entitlement to a credit of tax under this Part, the Commissioner may obtain the advice of the chief executive or, as applicable, the person appointed under section 61A of the Defence Act 1990 for the purposes of the War Pensions Act 1954.

Defined in this Act: chief executive, Commissioner, credit of tax

Compare: 2004 No 35 s KD 9

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KB 1 Adjustments for calculation of family scheme income

Assessable income derived at uniform daily rate

- (1) To determine the amount (**family scheme income**) on which the calculation of an entitlement and credit of tax under the family income assistance scheme is based, the following paragraphs apply in relation to the assessable income derived by the person in a computation period in an income year:
- (a) to the extent to which the income is derived from employment during all or part of the income year, it is treated as derived at a uniform daily rate during the period of the employment; and
 - (b) to the extent to which the income is derived as an income-tested benefit, it is treated as derived at a uniform daily rate during the period in the income year for which the benefit is paid to the person; and
 - (c) despite section 38(1) of the Tax Administration Act 1994,—
 - (i) to the extent to which the income is derived otherwise than under paragraph (a) or (b), it is treated as derived at a uniform daily rate during the income year; and
 - (ii) any expenditure incurred in deriving the income referred to in subparagraph (i) that is allowed as a deduction is treated as incurred at a uniform daily rate during the income year.

Exempt income included

- (2) For the purposes of subsection (1), an amount referred to in section CW 23(1)(e) or CW 26 (which relate to overseas pensions and maintenance payments) derived by the person in the income year is not treated as exempt income.

Deduction

- (3) For the purposes of subsection (1), the person is allowed a deduction for—
- (a) the amount of any payment, made by the person during the tax year, of the kind referred to in section CW 26; and
 - (b) the amount of any payment made by the person during the tax year under section 27K of the Social Security Act 1964.

Net loss of qualifying company

- (4) For the purposes of subsection (1), an amount of a net loss of a qualifying company that is attributed to the person as a shareholder of the qualifying company under section HG 16 (Net losses of loss attributing qualifying company to be attributed to shareholders) is not included in family scheme income.

All known income sources

- (5) The Commissioner must have regard to—
- (a) the income from all sources known to the Commissioner; and
 - (b) if the person has been issued an income statement under Part 3A of the Tax Administration Act 1994, the sum of all amounts of assessable income included in an income statement issued to the person.

Transitional adjustments

- (6) The amounts described in section KZ 2 (Calculation of child tax credit) are not included in the person's family scheme income.

Defined in this Act: amount, assessable income, child tax credit, Commissioner, computation period, deduction, family scheme income, gross, income, income derived from employment, income statement, income year, income-tested benefit, net income, net loss, overseas pension, qualifying company, shareholder, tax year

Compare: 2004 No 35 s KD 1(1)(a), (b), (i), (3)

KB 2 Adjustment for period that is less or more than 1 year

Calculation of adjustment

- (1) If a person's income is calculated for a period that is less or more than a year, their family scheme income must be adjusted by an amount calculated using the formula—

$$\text{person's family scheme income} \times \frac{365}{\text{days}}$$

Definition of items in formula

- (2) In the formula,—

- (a) **person's family scheme income** is the person's income calculated under this Part:
- (b) **days** is the total number of days in the period for which the income has been derived.

Defined in this Act: amount, family scheme income, income, year

Compare: 2004 No 35 s KD 1(5), (6)

KB 3 When person carries on 1 or more businesses

When this section applies

- (1) This section applies for the purposes of determining the amount that represents the family scheme income of a person for an income year if—
 - (a) a person carries on 1 or more businesses in the income year; and
 - (b) the person derived assessable income only from carrying on the business or businesses.

Calculation for each business

- (2) The amount that would be the net income or the net loss of the person for the income year must be calculated for each business.

Net loss

- (3) If a calculation under subsection (2) is a net loss, the amount is treated as zero.

Depreciation of asset used in more than 1 business

- (4) If, in the income year, an asset of the person is used in more than 1 business carried on by the person, the person must allocate amounts of depreciation loss appropriately in relation to the use of the asset.

Businesses may be treated as single business

- (5) The Commissioner may treat 2 or more businesses carried on by the person in the income year as a single business if the Commissioner considers that the businesses are of the kind that are normally carried on in association with each other.

Defined in this Act: amount, assessable income, business, Commissioner, depreciation loss, family scheme income, income year, net income, net loss

Compare: 2004 No 35 s KD 1(1)(f), (2)

KB 4 Family scheme income of major shareholders in close companies

When this section applies

- (1) This section applies for the purposes of determining the amount that represents the family scheme income of a person for an income year when the person is a major shareholder in a close company on the company's balance date.

What is included in family scheme income

- (2) The person's family scheme income includes an amount calculated using the formula—

$$\frac{\text{shares held by person}}{\text{shares issued by company}} \times (\text{company's net income} - \text{total dividends}).$$

Definition of items in formula

- (3) In the formula,—
- (a) **shares held by person** is the number of shares issued by the company and held by the person (excluding shares with only a fixed rate of dividend) on the last day of the company's accounting year:
 - (b) **shares issued by company** is the number of shares issued by the company (excluding shares with only a fixed rate of dividend) on the last day of the company's accounting year:
 - (c) **company's net income** is the net income of the company for the company's accounting year:
 - (d) **total dividends** is the amount of all dividends that the company pays for the company's accounting year.

Defined in this Act: accounting year, amount, close company, dividend, family scheme income, income year, major shareholder, net income, share

Compare: 2004 No 35 s KD 1(1)(g)

KB 5 Treatment of distributions from superannuation schemes

When this section applies

- (1) This section applies when—
- (a) a person receives a distribution from a superannuation scheme in an income year; and
 - (b) an employer of the person has made contributions to the superannuation scheme in—
 - (i) the income year in which the distribution was received; or

- (ii) the 2 income years immediately before that income year;
and
- (c) the person continues to work for the employer for 1 month or more after the date of the distribution.

When this section does not apply

- (2) This section does not apply to a person who receives a distribution from a superannuation scheme as a result of and on or after the person's retirement from employment with an employer who was a contributor to the scheme.

Assessable income

- (3) The distribution referred to in subsection (1) is assessable income of the person derived in the tax year or years that corresponds to the income year or years in which the contributions were made. The amount does not include an amount of a contribution by the person as a member of the superannuation scheme.

Defined in this Act: assessable income, employer, employment, income year, superannuation scheme

Compare: 2004 No 35 s KD 1(1)(h)

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KC 1 What this subpart does

Rules about entitlements under family income assistance scheme

- (1) This subpart provides the rules for determining whether a person and their spouse, civil union partner, or de facto partner are entitled to family support and family plus as entitlements and credits of tax under the family income assistance scheme.

Family support

- (2) Family support is the amount of a person's entitlement and credit of tax calculated under section KD 3 (Calculation of family support).

Family plus

- (3) Family plus is made up of—
 - (a) the in-work payment (sections KD 4 to KD 10) or the child tax credit continued under section KZ 1 (Entitlement to child tax credit); and
 - (b) the parental tax credit (sections KD 11 and KD 12); and
 - (c) the family tax credit (section KE 1 (Family tax credit)).

Classification of credits

- (4) For the purposes of the calculation of the amount of a credit of tax, entitlements and credits of tax under the family income assistance scheme are divided into—
- (a) family assistance credits, made up of family support, the in-work payment or child tax credit, and the parental tax credit; and
 - (b) family tax credits.

Defined in this Act: amount, child tax credit, Commissioner, credit of tax, family income assistance scheme, family plus, family support, family tax credit, in-work payment, parental tax credit, spouse

Compare: 2004 No 35 ss KD A1, KD 1A

KC 2 Who qualifies for entitlements under family income assistance scheme?

A person qualifies for an entitlement under the family income assistance scheme if, for an entitlement period, they meet the qualifying criteria set out in sections KC 3 to KC 7 and the continuing requirements set out in section KC 8.

Defined in this Act: entitlement period, family income assistance scheme

KC 3 First requirement: person's age

The first requirement is that the person referred to in section KC 2 is 16 or older.

Defined in this Act:

Compare: 2004 No 35 ss KD 2AA (4), KD 3(1) OB 1 “qualifying person” para (a)(i)

KC 4 Second requirement: principal care

The second requirement is that the person referred to in section KC 2 is the principal caregiver for 1 or more dependent children.

Defined in this Act: dependent child, principal caregiver

Compare: 2004 No 35 ss KD 2AA (4), KD 3(1), OB 1 “qualifying person” para (a)(ii)

KC 5 Third requirement: residence

Third requirement

- (1) The third requirement is that the person or child referred to in section KC 2 meets the residence requirements set out in subsections (2) and (3).

When person meets residence requirements

- (2) The person meets the residence requirements in subsection (1) if the person has been both resident and present in New Zealand for a continuous period of 12 months at any time, and is resident on the date on which a credit of tax arises under section KD 1 (Family assistance credit) or KE 1 (Family tax credit).

When child meets residence requirements

- (3) The child meets the residence requirements in subsection (1) if the child is both resident and present in New Zealand for the entitlement period.

Defined in this Act: child, credit of tax, entitlement period, resident

Compare: 2004 No 35 ss KD 3(1), OB 1 “qualifying person” para (a)(iii)

KC 6 When person does not qualify

Despite sections KC 3 to KC 5, a person does not qualify for—

- (a) a family assistance credit if, during the computation period, they receive a parent’s allowance under section 32(2) of the War Pensions Act 1954;
- (b) a family tax credit if, during the computation period, they receive—
- (i) an income-tested benefit; or
 - (ii) a veteran’s pension; or
 - (iii) a parent’s allowance.

Defined in this Act: computation period, family assistance credit, family tax credit, income-tested benefit, parent’s allowance, veteran’s pension

Compare: 2004 No 35 s KD 3(1)

KC 7 When spouse or partner entitled under family income assistance scheme

When this section applies

- (1) This section applies when a person has a spouse, civil union partner, or de facto partner throughout an entitlement period, and during the period—

- (a) the person meets the criteria in sections KC 3 to KC 5 in relation to 1 or more dependent children; and
- (b) the spouse or partner meets the criteria in sections KC 3 to KC 5 in relation to 1 or more dependent children; and
- (c) the dependent child, or at least 1 of the dependent children, referred to in paragraph (b) is not a dependent child referred to in paragraph (a).

Single person

- (2) In the circumstances described in subsection (1),—
 - (a) this section applies as if—
 - (i) the person or their spouse or partner meets the qualifying criteria in relation to all those children; and
 - (ii) the other person does not meet the qualifying criteria in relation to any of the children; and
 - (b) the Commissioner must determine which of the persons referred to in paragraph (a) meets the qualifying criteria.

Defined in this Act: Commissioner, computation period, credit of tax, dependent child, entitlement period, family assistance credit, family support, income-tested benefit, parent's allowance, principal caregiver, resident, spouse, veteran's pension

Compare: 2004 No 35 ss KD 3A(2)-(4)

KC 8 Continuing requirements

To receive entitlements and credits of tax under the family income assistance scheme, a person who meets the qualifying criteria set out in sections KC 3 to KC 7 must also meet the following requirements throughout the entitlement period:

- (a) the person meets the qualifying criteria on each day of the period; and
- (b) another person does not on any day start or stop being—
 - (i) a spouse or civil union partner of the person;
 - (ii) in a de facto relationship, between a man and a woman, with the person; and
- (c) the person does not start or stop being the principal caregiver of a dependent child other than on the first or, as applicable, the last day; and
- (d) a child for whom the person is the principal caregiver does not stop being a dependent child other than on the first or, as applicable, the last day; and

- (e) the composition of a family assistance credit does not change, other than on the first, or as applicable, the last day.

Defined in this Act: child, computation period, dependent child, entitlement period, family assistance credit, family income assistance scheme, principal caregiver, spouse

Compare: 2004 No 35 s OB 1 “eligible period”

KC 9 Credits for person aged 18

For person aged 18

- (1) A person is entitled to a credit of tax under sections KD 1 (Family assistance credit) and KE 1 (Family tax credit) for a person aged 18 who—
 - (a) is not financially independent; and
 - (b) is attending school or a tertiary educational establishment.

Determining period

- (2) The Commissioner must determine the period for which a person is entitled to a family assistance credit or a family tax credit for a person who is 18 years of age.

When period expires

- (3) The period determined by the Commissioner ends on or before the first day fixed by the Commissioner for payments of instalments of credits of tax under section 80KI of the Tax Administration Act 1994 in the calendar year following that in which the person turns 18 years of age.

Defined in this Act: Commissioner, computation period, credit of tax, entitlement period, family assistance credit, family tax credit, financially independent, year

Compare: 2004 No 35 s KD 2AA (7)-(9)

KC 10 Principal caregiver

Meaning: family assistance credit, family support, child tax credit

- (1) For the purposes of sections KD 3, KE 1, and KZ 1 (which relate to the family assistance credit, family support, and the child tax credit), a person is a **principal caregiver** of a dependent child if the person—
 - (a) lives apart from another person who qualifies under section KC 2 in relation to the dependent child; and
 - (b) has the dependent child in their exclusive care for periods totalling at least one-third of the tax year.

Meaning: in-work payment

- (2) For the purposes of section KD 6 (Second requirement: principal care), a person is a **principal caregiver** of a dependent child for an entitlement period if the person—
- (a) lives apart from another person who qualifies under section KC 2 in relation to the dependent child; and
 - (b) has the dependent child in their exclusive care for periods totalling at least one-third of the tax year, whether or not those periods coincide with the entitlement period.

Entitlement to in-work payment

- (3) If subsection (2) applies, section KD 10(3) is to be read as applying to the periods during which the principal caregiver has exclusive care of the dependent child.

Meaning: parental tax credit

- (4) For the purposes of sections KD 11 (Entitlement to parental tax credit), a person is a **principal caregiver** of a dependent child if the person—
- (a) lives apart from another person who qualifies under section KC 2 in relation to the dependent child; and
 - (b) has the dependent child in their exclusive care for periods totalling at least one-third of the parental entitlement period.

Principal caregiver to notify Commissioner of change

- (5) A person who is a principal caregiver under this section must notify the Commissioner immediately of a change in the arrangements for the care of the child that has, or will have, the effect of ending the person's status as a principal caregiver.

Defined in this Act: child tax credit, Commissioner, dependent child, entitlement period, family assistance credit, family support, in-work payment, notify, parental entitlement period, parental tax credit, principal caregiver, tax year

Compare: 2004 No 35 s KD 2AA(2)-(3)

KC 11 Computation periods and entitlement periods

Meaning

- (1) In this Part,—
- (a) a **computation period** means an unbroken period in a tax year, whether the period consists of some or all of the days in the tax year:

- (b) an **entitlement period**, for a person, means a period that forms all or part of a computation period during which the person meets the continuing requirements set out in section KC 8.

When day included in more than 1 period

- (2) If a day is part of more than 1 entitlement period or 1 computation period, the day is treated as part only of the particular period that the Commissioner determines is fair in the circumstances.

Defined in this Act: Commissioner, computation period, entitlement period, tax year

Compare: 2004 No 35 ss KD 2AA(1), (11), OB 1 “specified period”, “eligible period”

KC 12 Some definitions

In this Part,—

chief executive means the chief executive of the department currently responsible for administering the Social Security Act 1964

child tax credit means the component of the family assistance credit that is calculated using the formula in section KZ 2 (Calculation of child tax credit)

family assistance credit means a credit of tax under section KD 1 (Family assistance credit)

family credit abatement means the component of the family assistance credit that is calculated using the formula in section KD 13 (Calculation of family credit abatement)

family income assistance scheme means all the entitlements and credits of tax arising under the family plus and family support packages

family plus means the total of—

- (a) the amount for an entitlement period, after abatement (if any) under section KD 13 (Calculation of family credit abatement), of whichever is appropriate of—
- (i) the in-work payment calculated using the formula in section KD 10 (Calculation of in-work payment);
 - (ii) the child tax credit calculated using the formula in section KZ 2 (Calculation of child tax credit); and
- (b) the parental tax credit for an entitlement period calculated using the formula in section KD 12 (Calculation of parental tax credit) after

abatement (if any) under section KD 13 (Calculation of family credit abatement); and

- (c) the family tax credit calculated using the formula in section KE 1 (Family tax credit)

family support means the component of the family assistance credit calculated using the formula in section KD 3 (Calculation of family support)

family tax credit means a credit of tax under section KE 1 (Family tax credit)

in-work payment means the component of the family assistance credit calculated using the formula in section KD 10 (Calculation of in-work payment)

parental tax credit means the component of the family assistance credit calculated using the formula in section KD 12 (Calculation of parental tax credit)

resident—

- (a) means ordinarily resident; and
- (b) does not include being unlawfully resident in New Zealand; and
- (c) does not include being lawfully resident in New Zealand only through having—
 - (i) a visitor's permit; or
 - (ii) a temporary work permit; or
 - (iii) a permit to be in New Zealand for the purposes of study at a New Zealand school or university or other tertiary educational establishment.

social assistance payment means—

- (a) an income-tested benefit; or
- (b) a veteran's pension; or
- (c) New Zealand superannuation; or
- (d) a basic grant or an independent circumstances grant, made under regulations made under section 193 of the Education Act 1964, section 303 of the Education Act 1989, or a substituted provision; or
- (e) compensation described in any of paragraph (b)(xii) to (xvi) of the definition of **salary or wages**, the compensation relates to a day

forming part of a continuous period of eligibility for the compensation and the day falls after the earlier of—

- (i) the day with the same date as the first day of the continuous period of eligibility for compensation and occurring in the third calendar month after that first day; and
- (ii) the last day of the third calendar month after the first day of the continuous period of eligibility for compensation

Defined in this Act: child tax credit, Commissioner, computation period, entitlement period, family assistance credit, family tax credit, income-tested benefit, in-work payment, net income, New Zealand superannuation, parental tax credit, resident in New Zealand, salary or wages, veteran's pension

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Calculating amount of credit

KD 1 Family assistance credit

Credit of tax

- (1) A person who qualifies under section KC 2 (Who qualifies for entitlements under family income assistance scheme?) is entitled to a credit of tax (**family assistance credit**) equal to an amount calculated using the formula in subsection (2).

Formula

- (2) The formula is—
family support + (payment or credit) + parental tax credit – family credit abatement.

Definition of items in formula

- (3) In the formula,—
- (a) **family support** is the family support for the entitlement period calculated using the formula in section KD 3:
 - (b) **payment or credit** is 1 of the following, as applicable:
 - (i) the in-work payment for the entitlement period calculated using the formula in section KD 10, if the person is entitled to the in-work payment for the entitlement period; or
 - (ii) the amount of child tax credit for the entitlement period calculated using the formula in section KZ 2 (Calculation of child tax credit), if the person is not entitled to the in-work payment for the entitlement period, and is entitled to the child tax credit for the entitlement period under section KZ 1 (Entitlement to child tax credit):
 - (c) **parental tax credit** is the amount of parental tax credit for the entitlement period calculated using the formula in section KD 12:
 - (d) **family credit abatement** is the amount of family credit abatement for the entitlement period calculated using the formula in section KD 13.

Extra instalment

- (4) This section is overridden by section 80KW of the Tax Administration Act 1994.

Defined in this Act: amount, child tax credit, credit of tax, entitlement period, family credit abatement, family support, in-work payment, parental tax credit, tax year

Compare: 2004 No 35 s KD 2(1), (2)

KD 2 Calculating net contributions to credits

When this section applies

- (1) This section applies when the Commissioner calculates the amounts making up the family support, the in-work payment, the child tax credit, and the parental tax credit that relate to a period under this subpart.

Calculating net contributions

- (2) The Commissioner must—
 - (a) treat the family support, in-work payment, the child tax credit, and the parental tax credit as credits of tax corresponding to the period; and
 - (b) treat as a debit the amount of family credit abatement corresponding to the period; and
 - (c) apply the amount of the family credit abatement corresponding to the period,—
 - (i) first, to reduce the amount of the family support corresponding to the period; and
 - (ii) second, to reduce the amount of the in-work payment or, as applicable, the child tax credit corresponding to the period; and
 - (iii) third, to reduce the amount of the parental tax credit corresponding to the period.

Defined in this Act: amount, child tax credit, Commissioner, credit of tax, family credit abatement, family support, in-work payment, parental tax credit

Compare: 2004 No 35 s KD 2A

Family support

KD 3 Calculation of family support

Entitlement

- (1) A person who qualifies under section KC 2 (Who qualifies for entitlements under family income assistance scheme?) is entitled to an amount of family support calculated using the formula in subsection (2).

Formula

(2) The formula is—

$$\text{prescribed amount} \quad \times \quad \frac{\text{days}}{365}.$$

Prescribed amount

(3) In the formula, **prescribed amount** is the sum of the following amounts:

- (a) for the eldest dependent child for whom the person is a principal caregiver during the entitlement period, 1 of the following, as applicable:
 - (i) \$4,264, if the child is younger than 16:
 - (ii) \$4,940, if the child is 16 or older:
 - (iii) a weighted average of the amounts in subparagraphs (i) and (ii) that reflects the proportion of the period for which those subparagraphs apply to the child, if the child turns 16 during the entitlement period; and
- (b) for each dependent child for whom the person is a principal caregiver during the entitlement period, other than the eldest dependent child, 1 of the following, as applicable:
 - (i) \$2,964, if the child is younger than 13:
 - (ii) \$3,380, if the child is 13, 14, or 15:
 - (iii) \$4,420, if the child is 16 or older:
 - (iv) a weighted average of the amounts in subparagraphs (i) and (ii) that reflects the proportion of the period for which those subparagraphs apply to the child, if the child turns 13 during the entitlement period:
 - (v) a weighted average of the amounts in subparagraphs (ii) and (iii) that reflects the proportion of the entitlement period for which those subparagraphs apply to the child, if the child turns 16 during the entitlement period.

Days

(4) In the formula, **days** is the number of days in the entitlement period.

Order in Council increasing amount

(5) In subsection (3)(a)(i) and (ii), and (b)(i) to (iii), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section KF 7 (Order in Council).

When another person cares for dependent child

(6) Family support must be reduced in proportion to the time in the entitlement period that a dependent child spends in the exclusive care of another person who qualifies under section KC 2.

Defined in this Act: amount, child, dependent child, entitlement period, family assistance credit, family support, principal caregiver

Compare: 2004 No 35 ss KD 2(3), KD 2AA(3)

In-work payment

KD 4 Entitlement to in-work payment

Requirements

- (1) A person is entitled to an in-work payment for a child if, for an entitlement period, the person meets the 5 requirements in sections KD 5 to KD 9.

When another person entitled to in-work payment

- (2) If 2 persons are entitled to an in-work payment for a child for an entitlement period, the amount of the credit of tax to which each is entitled is not affected by the entitlement of the other person for a credit of tax.

Defined in this Act: child, credit of tax, entitlement period, in-work payment

Compare: 2004 No 35 s KD 2AAA(1), (3A)

KD 5 First requirement: person's age

The first requirement for an entitlement to an in-work payment is that the person referred to in section KD 4 is 16 or older.

Defined in this Act: in-work payment

Compare: 2004 No 35 s KD 2AAA(1)(a)

KD 6 Second requirement: principal care

When child financially dependent

- (1) The second requirement for an entitlement to an in-work payment is that the person referred to in section KD 4 is the principal caregiver for a child who is financially dependent on them.

Inclusions

- (2) A child for whom payments are made under section 363 of the Children, Young Persons, and Their Families Act 1989, or a child for whom a benefit is paid under section 28 or 29 of the Social Security Act 1964, is treated as financially dependent on the person.

Defined in this Act: child, financially dependent, in-work payment, principal caregiver

Compare: 2004 No 35 s KD 2AAA(1)(b)

KD 7 Third requirement: residence

Third requirement

- (1) The third requirement for an entitlement to an in-work payment is that the person or child referred to in section KD 4 meets the residence requirements set out in subsections (2) and (3).

When person meets residence requirements

- (2) The person meets the residence requirements in subsection (1) if the person—
- (a) has been both resident and present in New Zealand for a continuous period of 12 months at any time; and
 - (b) on the date on which a credit of tax arises under section KD 1, is a tax resident and resident in New Zealand.

When child meets residence requirements

- (3) The child meets the residence requirements in subsection (1) if the child is both resident and present in New Zealand for the entitlement period.

Defined in this Act: child, credit of tax, entitlement period, in-work payment, resident, resident in New Zealand

Compare: 2004 No 35 s KD 2AAA(1)(c), (3), (4)

KD 8 Fourth requirement: person not receiving benefit

The fourth requirement for an entitlement to an in-work payment is that the person referred to in section KD 4 and their spouse, civil union partner, or de facto partner, do not receive—

- (a) an income-tested benefit; or
- (b) a basic grant and an independent circumstances grant made under regulations made under section 193 of the Education Act 1964, section 303 of the Education Act 1989, or an enactment substituted for those sections; or
- (c) a parent's allowance under section 32(2) of the War Pensions Act 1954.

Defined in this Act: income-tested benefit, in-work payment, parent's allowance, spouse

Compare: 2004 No 35 s KD 2AAA(1)(e)

KD 9 Fifth requirement: full-time earner

Income from employment or compensation

- (1) The fifth requirement for an entitlement to an in-work payment is that either or both the person referred to in section KD 4 and their spouse, civil union partner, or de facto partner, is normally a full-time earner and derives—
- (a) income from employment as set out in subsections (2) and (3) as a full-time earner; or
 - (b) an amount of compensation described in subsection (4).

Income

- (2) The income referred to in subsection (1)(a) is—
- (a) a source deduction payment that is not excluded under subsection (3); or
 - (b) income to which section OB 2(2) (Meaning of sourced deduction payment: shareholder-employees of close companies) applies; or
 - (c) income from a business carried on for profit.

Exclusions from income

- (3) The following source deduction payments are excluded from income under subsection (2):
- (a) a source deduction payment described in paragraph (b)(v), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), and (xvi) of the definition of **salary or wages**, being payments such as benefits, pensions, compensation, and government grants;
 - (b) a withholding payment of the kind specified in Part E of the schedule to the Income Tax (Withholding Payments) Regulations 1979, relating to contract payments to non-resident contractors.

Compensation payments for personal injury

- (4) A person meets the fifth requirement if—
- (a) they receive a child tax credit for an entitlement period ending on 31 March 2006; and
 - (b) on or after 1 January 2006, they or their spouse, civil union partner, or de facto partner suffers an incapacity due to personal injury by accident within the meaning of section 26 of the Injury Prevention, Rehabilitation, and Compensation Act 2001; and

- (c) weekly compensation within the meaning of section 6 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, is or will be paid for the incapacity; and
- (d) the person or their spouse, civil union partner, or de facto partner would have met the fifth requirement and been eligible for the credit of tax calculated using the formula in section KD 10 at the time of the incapacity had this section come into force before the date of the incapacity.

Absence from work due to birth of child

- (5) Despite subsection (1), a person also meets the fifth requirement if they are normally a full-time earner as described in subsection (1)(a) but, in a 1-week period, they do not work, or work less than, the number of hours required to be a full-time earner because of the birth of a child. However this subsection applies only if the person is entitled to receive the parental tax credit for the child.

Defined in this Act: amount, business, child, child tax credit, credit of tax, entitlement period, full-time earner, income, income from employment, income-tested benefit, in-work payment, non-resident, parental tax credit, resident, salary or wages, source deduction payment, spouse, withholding payment

Compare: 2004 No 35 s KD 2AAA(1)(d), (5)-(8)

KD 10 Calculation of in-work payment

Entitlement

- (1) A person who meets the requirements of section KD 4 is entitled to an in-work payment calculated using the formula in subsection (2).

Formula

- (2) The formula is—

$$(\text{amount A} + (\text{amount B} \times (\text{children} - 3))) \quad \times \quad \frac{\text{weekly periods}}{52}.$$

Definition of items in formula

- (3) In the formula,—
 - (a) **amount A** is \$3,120:
 - (b) **amount B** is \$780:
 - (c) **children** is the greater of—
 - (i) 3; and
 - (ii) the number of children for whom the person is allowed the in-work payment:

- (d) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person or their spouse, civil union partner, or de facto partner has, from the activity, income to which section KD 9(2) refers.

Order in Council increasing amount

- (4) In subsection (3)(a) and (b), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section KF 7 (Orders in Council).

Defined in this Act: amount, child, entitlement period, in-work payment, spouse

Compare: 2004 No 35 s KD 2AAA(2)

Parental tax credit

KD 11 Entitlement to parental tax credit

When this section applies

- (1) This section applies when—
- (a) a person qualifies under section KC 2 (Who qualifies for entitlements under family income assistance scheme?) in relation to a dependent child born on or after 1 October 1999; and
- (b) neither the person nor their spouse, civil union partner, or de facto partner receives—
- (i) a social assistance payment or has a suspended entitlement to an income-tested benefit at any time during the first 56 days after the date of the dependent child's birth (**parental entitlement period**); or
- (ii) a parental leave payment under Part 7A of the Parental Leave and Employment Protection Act 1987 at any time for the child.

Entitlement

- (2) The person is entitled to a parental tax credit for the parental entitlement period.

If dependent child dies during parental entitlement period

- (3) The person continues to be entitled to the parental tax credit if—
- (a) the dependent child dies during the parental entitlement period; and
- (b) the person and their spouse, civil union partner, or de facto partner otherwise meet the requirements of subsection (1).

When another person cares for dependent child

- (4) The parental tax credit must be reduced in proportion to the time in the parental entitlement period that a dependent child spends in the exclusive care of another person who qualifies under section KC 2.

Relationship with section 2B of Parental Leave and Employment Protection Act 1987

- (5) Section 2B of the Parental Leave and Employment Protection Act 1987 applies for the purposes of subsection (1)(b) if a person—
- (a) gives birth to 2 or more children as a result of 1 pregnancy; or
 - (b) assumes the care of 2 or more children with a view to adoption.

Payment of parental tax credit

- (6) The parental tax credit is paid to the person either—
- (a) as a credit of tax in an end-of-year assessment; or
 - (b) in the 56 days after the date on which an application is made if—
 - (i) the person applies to receive the parental tax credit by instalment under section KF 1 (Application for payment of credit of tax by instalment); and
 - (ii) at any time during the period of 56 days, the person and their spouse, civil union partner, or de facto partner do not receive a social assistance payment and do not have a suspended entitlement to an income-tested benefit.

Defined in this Act: assessment, credit of tax, dependent child, income-tested benefit, parental entitlement period, parental tax credit, social assistance payment, spouse

Compare: 2004 No 35 ss KD 2AA(3), KD 2AB

KD 12 Calculation of parental tax credit

Entitlement

- (1) A person who meets the requirements of section KD 11 is entitled to a parental tax credit calculated using the formula in subsection (2).

Formula

- (2) The formula is—

$$\text{prescribed amount} \quad \times \quad \frac{\text{days}}{56}.$$

Definition of items in formula

- (3) In the formula,—

- (a) **prescribed amount** is \$1200 for each dependent child born on or after 1 October 1999:
- (b) **days** is the number of days in the parental entitlement period, up to a maximum of 56 days, for which the person and their spouse, civil union partner, or de facto partner do not receive a social assistance payment and do not have a suspended entitlement to an income-tested benefit.

Order in Council increasing amount

- (4) In subsection (3)(a), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section KF 7 (Orders in Council).

Defined in this Act: amount, dependent child, income-tested benefit, parental entitlement period, parental tax credit, social assistance payment, spouse

Compare: 2004 No 35 s KD 2(5)

Family credit abatement

KD 13 Calculation of family credit abatement

When this section applies

- (1) This section applies for the purposes of section KD 1 to determine the amount of a person's family credit abatement for an entitlement period.

Formula

- (2) The formula is—

$$\text{full-year abatement} \quad \times \quad \frac{\text{days}}{365}.$$

Definition of items in formula

- (3) In the formula,—
 - (a) **full-year abatement** is,—
 - (i) if the person has no spouse, civil union partner, or de facto partner during the entitlement period, and the person's family scheme income for the computation period containing the entitlement period is more than \$27,500, 30 cents for each complete dollar of the excess; or
 - (ii) if the person has a spouse, civil union partner, or de facto partner during the entitlement period, and the person's

family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for the computation period containing the entitlement period is more than \$27,500, 30 cents for each complete dollar of the excess:

- (b) **days** is the number of days in the entitlement period excluding the days of any calendar months in which the person receives protected family support as described in section KD 14.

When 56-day period includes 31 March

- (4) If a person who qualifies under section KC 2 (Who qualifies for entitlements under family income assistance scheme?) receives fortnightly instalments of the parental tax credit in a 56-day period that includes 31 March, the formula is applied so that—
 - (a) instalments of the parental tax credit received in the first tax year are abated against the person's family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for that tax year; and
 - (b) instalments of the parental tax credit received in the second tax year are abated against the person's family scheme income, the family scheme income of their spouse, civil union partner, or de facto partner, or the sum of those incomes for that tax year.

Order in Council increasing amount

- (5) In subsection (3)(a), the amounts referred to may be increased as prescribed by the Governor-General by Order in Council under section KF 7 (Orders in Council).

Defined in this Act: amount, assessable income, business, computation period, entitlement period, family credit abatement, family scheme income, income from employment, income year, income-tested benefit, parental tax credit, protected family support, spouse, tax year

Compare: 2004 No 35 s KD 2(6), (7)

KD 14 Person receiving protected family support

For the purposes of section KD 13(3)(b), a person who receives protected family support for a calendar month in an entitlement period, is a person who, in the calendar month—

- (a) has no spouse, civil union partner, or de facto partner, receives an income-tested benefit, and derives family scheme income that is less than the amount set out in section KD 13(3)(a)(i):

- (b) has a spouse, civil union partner, or de facto partner, receives an income-tested benefit, and derives family scheme income that together with the family scheme income of their spouse is less in total than the amount set out in section KD 13(3)(a)(ii).

Defined in this Act: entitlement period, family scheme income, income-tested benefit, protected family support

Compare: 2004 No 35 s KD 2(6B)

KD 15 Family scheme income for purposes of section KD 14

For the purposes of section KD 14, in the calculation of family scheme income,—

- (a) section KB 1(2) (Adjustments for calculation of family scheme income) does not apply; and
- (b) any income from employment that is derived in the calendar month as a result of an extra pay period that occurs in that month is disregarded; and
- (c) for a person who derives, for part of an income year, income to which section OB 2(2) (Meaning of source deduction payment: shareholder-employees of close companies) applies, or income from a business, the assessable income and any expenditure incurred in deriving that income that is allowed as a deduction are treated as derived and incurred, respectively, at a uniform daily rate throughout that part of the income year.

Defined in this Act: assessable income, business, deduction, family scheme income, income, income from employment, income year, pay period

Compare: 2004 No 35 s KD 2(6C)

Subpart KE—Family tax credit

Contents

- KE 1 Family tax credit
- KE 2 Meaning of employment for this subpart

KE 1 Family tax credit

Credit of tax

- (1) A person who qualifies under sections KC 3 to KC 5 (which relate to the qualifying criteria) is entitled to a credit of tax (**family tax credit**) for an entitlement period equal to an amount calculated using the formula in subsection (2).

Formula

- (2) The formula is—
- $$\text{(prescribed amount – total family scheme income)} \times \frac{\text{weekly periods}}{52}.$$

Definition of items in formula

- (3) In the formula,—
- (a) **prescribed amount** is \$15,080:
 - (b) **total family scheme income** is the family scheme income, for a computation period containing the entitlement period, of—
 - (i) the person; or
 - (ii) their spouse, civil union partner, or de facto partner; or
 - (iii) the person and their spouse, civil union partner, or de facto partner:
 - (c) **weekly periods** is the number of periods of 1 week in the entitlement period for which the person is a full-time earner.

Order in Council increasing amount

- (4) In subsection (3)(a), the amount referred to may be increased as prescribed by the Governor-General by Order in Council under section KF 7 (Orders in Council).

Relationship with section 80KW of the Tax Administration Act 1994

- (5) This section is overridden by section 80KW of the Tax Administration Act 1994.

Defined in this Act: amount, Commissioner, computation period, credit of tax, entitlement period, family scheme income, family tax credit, full-time earner, principal caregiver, spouse

Compare: 2004 No 35 s KD 3(2)-(5)

KE 2 Meaning of employment for this subpart

Meaning

- (1) For the purposes of the calculation of a family tax credit, **employment** in the definition of **full-time earner**, means the activity of a person that gives rise, or will give rise, to an entitlement to a source deduction payment other than—
- (a) a payment of any of the kinds referred to in paragraph (b)(iii), (ix), and (xi) of the definition of **salary or wages**;
 - (b) a withholding payment of the kind specified in part E of the schedule of the Income Tax (Withholding Payments) Regulations 1979;
 - (c) a payment made by a close company to a person who is a major shareholder of the close company;
 - (d) a payment made by a person to their spouse, civil union partner, or de facto partner;
 - (e) a payment made by a business carried on by 2 or more persons jointly, whether in partnership or otherwise, to a spouse, civil union partner, or de facto partner of 1 of the persons in business.

When subsections (3) and (4) apply

- (2) Subsections (3) and (4) apply when a person—
- (a) receives a source deduction payment; and
 - (b) on the date of receipt—
 - (i) does not undertake any employment; or
 - (ii) performs an activity to an extent less than would give rise to an entitlement to the source deduction payment.

Commissioner's determination

- (3) The Commissioner may treat the person as having undertaken the employment or performed the activity that would have given rise to the source deduction payment.

Considerations

- (4) The Commissioner must have regard to—
- (a) the date of receipt of the source deduction payment; and
 - (b) the pay period in which the source deduction payment occurs; and

- (c) the circumstances giving rise to the source deduction payment; and
- (d) any other matters that the Commissioner considers relevant.

Defined in this Act: business, close company, Commissioner, employment, family tax credit, major shareholder, pay period, source deduction payment, spouse, withholding payment

Compare: 2004 No 35 ss KD 3(1) "employment", KD 3A(10)

Subpart KF—Payment of credits

Contents

KF 1	Application for payment of credit of tax by instalment
KF 2	When person not entitled to payment by instalment
KF 3	Calculating amount of interim family assistance credit
KF 4	Requirements for calculating instalment of credit of tax
KF 5	Recovery of overpaid credit of tax
KF 6	Overpayment of entitlement
KF 7	Orders in Council

KF 1 Application for payment of credit of tax by instalment

When this section applies

- (1) This section applies when—
 - (a) a person who is a principal caregiver expects to be entitled, throughout a selected period, to a credit of tax under section KD 1 (Family assistance credit) or, as applicable, sections KD 1 and KE 1 (Family tax credit); and
 - (b) section KF 2 does not apply to the person; and
 - (c) the person wants the credit of tax to be paid by instalment before the end of the tax year that contains the selected period.

Application

- (2) The person may ask the Commissioner to pay the credit of tax by instalment to them.

Meaning of selected period

- (3) **Selected period** is a computation period chosen by the person for the purposes of this section and sections 80KA to 80KG of the Tax Administration Act 1994.

Defined in this Act: Commissioner, credit of tax, principal caregiver, selected period, spouse, tax year

Compare: 2004 No 35 s KD 5(1), (1A)

KF 2 When person not entitled to payment by instalment

When this section applies

- (1) This section applies when—
 - (a) a person—
 - (i) expects that in a computation period they will be entitled to receive an income-tested benefit; or
 - (ii) applies under section 80KP of the Tax Administration Act 1994 to the chief executive for payment of a credit of tax for a period after an income-tested benefit has ended; and
 - (b) the chief executive—
 - (i) is authorised by section 80KN of the Tax Administration Act 1994 to pay a family assistance credit to the person; and
 - (ii) does not ask the Commissioner under section 80KQ of the Tax Administration Act 1994 to accept from the person an application for a notice of entitlement.

No entitlement

- (2) The person is not entitled to apply under section KF 1 for the payment of the credit of tax by instalment for the computation period, and section 80KN applies.

Defined in this Act: chief executive, Commissioner, computation period, credit of tax, family assistance credit, income-tested benefit, notice of entitlement

Compare: 2004 No 35 s KD 5(8)

KF 3 Calculating amount of interim family assistance credit

When this section applies

- (1) This section applies when the Commissioner receives an application under section KF 1 and is required under section 80KD(2) of the Tax Administration Act 1994 to determine the amount of the credit of tax to which the person applying would be entitled.

Method for determining family assistance credit

- (2) The Commissioner must—
 - (a) calculate an amount (**annual amount**) using the formula in subsection (3); and
 - (b) ascertain the amount (**amount A**) that, in schedule 12, second column, is the equivalent of the annual amount represented in schedule 12, first column; and
 - (c) calculate the family assistance credit that the person would be entitled to for the tax year in which the calculation period falls if

the family scheme income of the person for the calculation period were equal to amount A.

Formula

(3) The formula is—

$$\text{attributed net income} \times \frac{365}{\text{days.}}$$

Definition of items in formula

(4) In the formula,—

- (a) **attributed net income** is equal to such amount of the family scheme income expected to be attributable to the part of the tax year that is the part (**calculation period**) for which the Commissioner determines that a credit of tax is allowable to the person:
- (b) **days** is the number of days in the calculation period.

Defined in this Act: amount, Commissioner, credit of tax, family assistance credit, family scheme income, tax year

Compare: 2004 No 35 s KD 5(6)

KF 4 Requirements for calculating instalment of credit of tax

How to calculate instalment

- (1) The Commissioner must calculate the amount of an instalment by way of credit of tax under section KD 1 (Family assistance credit) or, as applicable, sections KD 1 and KE 1 (Family tax credit)—
 - (a) as if the calculation period referred to in section KF 3 were a computation period; and
 - (b) using—
 - (i) a value for family scheme income as directed by section KF 3(2)(c); and
 - (ii) the rates of family support, in-work payment, or child tax credit, parental tax credit, family credit abatement, and family tax credit given by sections KD 1 and KE 1.

Instalment shown in complete dollars

- (2) An instalment of a credit of tax under section KD 1 or, as applicable, sections KD 1 and KE 1, is to be shown in a notice of entitlement in complete dollars.

Defined in this Act: amount, child tax credit, Commissioner, computation period, credit of tax, family credit abatement, family scheme income, family support, family tax credit, in-work payment, notice of entitlement, parental tax credit

Compare: 2004 No 35 s KD 5(6A), (7)

KF 5 Recovery of overpaid credit of tax

When this section applies

- (1) This section applies when the Commissioner considers that the amount of a credit of tax under section KD 1 (Family assistance credit) or KE 1 (Family tax credit) set off or refunded to the person for a tax year is more than the proper amount.

Recovery of overpayment

- (2) The Commissioner may recover the excess as if it were income tax payable by—
 - (a) the person; or
 - (b) the person and their spouse, civil union partner, or de facto partner if they are jointly and severally liable for payment of the excess.

Defined in this Act: amount, Commissioner, credit of tax, family support, income tax, income-tested benefit, pay, spouse, tax year

Compare: 2004 No 35 s KD 4(4)

KF 6 Overpayment of credit of tax

When this section applies

- (1) This section applies when—
 - (a) an entitlement to a credit of tax arises under section KD 1 (Family assistance credit) or KE 1 (Family tax credit) in a tax year; and
 - (b) the instalment of the estimated credit of tax, or the total of those instalments, is more than the credit of tax, or the total of all credits of tax, to which the person is entitled for the tax year under the family income assistance scheme; and
 - (c) the Commissioner—
 - (i) gives a person with a notice of entitlement for the tax year because an instalment of the estimated credit of tax has been paid to the person during the tax year; or
 - (ii) finds out, otherwise than by way of a notice of entitlement, that an instalment of the estimated credit of tax has been paid to, or for the benefit of, or dealt with in the interest of, the person for the tax year.

Tax payable

- (2) An amount equal to the excess is—
- (a) added to the tax payable by the person for the tax year; and
 - (b) recoverable by the Commissioner as if it were tax payable by the person for the tax year.

Defined in this Act: amount, Commissioner, credit of tax, family income assistance scheme, notice of entitlement, pay, tax year

Compare: 2004 No 35 s KD 4(2), (2A)

KF 7 Orders in Council

What may be done by Order in Council

- (1) The Governor-General may, by Order in Council,—
- (a) increase the amounts appearing as items in the formulas for family support listed in section KD 3(3) (Calculation of family support) and the amount of the threshold set out in section KD 13(3) (Calculation of family credit abatement) by amounts that—
 - (i) correspond to the movement in the quarterly all groups index number of the New Zealand Consumers Price Index:
 - (ii) are rounded up to the nearest whole dollar, without affecting the calculation of later increases made under this paragraph:
 - (b) increase the amounts appearing as items in the formula for the in-work payment set out in section KD 10(3) (Calculation of in-work payment):
 - (c) increase the amount appearing as an item in the formula for the parental tax credit set out in section KD 12(3) (Calculation of parental tax credit):
 - (d) increase the amount appearing as an item in the formula for the family tax credit in section KE 1(3) (Family tax credit):
 - (e) replace schedule 12.

Order in Council under subsection (1)(a): requirements

- (2) An Order in Council under subsection (1)(a),—
- (a) in the case of the first Order in Council made under subsection (1)(a), must be made when the total percentage increase in the movements in the quarterly all groups index number of the New Zealand Consumers Price Index measured from that applying on 1 April 2007 is 5% or more:

- (b) in the case of a subsequent Order in Council under subsection (1)(a), must be made when the total percentage increase in the movements in the quarterly all groups index number of the New Zealand Consumers Price Index measured from that applying on the date when the requirement to make the immediately preceding adjustment arose is 5% or more.

Timing of Order in Council

- (3) An Order in Council made under this section must be made no later than 1 December in each year and must apply from 1 April following that date.

Review of in-work payment and parental tax credit

- (4) The Minister responsible for the Inland Revenue Department, in consultation with the Minister responsible for the department currently responsible for administering the Social Security Act 1964, must cause a review to be undertaken of the amounts of the in-work payment and the parental tax credit allowable under this Part.

Timing of review

- (5) A review undertaken under subsection (4) must occur,—
 - (a) in the case of the first review, not later than 30 June 2008; and
 - (b) in the case of subsequent reviews, not later than 30 June in the third year after each preceding review.

Defined in this Act: amount, family support, family tax credit, in-work payment, parental tax credit

Compare: 2004 No 35 s KD 5C

Subpart KZ—Terminating provisions

Contents

- KZ 1 Entitlement to child tax credit
- KZ 2 Calculation of child tax credit

KZ 1 Entitlement to child tax credit

When this section applies

- (1) This section applies when—
 - (a) a person is claiming or receiving a child tax credit for a child for an entitlement period ending on 31 March 2006; and
 - (b) the person is not entitled to an in-work payment under section KD 4 (Entitlement to in-work payment).

Entitlement

- (2) If the person maintains their entitlement after 31 March 2006, they remain entitled to receive the child tax credit for an entitlement period after that date.

When another person entitled to credit

- (3) If 2 persons are entitled to a child tax credit for a child for an entitlement period, the amount of the credit of tax to which each is entitled is not affected by the entitlement of the other person for a credit of tax.

Defined in this Act: child, child tax credit, entitlement period, in-work payment

Compare: 2004 No 35 ss KD 2AA(3A), KD 2AAAB

KZ 2 Calculation of child tax credit

Entitlement

- (1) A person who meets the requirements of section KZ 1 is entitled to a child tax credit calculated using the formula in subsection (2).

Formula

(2) The formula is—

$$\text{\$780 x dependent children} \quad \times \quad \frac{\text{days in entitlement period}}{365}.$$

Definition of items in formula

(3) In the formula,—

- (a) **dependent children** is the number of dependent children for whom the person is a principal caregiver during the entitlement period:
- (b) **days in entitlement period** is the number of days in the entitlement period for which the person and their spouse, civil union partner, or de facto partner do not receive a social assistance payment and do not have a suspended entitlement to an income-tested benefit.

Defined in this Act: amount, child tax credit, dependent child, entitlement period, income-tested benefit, principal caregiver, social assistance payment, spouse

Compare: 2004 No 35 s KD 2(4)

OB 1 for Part K

accounting year		
adjusted income tax liability		
allowable rebates		
amount		
assessable income		
assessment		
associated person		
business		
chief executive	KC 12 (Other definitions)	
child		
child tax credit	KC 12 (Other definitions)	
close company		
Commissioner		
company		
computation period	KC 11	
credit of tax	Part L	
deduction		
dependent child		
depreciation loss		
derived from New Zealand		
distribution		
dividend		
employer		
employment	KE 2 placement of definition?	
entitlement period	KC 11	
excluded income		
exempt income		
family assistance credit	KC 12 (Other definitions)	
family credit abatement	KC 12 (Other definitions)	
family income assistance scheme	KC 12 (Other definitions)	
family plus	KC 12 (Other definitions)	
family scheme income	KB 1 - describe in OB 1	
family support	KC 12 (Other definitions)	
family tax credit	KC 12 (Other definitions)	
filing taxpayer		
financially independent		
gross		
group of companies		
income		
income from employment		
income statement		
income-tested benefit		
income tax		
income tax liability		
income year		

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in-work payment	KC 12 (Other definitions)	
loss		
major shareholder		
net income		
net loss		
New Zealand		
New Zealand superannuation		
non-resident		
notice		
notice of entitlement		
overseas pension		
parental entitlement period	KD 11	
parental tax credit	KC 12 (Other definitions)	
parent's allowance	replace war widows mother's allowance	
pay period		
principal caregiver	KC 10	
protected family support	KD 13 - describe in OB 1	
resident	KC 12 (Other definitions)	
resident in New Zealand		
salary or wages		
selected period	KF 1	
share		
shareholder		
shares of the same class		
social assistance payment	KC 12 (Other definitions)	
source deduction payment		
specified benefit	delete: KD 7(2B) only, and 85G TAA	amend 85G TAA
spouse		
superannuation scheme		
tax year		
unadjusted income tax liability		
veteran's pension		
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Tax Administration Act 1994

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Part 3B Credits of tax

Applying for payment by instalment

80KA Applications for payment of credit of tax by instalment

- (1) This section applies to applications made under section KF 1 of the Income Tax Act 2004.
- (2) An application by a person who wants to be paid their credit of tax (other than a parental tax credit) by instalment must be made before the selected period starts.
- (3) A person who wants to be paid their parental tax credit by instalment must apply no later than 3 months after the date of the dependent child's birth.
- (4) If a person referred to in subsection (3) applies more than 3 months after the date of the dependent child's birth, the person may receive the parental tax credit only in accordance with section KF 6 of the Income Tax Act 2004 in the tax year in which the birth occurs.
- (5) If the 3-month period described in subsection (3) spans 2 tax years and the whole of the selected period falls in the first tax year, the selected period is treated as falling in the second tax year if all instalments are paid to the person in the second tax year.

Compare: 2004 No 35 s KD 5(1B)-(1C)

80KB Contents of application

- (1) An application referred to in section 80KA must—
 - (a) be in a form prescribed by the Commissioner; and
 - (b) be signed by the person and any other person who, at the time at which the application is made, expects to be, in the selected period, their spouse, civil union partner, or de facto partner; and
 - (c) give, for each person who signed the application (**signatory**), a complete statement of—
 - (i) the family scheme income that is expected to be attributable to the tax year; and
 - (ii) the family scheme income that is expected to be attributable to the selected period; and

- (d) choose whether the instalments should be paid weekly or fortnightly; and
 - (e) contain any other information required by the Commissioner; and
 - (f) be accompanied by the information described in subsection (2).
- (2) The application under subsection (1) must be accompanied by,—
- (a) for a signatory who expects to derive income from employment, evidence of the amount of income from employment derived by the signatory in the period of 1 month immediately before the date on which the application is made:
 - (b) for a signatory who expects to derive income from a business,—
 - (i) a copy of the financial statements of the business for the tax year or corresponding income year immediately before the tax year that contains the selected period; or
 - (ii) if the financial statements referred to in subparagraph (i) have not been completed, a copy of the financial statements for the business for the tax year or corresponding income year that is before the year immediately before the tax year that contains the selected period; or
 - (iii) a set of budgeted accounts of the business for the tax year or corresponding income year that contains the selected period; or
 - (iv) other evidence in relation to the business for the tax year or corresponding income year that contains the selected period:
 - (c) unless paragraph (d) applies, the tax file number of each child for whom an entitlement to a credit of tax arises:
 - (d) in the case of a child that has died or is given up for adoption, a birth certificate or other evidence verifying the birth or existence of the child for whom an entitlement to a credit of tax arises.
- (3) Subsection (2)(a) does not apply if the Commissioner considers that the Commissioner has enough evidence of a signatory's income from employment.
- (4) Subsection (2)(d) does not apply to an application made by a person who is an adoptive parent, as that term is defined in the Adoption Act 1955.

Compare: 2004 No 35 s KD 5(2)-(2AB)

80KC When tax file number of child does not accompany application

- (1) Subsection (2) applies when—
 - (a) an application referred to in section 80KA is not accompanied by the tax file number of each child for whom an entitlement to a credit of tax arises; and
 - (b) the Commissioner has enough other evidence of the person's entitlement.
- (2) The Commissioner must—
 - (a) provide the person with a notice of entitlement; and
 - (b) pay to the person instalments of a credit of tax under section KD 1 or, as applicable, sections KD 1 and KE 1 of the Income Tax Act 2004 for a period of 56 days.
- (3) Subsection (4) applies when the person or their spouse, civil union partner, or de facto partner does not provide the tax file number of a child for whom an entitlement to a credit of tax arises within the 56-day period.
- (4) The Commissioner must stop paying the credit of tax for the child until the tax file number is provided.

Compare: 2004 No 35 s KD 5(3), (3A)

80KD What Commissioner must do on receipt of application

- (1) This section applies when the Commissioner receives an application that complies with section 80KB.
- (2) The Commissioner must do the following:
 - (a) determine under section KF 1 of the Income Tax Act 2004 the estimated amount of credit of tax to which the person would be entitled for the selected period; and
 - (b) calculate under section KF 3 of the Income Tax Act 2004 the amount that, if the Commissioner gave a person a notice of entitlement for the whole selected period, would be the interim instalment of credit of tax that would be set out in the notice; and
 - (c) for all or some of the selected period, give the person a notice (**notice of entitlement**) setting out—
 - (i) the amount of the instalment of the credit of tax to which the person is entitled; and
 - (ii) the amount after abatement contributed by the family support to the instalment; and
 - (iii) the amount of credit after abatement contributed by the in-work payment to the instalment; and

- (iv) the amount after abatement contributed by the child tax credit to the instalment; and
 - (v) the amount after abatement contributed by the parental tax credit to the instalment; and
 - (vi) the amount contributed by the family tax credit to the instalment.
- (3) The Commissioner must keep a copy of every notice of entitlement that is given under this section.

Compare: 2004 No 35 s KD 5(4), (5)(a)

Notices of entitlement

80KE Notices of entitlement

A notice of entitlement issued under section 80KD—

- (a) is not transferable; and
- (b) is subject to the terms and conditions set out in it by the Commissioner.

Compare: 2004 No 35 s KD 5(11)

80KF Effect of giving notice of entitlement

- (1) If a notice of entitlement has been given to a person, the Commissioner must pay the person instalments of credit of tax under section 80KN.
- (2) A person continues to be entitled to a credit of tax under section KC 2 or, as applicable, sections KD 1 and KE 1 of the Income Tax Act 2004 for computation periods after the computation period for which an application was made, until the Commissioner cancels the notice under section 80KH.

Compare: 2004 No 35 s KD 5(2A), (5)(b), (7)

80KG Notifying Commissioner of events affecting notice of entitlement

- (1) Subsection (2) applies when—
 - (a) a person has been given a notice of entitlement; and

- (b) 1 or more of the events described in subsection (3) occur within the period starting on the date of the notice of entitlement and ending on the last day of the selected period.
- (2) The person must notify the Commissioner immediately if an event of the kind described in subsection (3) occurs that may result in the person losing their entitlement.
 - (3) The events include—
 - (a) the person or their spouse, civil union partner, or de facto partner stops being the principal caregiver of a child, and the person expects that they will not resume the role of principal caregiver for a period of more than 56 consecutive days; or
 - (b) the person starts or stops being a spouse, civil union partner, or de facto partner; or
 - (c) any other event of a kind set out in the notice of entitlement for the purposes of this subsection.
 - (4) Subsection (5) applies when—
 - (a) a notice of entitlement has been issued to a person; and
 - (b) 1 or more of the events described in subsection (6) occur.
 - (5) The person may notify the Commissioner if an event of the kind described in subsection (6) occurs that may change a person's entitlement.
 - (6) The events include—
 - (a) the person or their spouse, civil union partner, or de facto partner become the principal caregiver of any child; or
 - (b) something happens that the person thinks may affect their entitlement to the credit of tax specified in the notice of entitlement; or
 - (c) the notice of entitlement is lost or destroyed.

Compare: 2004 No 35 s KD 5(9)

80KH Cancellation of notice of entitlement

- (1) This section applies when the Commissioner—
 - (a) is notified under section 80KG; or
 - (b) considers that a notice of entitlement given to a person no longer applies; or
 - (c) is advised by the chief executive of the department currently responsible for administering the Social Security Act 1964, under

sections 84 or 85G, that the person is also receiving a credit of tax from the chief executive or will receive a credit of tax from the chief executive.

- (2) The Commissioner may, on notifying the person,—
- (a) cancel the notice of entitlement; or
 - (b) provide a replacement notice of entitlement for the same computation period or a different computation period, or provide a supplement to the notice of entitlement, as appropriate, having regard to information in the Commissioner's possession.

Compare: 2004 No 35 s KD 5(10), (12)

Payments to holders of notices of entitlement

80KI Payment of credit of tax by instalment by Commissioner

- (1) This section applies when the Commissioner has given a notice of entitlement to a person.
- (2) In the period described in subsection (3), the Commissioner must pay to the person the instalments of the credit of tax set out in the notice of entitlement.
- (3) The period—
- (a) starts on the day stated in the notice of entitlement; and
 - (b) ends with the earlier of—
 - (i) the day on which the notice of entitlement is cancelled by the Commissioner; or
 - (ii) the end date stated in the notice of entitlement.
- (4) The Commissioner may choose the days on which the instalments are paid.

Compare: 2004 No 35 s KD 7(1)

80KJ Delay in providing notice of entitlement

- (1) This section applies when the Commissioner thinks that the time taken to provide a notice of entitlement has been unduly delayed.
- (2) The Commissioner may pay the instalments of credit of tax that the Commissioner thinks should be paid, having regard to the circumstances of the case.

Compare: 2004 No 35 s KD 7(3)

80KK Payment by instalment of family support (without abatement)

- (1) This section applies when the Commissioner considers, on the basis of information provided under section 85G by the chief executive, that a person is entitled to family support.
- (2) In the period described in subsection (3), the Commissioner must pay to the person family support by instalment and without abatement.
- (3) The period—
 - (a) starts on the day following the day that the chief executive says is the last day that the person is entitled to—
 - (i) an income-tested benefit, an orphan's benefit, or an unsupported child's benefit paid or payable under the Social Security Act 1964; or
 - (ii) a family assistance credit paid under section 80KN; and
 - (b) ends on the earlier of—
 - (i) the day before the first day stated in a notice of entitlement that is provided later;
 - (ii) a period of not more than 56 days, starting on the first day referred to in paragraph (a).
- (4) Subsection (5) applies when the chief executive pays family support for part of the 56-day period referred to in subsection (3)(b)(ii).
- (5) The period referred to in subsection (3)(b)(ii) is reduced by the period for which the chief executive paid family support.

Compare: 2004 No 35 s KD 7(2B), (2C)

80KL Payment of instalments into accounts

- (1) Unless the Commissioner in a particular case otherwise determines, it is a condition of the receipt of credits of tax paid by instalments by the Commissioner that—
 - (a) the person, or the person and their spouse, civil union partner, or de facto partner,—
 - (i) gives the Commissioner the details of an existing bank account held by the person (whether alone or jointly with their spouse, civil union partner, or de facto partner); or
 - (ii) opens a bank account (if they do not have one), and gives the Commissioner details of that account; and

- (b) the existing account or, as applicable, the opened account is an account held as described in subsection (2).
- (2) The account must be held with—
- (a) a registered bank within the meaning of that term in section 2 of the Reserve Bank of New Zealand Act 1989; or
 - (b) a building society, in respect of any deposits with the building society; or
 - (c) the Public Service Investment Society Limited; or
 - (d) a credit union within the meaning of that term in section 2 of the Friendly Societies and Credit Unions Act 1982.
- (3) The Commissioner must pay every instalment of credit of tax into the account.

Compare: 2004 No 35 s KD 7(4)

80KM Summary of instalments paid

- (1) This section applies when the Commissioner pays to a person instalments of the credit of tax shown in the notice of entitlement given to the person.
- (2) The Commissioner must give the person—
- (a) a summary showing the total of all the credits of tax paid by instalments under the person's notice of entitlement for the tax year; and
 - (b) any other information prescribed by the Commissioner.
- (3) The Commissioner must provide the summary—
- (a) for a non-filing taxpayer, on or before 20 May next following the last day of the tax year in which the payment is made; and
 - (b) for a filing taxpayer, on the same date that the Commissioner issues the person with an income statement for the tax year in which the payment is made.

Compare: 2004 No 35 s KD 7(2), (2A)

Payments of credit of tax by chief executive

80KN Payment of credit of tax by chief executive

- (1) This section applies when—

- (a) in a tax year, the chief executive of the department currently responsible for administering the Social Security Act 1964 pays to a person an income-tested benefit; and
 - (b) the chief executive is satisfied that—
 - (i) the person is entitled to receive a family assistance credit for which the amount of the family credit abatement is zero; or
 - (ii) the chief executive is authorised by an Order in Council made under section 225A to pay the person a family assistance credit for which the family credit abatement is more than zero.
- (2) When paying the income-tested benefit, the chief executive must pay to the person the family assistance credit that the chief executive considers that the person is entitled to at the time of the payment.

Compare: 2004 No 35 s KD 6(1)

80KO Determining family assistance credit

In determining the amount of family assistance credit that is payable under section 80KN, the chief executive must—

- (a) use the method set out in section KD 13 of the Income Tax Act 2004, if required to calculate the amount of the family credit abatement; and
- (b) take into account the rate of family support and the family credit abatement given by section KD 3 and KD 13 of the Income Tax Act 2004.

Compare: 2004 No 35 s KD 6(1A)

80KP When entitlement to income-tested benefit ends

- (1) This section applies for the purposes of section 80KN when—
 - (a) a person's entitlement to an income-tested benefit ends; and
 - (b) they apply to the chief executive to have the payment of their family support continued.
- (2) The chief executive must continue to pay the family support to the person for a period determined by the chief executive in consultation with the Commissioner. The amount is determined as if the person were still being paid an income-tested benefit during this period.

Compare: 2004 No 35 s KD 6(1B)

80KQ No authority to pay family assistance credit

- (1) This section applies when the chief executive is not satisfied that they are authorised to pay the family assistance credit to the person under the section.
- (2) The chief executive may ask the Commissioner to accept from the person their application for a notice of entitlement.

Compare: 2004 No 35 s KD 6(1C)

80KR Request by chief executive to stop payment of family assistance credit

- (1) This section applies when—
 - (a) the chief executive has made a request under section 80KQ(2); but
 - (b) the chief executive is satisfied that they are authorised to pay the person the family assistance credit.
- (2) The chief executive may ask the Commissioner to stop paying the person under their notice of entitlement.

Compare: 2004 No 35 s KD 6(1D)

80KS Request by person to stop payment of credit of tax

- (1) Subsection (2) applies, despite section 80KN or 80KP, when a person notifies the chief executive not to pay them the credit of tax.
- (2) The chief executive must, as soon as practicable, stop paying the person the credit of tax.
- (3) Subsection (4) applies when a person cancels their notification under subsection (1).
- (4) The chief executive must, as soon as practicable, start paying the person the credit of tax again.

Compare: 2004 No 35 s KD 6(2), (3)

80KT Details of payments of credits of tax

- (1) This section applies when the chief executive pays under section 80KN a credit of tax to a person.

- (2) The chief executive must, for each month in which a payment is made, give the Commissioner details of the payment in an employer monthly schedule.
- (3) The chief executive must, not later than the 20 April next following the last day of the tax year in which the payment is made, give the person—
 - (a) a summary—
 - (i) signed by the chief executive; and
 - (ii) in a form authorised by the Commissioner; and
 - (iii) showing the total of all of the amounts of the credits of tax paid; and
 - (b) any other information required by the Commissioner.
- (4) The chief executive must, not later than 31 May in the tax year in which the summary is provided under subsection (3), give the Commissioner—
 - (a) a copy of every summary given by the chief executive under subsection (3)(a); and
 - (b) any other information required by the Commissioner.

Compare: 2004 No 35 s KD 6(4)

*When Commissioner takes over payment of credit of tax
from chief executive*

80KU Payment of credit of tax taken over by Commissioner

- (1) This section applies when—
 - (a) in a tax year, the chief executive stops paying a person an amount of credit of tax or an income-tested benefit; and
 - (b) the person applies to the Commissioner for payment of family assistance credit, family tax credit, or family support; and
 - (c) the Commissioner determines that the person is entitled to the credit of tax under section KD 1 of the Income Tax Act 2004 for the period described in subsection (3).
- (2) For the period described in subsection (3), the Commissioner may pay to the person the arrears of the credits of tax, other than the in-work payment and the parental tax credit.
- (3) The period—
 - (a) starts on the later of—
 - (i) the first day of the tax year; and
 - (ii) the day following that on which the chief executive stops paying the amount to the person; and
 - (b) ends on the day before the first day stated in a notice of entitlement that is later given to the person.

Compare: 2004 No 35 s KD 7(3A), (3B), (3C)

80KV Statement of family scheme income

- (1) This section applies to a person to whom the Commissioner has given a notice of entitlement for a tax year.
- (2) The person must, in the time within which they are required to file their return of income for the tax year, give the Commissioner a statement setting out—
 - (a) a complete statement of their family scheme income signed by the person; and
 - (b) a complete statement of the family scheme income for the tax year of their spouse, civil union partner, or de facto partner signed by that person.

Compare: 2004 No 35 s KD 4(5)

80KW Effect of extra instalment on entitlement to credit of tax

- (1) This section applies to a person who—
- (a) is entitled to a family assistance credit or family tax credit for the whole or part of a tax year; and
 - (b) receives in the tax year—
 - (i) a payment under section 80KI of an instalment of the credit for each period of a week or a fortnight in the tax year; or
 - (ii) payments under section 80KN of instalments of the credit in the tax year and no payment under section 80KI in the tax year; and
 - (c) as a consequence of the year not being divided into an exact number of fortnights or weeks,—
 - (i) receives in the tax year 27 instalments corresponding to a period of a fortnight; or
 - (ii) may have received in the tax year 53 instalments corresponding to a period of a week.
- (2) Subsection (3) applies—
- (a) for the purposes of section KF 6 of the Income Tax Act 2004; and
 - (b) when a person has received payments under section 80KI for the whole of a tax year.
- (3) The person is entitled to a credit of tax for the tax year of an amount calculated using the formula—
- $$\text{person's credit of tax} + ((\text{final instalment} - \text{person's parental tax credit}) \times 13/14).$$
- (4) In the formula in subsection (3),—
- (a) **person's credit of tax** is the amount of the credit of tax for the tax year calculated for the person under—
 - (i) section KD 1 of the Income Tax Act 2004, if the person is entitled to a family assistance credit;
 - (ii) section KE 1 of the Income Tax Act 2004, if the person is entitled to the family tax credit;
 - (b) **final instalment** is the amount of the final instalment received by the person in the tax year;
 - (c) **person's parental tax credit** is the amount of any parental tax credit that is included in the final instalment received by the person in the tax year.

- (5) Subsection (6) applies—
- (a) for the purposes of section KF 6(2) of the Income Tax Act 2004; and
 - (b) when a person has received payments under section 80KN for the whole of a tax year.
- (6) The person is entitled to a credit of tax for the tax year equal to an amount calculated using the formula—

$$\text{person's credit of tax} + \frac{\text{total amount of instalments}}{53}$$

- (7) In the formula in subsection (6),—
- (a) **person's credit of tax** is the amount of the credit of tax for the tax year calculated for the person under—
 - (i) section KD 1, if the person is entitled to a family assistance credit:
 - (ii) section KE 1 if the person is entitled to the family tax credit:
 - (b) **total amount of instalments** is the total amount of the instalments received by the person in the tax year.

Compare: 2004 No 35 s KD 7A