

Taxation (KiwiSaver HomeStart and Remedial Matters) Bill

Commentary on the Bill

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KiwiSaver HomeStart

OVERVIEW

As part of the “HomeStart” package announced by the Government in August 2014, the bill proposes to extend the current KiwiSaver withdrawal rules for first-home buyers from 1 April 2015.

Under the current rules, KiwiSaver members who are purchasing their first home are able to withdraw the contributions they and their employer have made, to supplement a deposit on a first home. The proposals in this bill will allow them to also withdraw their member tax credits.

HOMESTART – WITHDRAWING MEMBER TAX CREDITS

(Clause 6)

Summary of proposed amendments

The bill amends the KiwiSaver Act 2006 to allow KiwiSaver members to withdraw their member tax credits when purchasing their first home.

Currently the rules exclude “Crown contributions” which include both member tax credits and the \$1,000 kick-start contribution. From 1 April 2015 only the kick-start contribution will be excluded.

Application date

The amendment will apply from 1 April 2015.

Key features

The bill amends schedule 1, clause 8(4)(a) to change the components of the member’s funds that cannot be withdrawn for their first home.

Background

KiwiSaver members are currently able to withdraw the contributions they and their employers have made to their KiwiSaver funds to supplement a deposit on a first home after three years. They are not able to withdraw the \$1,000 kick-start or member tax credits paid by the Government. The proposed new rules will allow them to withdraw the member tax credits, but not the \$1,000 kick-start.

The change is part of the Government’s “HomeStart” package of proposals to provide greater assistance to New Zealanders saving to buy their first home.

Veteran income
replacement payments

OVERVIEW

Several remedial amendments are proposed to the Income Tax Act 2007 and the KiwiSaver Act 2006 that relate to the tax, social policy and KiwiSaver treatment of income replacement payments paid under the Veterans' Support Act 2014. The policy intention is for the payments to be treated the same as ACC earnings-related compensation payments. These payments are treated as taxable and are included in social policy calculations. In addition, KiwiSaver and PAYE deductions can be made from the payments, but they are not subject to the KiwiSaver auto-enrolment and compulsory employer contributions rules.

TAX TREATMENT OF INCOME REPLACEMENT PAYMENTS

(Clauses 2, 7, 8 and 9)

Summary of proposed amendments

Amendments to two sections of the Income Tax Act 2007 are proposed to ensure veteran income replacement payments are treated as taxable income. Payments that are taxable income are also included in social policy calculations.

The proposed amendments to section CF 1(1) will ensure a veteran's weekly compensation, weekly income compensation, retirement lump sum payment, and weekly compensation to a deceased veteran's spouse, partner, child and dependant are treated as taxable income.

The proposed amendments to section CW 28(1)(a) will ensure a veteran's weekly income compensation, retirement lump sum payment, and weekly compensation to a deceased veteran's spouse, partner, child and dependant are not treated as tax exempt income.

Application date

The amendments that relate to weekly compensation, weekly income compensation for veterans, and weekly compensation to deceased veterans' spouses, partners, children and dependants will apply from the date of the bill's enactment.

The amendments that relate to retirement lump sum payments for veterans will apply from 7 December 2014, which is the commencement date of the Veterans' Support Act 2014.

Key features

The proposed amendments to section CF 1(1) will add weekly compensation, weekly income compensation, and retirement lump sums for veterans, and weekly compensation to veterans' spouses, partners, children and dependants as compensation payments to the list of benefits, pensions, compensation payments and government grants that are treated as income. This will ensure these payments are taxed and also included in social policy calculations. Thus, the payment amounts will increase affected veterans' and deceased veterans' spouses, partners, children and dependants student loan and child support obligations, and reduce their Working for Families entitlements.

The proposed amendments to section CW 28(1)(a) of the Income Tax Act 2007 will add weekly income compensation and retirement lump sums for veterans, and weekly compensation to deceased veterans' spouses, partners, children and dependants to the list of payments that are excluded from exempt income under this section. This will ensure these payments are treated as taxable income and are included in social policy calculations. Other payments under the Veterans' Support Act 2014 will remain tax-exempt income.

Background

The policy intention is for income replacement payments created in the Veterans' Support Act 2014 to be treated as compensation income which is taxable and included in social policy calculations.

PAYE AND KIWISAVER TREATMENT OF INCOME REPLACEMENT PAYMENTS

(Clauses 2, 3, 4, 5 and 11)

Summary of proposed amendments

An amendment is proposed to section RD 5 of the Income Tax Act 2007 to ensure PAYE and KiwiSaver deductions can be made from veteran income replacement payments.

Amendments are also proposed to sections 4 and 14 of the KiwiSaver Act 2006 to ensure the KiwiSaver auto-enrolment and compulsory employer contributions rules do not apply to veteran income replacement payments.

Application date

The amendments that relate to weekly compensation and weekly income compensation for veterans, and weekly compensation to deceased veterans' spouses, partners, children and dependants will apply from the date of the bill's enactment.

The amendments that relate to retirement lump sum payments for veterans will apply from 7 December 2014.

Key features

Proposed amendments to section RD 5(6) of the Income Tax Act 2007 will add weekly compensation, weekly income compensation, and retirement lump sums for veterans, and weekly compensation to deceased veterans' spouses, partners, children and dependants to the list of benefits or grants treated as salary and wages. This will ensure that PAYE deductions can be made from these payments and KiwiSaver deductions can be made from these payments when the veteran joins KiwiSaver on their own behalf.

Proposed amendments to section 4 of the KiwiSaver Act 2006 will add weekly compensation, weekly income compensation, and retirement lump sums for veterans, and weekly compensation to deceased veterans' spouses, partners, children and dependants to the list of payments treated as salary and wages that (for the purposes of subpart 3A of the KiwiSaver Act 2006) are excluded from the compulsory employer contribution rules. This will ensure that there is no requirement for compulsory employer contributions to be paid on KiwiSaver deductions made from these payments.

Proposed amendments to section 14 of the KiwiSaver Act 2006 will add weekly compensation and weekly income compensation for veterans, and weekly compensation to deceased veterans' spouses, partners, children and dependants to the list of salary or wage income types that are not subject to the KiwiSaver automatic enrolment rules. This will mean there will be no legal requirement to automatically enrol people receiving veteran income replacement payments in the KiwiSaver scheme.

Background

The policy intention is that KiwiSaver and PAYE deductions can be made from veteran income replacement payments, but they are not subject to the KiwiSaver auto-enrolment and compulsory employer contributions rules.

CRITERIA FOR EARNINGS-RELATED WORKING FOR FAMILIES TAX CREDITS – INCAPACITY

(Clauses 2 and 10)

Summary of proposed amendment

An amendment is proposed to section MA 7 of the Income Tax Act 2007 to ensure the surviving spouse or partner of a deceased veteran can continue to claim the deceased veteran's full-time earner-related Working for Families tax credits.

Application date

The amendment will apply from the date of the bill's enactment.

Key features

The proposed amendment will expand section MA 7(3) of the Income Tax Act 2007 to include weekly compensation payments to deceased veterans' spouses or partners.

Section MA 7(2)(d) of the Income Tax Act 2007 modifies the Working for Families full-time earner rule for earnings-related payments made by ACC or Veterans Affairs New Zealand to surviving spouses or partners of people who had been incapacitated.

The spouse or partner is treated as being employed for the number of hours their deceased partner or spouse would have been employed for if they had not been incapacitated. The deceased person's assumed hours are added to the number of hours the spouse or partner has worked.

Incapacity referred to in section MA 7(2)(d) is defined as being an injury for which an ACC or veteran support payment listed in section MA 7(3) has, is or will be paid.

Background

People need to meet certain criteria to qualify to receive Working for Families tax credits. Recipients of the in-work tax credit (IWTC) and the minimum family tax credit (MFTC) are required to be full-time earners (work 20 hours if single, 30 hours as a couple).

However, if a person is receiving an ACC earnings-related payment due to an incapacity, the hours the person worked before being injured count towards their hours of work for Working for Families purposes. When these people die, their spouses and partners can continue to receive the deceased person's payments and full-time earner-related tax credits (the IWTC and MFTC).

The policy intention is for weekly income compensation and weekly compensation for veterans and weekly compensation to deceased veterans' spouses or partners to be treated the same as ACC earnings-related payments for Working for Families purposes.

An amendment made to section MA 7(3) of the Income Tax Act 2007 in the Veterans' Support Act 2014 will ensure that weekly compensation and weekly income compensation for veterans are treated as relating to an incapacity and therefore the work hours test is modified for Working for Families purposes.

However, currently, section MA 7(3) does not include weekly compensation payments to deceased veterans' spouses or partners. Therefore, these payments will not be treated as relating to an incapacity for section MA 7(2)(d). Hence, surviving spouses or partners will not qualify to receive a deceased veteran's full-time earner-related Working for Families tax credits (IWTC or MFTC) without the proposed amendment in this bill.