



POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Cost of Living payment: detailed design decisions

Date:	25 May 2022	Priority:	High
Security level:	In Confidence	Report number:	IR2022/198

Action sought

	Action sought	Deadline
Minister of Finance	Agree to recommendations	3 June 2022
Minister of Revenue	Agree to recommendations	3 June 2022

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Acting Policy Lead, Policy and Regulatory Stewardship, Inland Revenue	s 9(2)(a)
Emma Hamilton	Senior Policy Advisor, Policy and Regulatory Stewardship, Inland Revenue	

25 May 2022

Minister of Finance
Minister of Revenue

Cost of Living payment: detailed design decisions

Summary

1. On 11 April 2022, Cabinet agreed to introduce a new Cost of Living payment of \$350 to provide short-term support for low-to-middle income individuals earning below \$70,000 per annum and not eligible to receive the Winter Energy Payment (WEP) [CAB-22-MIN-130 refers].
2. Cabinet also authorised the Minister of Finance and the Minister of Revenue to approve detailed design changes to the payment scheme that might be needed ahead of implementation. In the process of designing the administration of the payment, we have identified two changes to the eligibility criteria. We consider these are needed to ensure consistency with policy intent and to prevent people who were not intended to receive the Cost of Living payment from doing so.

Purpose

3. This report seeks your agreement to exclude individuals from eligibility for the payment in the following specific scenarios:
 - 3.1 those whose only income is Portfolio Investment Entity (PIE) income; and
 - 3.2 those who are not required to have an income tax assessment (because they have no assessable income from any source) but file a tax return or request an automatically generated assessment for the sole purpose of trying to qualify for the payment.
4. The report also seeks your agreement to include the ability to opt out of receiving the payments if individuals do not wish to receive them.

Individuals with PIE only income could inadvertently qualify for the Cost of Living payment

5. We have identified that some people who have only Portfolio Investment Entity (PIE) income (and no other income from any other source) could inadvertently qualify for the Cost of Living payment.
6. This could happen because:
 - 6.1 there is no income floor to meet the income eligibility criterion for the Cost of Living payment so that someone with zero net income could qualify; and
 - 6.2 the individual income tax assessment is used as the mechanism to calculate whether an individual has paid the correct amount of PIE tax.
7. These individuals would qualify under the current proposed criteria because their net¹ income (zero in these cases) will be below the income cap of \$70,000 and they have a tax assessment for the 2022 tax year, even though that assessment has

¹ Net income refers to a person's gross income for the year, less any allowable deductions for the year, but before any losses from prior years are included.

been generated for PIE tax purposes, not individual income tax purposes. Examples of individuals in this group could be those with no income who have a KiwiSaver account, or those who have no income other than that received from PIE investments.

8. PIE income is not included in an individual's net income for the year and is taxed separately according to a person's Prescribed Investor Rate (PIR). The individual income tax assessments are a mechanism used to determine if the person had applied the correct PIR rate to their PIE income and to determine if there is a PIE tax debit or refund owing. Any over or under paid PIE tax is included in the final income tax calculation as a credit or a debit.
9. Since PIE income is not included in an individual's net income, it will be ignored when determining whether the person meets the income eligibility criterion for the Cost of Living payment. For example, if a person has \$65,000 from salary and wages and \$30,000 from PIE income, their net income will be \$65,000. They will therefore be eligible for the Cost of Living payment.

Number of individuals with PIE only income

10. We estimate that there could be around 204,000 individuals who have PIE only income and receive an assessment for no other reason. This is based on the number of people in the 2022 tax year who had only PIE income and did not have an income tax assessment.
11. These individuals have not been included in the potentially eligible population data provided in previous advice, as the legislative change that assesses PIE income took effect only from the 2021 tax year. This meant that assessments were generated for everyone with PIE income, irrespective of whether it had been taxed correctly or not, allowing people who had overpaid PIE tax to get a refund. This was not the case for the 2020 year,² which was the administrative data used in advice on the Cost of Living payment to understand and describe the eligible population.

Exclusion of those with PIE only income

12. Officials consider that allowing individuals with only PIE income to be eligible for the payment does not align with the policy intent of supporting low to middle income individuals whose income has struggled to keep up with the cost of living increases.
13. These individuals only have an income tax assessment because of the PIE income assessment and otherwise would not have an income tax assessment as they have no net income to report.
14. Other individuals who do not have any net income do not receive an individual tax assessment and would not be eligible for the Cost of Living payment. Excluding those who have only PIE income would be broadly consistent with the treatment for this group. That is, the only reason PIE only recipients have an income tax assessment is as an administrative convenience to assess PIE tax and to be able to include any debit or credit with the final tax to pay or refund due for the year.
15. This proposed change would not exclude Working for Families (WFF) recipients who have only PIE income from the Cost of Living payment as they are required to have an income tax assessment to determine their WFF entitlement for the year. Working for Families is a tax credit that is part of an individual's overall income tax assessment and so they must have an income tax assessment to be able to claim WFF, along with any spouse or partner.

² The 2020 tax year data was used as it is the latest year for which we hold complete data

Exclusion of individuals who file or request an unnecessary nil tax assessment

16. As part of work on detailed design, we recognised that there is a possibility that some people who have no net income may request an unnecessary nil assessment (i.e., an assessment containing no income from any source) to qualify for the Cost of Living payment.
17. We do not believe this behaviour is consistent with the policy intent. Those with no income and no assessment are already excluded and we consider that people who file or request an unnecessary nil assessment should be treated in the same way.
18. This proposed change would not affect stay at home parents who have no other income but receive Working for Families tax credits. This is because they are required to have an income tax assessment to determine their WFF entitlement, even if they have no income. The WFF calculation forms part of their individual income tax assessment along with the income tax assessment of any spouse or partner.
19. It would also not affect those who need to file an income tax assessment but have zero net income, such as self-employed people whose allowable deductions reduce their income to zero. It would also not affect people who file an assessment with very low but positive levels of net income.
20. To close this potential loophole, we recommend that those who are not required to request, confirm or file an income tax assessment for any reason and who have no income, should not be eligible for the payment if they request or file an assessment that contains no assessable income.

Ability to opt out of payments

21. Eligibility for the Cost of Living payment will be determined by Inland Revenue based on information it holds. Individuals will not need to apply.
22. Since there is no application, which implies that the person wants the payment, we think that it is important that there a simple process available for people to opt out of the payment scheme if they choose to.
23. This process would be implemented within Inland Revenue's authenticated online service, myIR. Individuals would also be able to opt out over the phone. However, once a person has opted out, they would not be able to change their mind and restart payments. This is because of the complexity this would introduce. Clear communications about this would be provided.
24. Having the ability to opt out of the payments would align with the WEP, which also includes an option to out of receiving the payments.

Administrative impacts

25. Internal system design, and operational experts have confirmed that both the recommended changes to the eligibility criteria and providing an "opt out" process can be developed and implemented within the required timeframes. Inclusion of these changes will not add any additional risks to delivery.

Financial implications

26. Unless Ministers decide otherwise, individuals with PIE income only will be eligible for the Cost of Living payment. However, this group was not included in the original estimates for the cost of the scheme. Consequently, the scheme is likely to be more

expensive than previously reported. An additional 200,000 recipients would increase the cost of the payment by around \$70 million.

27. The Cost of Living payment was initially forecasted at \$747.600 million, based on a payment of \$350 to 2,136,000 recipients. However, to allow for any uncertainty in the size of the recipient population, Inland Revenue sought an appropriation of \$800 million. This means that there is already a buffer of around \$50 million. Officials therefore do not consider this buffer sufficient to cover the additional cost of making the payment to individuals with PIE income only.
28. As noted above, however, officials do not recommend allowing individuals with PIE income only to receive the Cost of Living payment. If you agree with this decision, the cost of the payment will be as previously reported.
29. However, if you wish to extend the payment, officials propose to report back to you on the options for managing this additional cost.
30. There are no financial implications arising from the other issues raised in this report.

Consultation

31. The Treasury has been consulted on this report.

Next steps

32. If you agree to the recommendations to exclude individuals who have only PIE income, and those who request or file an unnecessary nil tax assessment, we will incorporate these into the design of the payment and will include the information in the eligibility criteria that will be published on Inland Revenue's website.

Recommended action

We recommend that you:

33. **note** that the design of the Cost of Living payment is triggered by an income tax assessment, but this may inadvertently include people not in the intended target group

Noted

Noted

Minister of Finance

Minister of Revenue

34. **agree** to exclude individuals who have only PIE income and who are not receiving Working for Families tax credits from being eligible for the Cost of Living payment.

Agreed/Not agreed

Agreed/Not agreed

Minister of Finance

Minister of Revenue

35. **agree** to exclude individuals who have no need to have an individual income tax assessment but request one and it contains no income from any source.

Agreed/Not agreed

Agreed/Not agreed

Minister of Finance

Minister of Revenue

36. **agree** that individuals should have the ability to opt out of receiving the payments and, that if they opt out, they would not be able to opt back in at a later date.

Agreed/Not agreed

Agreed/Not agreed

Minister of Finance

Minister of Revenue

s 9(2)(a)

Murray Shadbolt

Acting Policy Lead

Policy and Regulatory Stewardship

Hon Grant Robertson

Minister of Finance

/ /2022

Hon David Parker

Minister of Revenue

/ /2022