

# **Taxation (Budget Tax Measures) Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

In response to the difficult fiscal climate, the bill repeals personal tax cuts planned for the 2010–11 and 2011–12 income years, and cancels the associated increase in the independent earner tax credit for those years. It also closes the KiwiSaver mortgage diversion facility to new participants, thus removing compliance costs for KiwiSaver providers and banks that offered the facility, and removing the risk of savers gaining early access to their funds.

### ***Personal tax cuts and independent earner tax credits: repeal of later years' changes***

It is proposed that the final 2 tranches of personal tax cuts (in the 2010–11 and 2011–12 income years) be repealed. It is also proposed that the \$5 per week increase of the independent earner tax credit (from 1 April 2010) be cancelled.

### ***KiwiSaver: closing mortgage diversion facility participation***

Members of KiwiSaver schemes and complying superannuation funds will not be able to apply for participation in mortgage diver-

sion facilities on and after 1 June 2009. This proposal effectively closes mortgage diversion facilities to new participants.

### Clause by clause analysis

*Clause 1* gives the title of the Act.

*Clause 2* gives appropriate commencement dates for the provisions of the Act.

## Part 1

### Personal tax cuts and independent earner tax credits: repeal of later years' changes

#### *Amendments to Taxation (Urgent Measures and Annual Rates) Act 2008*

*Clause 3* amends the *Taxation (Urgent Measures and Annual Rates) Act 2008* to repeal later years' personal tax cuts and increases to the independent earner tax credit.

#### *Amendments to Taxation (Business Tax Measures) Act 2009*

*Clause 4* amends the *Taxation (Business Tax Measures) Act 2009* to repeal later years' personal tax cuts.

## Part 2

### KiwiSaver: closing mortgage diversion facility participation

#### *Amendments to KiwiSaver Act 2006*

*Clause 5* amends *section 229* of the *KiwiSaver Act 2006* to empower the closing of mortgage diversion facilities to new participants.

*Clause 6* adds a *new section 236* of the *KiwiSaver Act 2006* to protect securities documentation from non-compliance as a result of the closing of mortgage diversion facilities to new participants.

#### *Amendments to KiwiSaver Regulations 2006*

*Clause 7* amends *regulation 21(1)* of the *KiwiSaver Regulations 2006* to regulate the closing of mortgage diversion facilities to new participants.

*Clause 8 amends regulation 24(a) of the KiwiSaver Regulations 2006 to regulate the closing of mortgage diversion facilities to new participants.*

**Regulatory impact statement**

No regulatory impact statement is required for this bill.

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*Hon Bill English*

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Taxation (Budget Tax Measures) Act **2009**.

**2 Commencement**

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section. 5
- (2) **Sections 5, 6, 7, and 8** are treated as coming into force on 1 June 2009.

**Part 1**

**Personal tax cuts and independent earner tax credits: repeal of later years' changes** 10

*Amendments to Taxation (Urgent Measures and Annual Rates) Act 2008*

**3 Sections repealed**

Sections 5(2), 6(2), 7(2), 8(2), 9(2), 10(2) and (3), 11(2) and (3), 12(2) and (3), 13(2) and (3), 14(2) and (3), 16(2), 17(2), and 32 of the Taxation (Urgent Measures and Annual Rates) Act 2008 are repealed. 15

*Amendments to Taxation (Business Tax Measures) Act 2009*

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**4 Sections repealed**

Sections 29(2), 30(2), and 31(2) of the Taxation (Business Tax Measures) Act 2009 are repealed.

**Part 2**  
**KiwiSaver: closing mortgage diversion  
 facility participation**

*Amendments to KiwiSaver Act 2006*

- 5 Regulations relating to mortgage diversion facility** 5  
 After section 229(3)(e) of the KiwiSaver Act 2006, the following is inserted:  
 “(eb) closing the mortgage diversion facility to new participants by specifying a date before which a member of a KiwiSaver scheme or complying superannuation fund must request his or her mortgagee to participate in the facility in respect of the member’s mortgage; and” 10
- 6 New section 236 of the KiwiSaver Act 2006**  
 After section 235 of the KiwiSaver Act 2006, the following is added: 15
- “**236 Protection from non-compliance: Taxation (Budget Tax Measures) Act 2009**  
 If, as a result of amendments in **Part 2 of the Taxation (Budget Tax Measures) Act 2009**, there is non-compliance with an enactment related to securities, the non-compliance is ignored, if it starts before 31 July 2009 and does not continue on or after 31 July 2009, or if it relates to— 20  
 “(a) a prospectus that is registered under the Securities Act 1978 before 1 June 2009:  
 “(b) an investment statement under the Securities Act 1978 that is dated before 1 June 2009.” 25

*Amendments to KiwiSaver Regulations 2006*

- 7 Mortgage diversion facility**  
 In regulation 21(1) of the KiwiSaver Regulations 2006, “if the provider and the mortgagee choose to participate in the mortgage diversion facility” is replaced by “if the provider and the mortgagee choose to participate in the mortgage diversion facility and the member requests participation before it is closed to new participants” 30

**8 What member of KiwiSaver scheme must do first to participate in mortgage diversion facility**

In regulation 24(a) of the KiwiSaver Regulations 2006, “request his or her mortgagee to participate” is replaced by “request, before 1 June 2009, his or her mortgagee to participate”. 5

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