

# Working for Families tax credits and family scheme income

Issued | Tukuna: 18 June 2026

IS 26/12

This interpretation statement gives an overview of eligibility for Working for Families tax credits and discusses the adjustments required to a person's net income to determine family scheme income. Key adjustments that may be relevant are income from associated trusts and companies, passive income over \$500 of dependent children, payments from trusts other than beneficiary income and other payments supporting the family if they total more than \$5,000.

All legislative references are to the Income Tax Act 2007 unless otherwise stated.

## RELATED DOCUMENTS | TUHINGA WHAI PĀNGA

- [IS 26/12 FS 1](#): Working for Families tax credits and family scheme income

## IMPORTANT NOTE – RECENT LEGISLATIVE CHANGES

On 28 May 2026, as part of Budget 2026, the Government announced changes to the Working for Families rules. These changes are contained in the Taxation (Budget Measures) Act 2026. The proposed amendments take effect on 1 April 2027, applying for the 2027-28 and later income years.

The Bill proposes to simplify the calculation of family scheme income by reducing the number and scope of adjustments that must be considered. In particular:

### Removal of low-risk adjustments

Several existing income adjustments that are used infrequently and are considered to pose a low integrity risk will be removed. As a result, these adjustments will no longer need to be included or excluded when calculating family scheme income.

### Flexibility to modify adjustments

The legislation allows certain adjustments to be added, removed, or modified by Order in Council. This power is limited to defined adjustments that are removed as part of the simplification changes, but which may need to be reinstated if integrity concerns arise.

### Changes to the “other payments” adjustment

The “other payments” adjustment is retained, but the threshold is increased from \$5,000 to \$8,000. This means:

- payments totalling less than \$8,000 in an income year are no longer included in family scheme income; and
- payments exceeding that amount are taken into account, subject to any exclusions (which have not changed).

### Residence requirements

The legislation simplifies and clarifies the residence requirements for Working for Families tax credits by replacing the current rules, which are based in part on tax residence and transitional residence status.

Key features of the amendments are:

- Replacing the New Zealand resident requirement with presence requirements for both the principal caregiver and dependent child based on ordinary residence and physical presence in New Zealand.
- Retaining the “either/or” test for the lawful presence requirement, that is, either the principal caregiver or dependent child must be lawfully resident in New Zealand but not on a temporary entry class visa.
- Introducing modifications to treat the principal caregiver and dependent child as present in New Zealand during:
  - periods of physical absence from New Zealand that are six weeks or less, and
  - periods of longer absences for specified circumstances.

As these legislative changes do not take effect until 1 April 2027, the Commissioner has decided to proceed with publishing this interpretation statement in substantially the same form as consulted on, reflecting the law as it currently applies.

A revised item incorporating the enacted legislative changes will be published on or before 1 April 2027.

## Contents | Ihirangi

Summary   Whakarāpopoto .....	5
Introduction   Whakataki .....	5
How to navigate this statement.....	6
Part 1: Key terms used in this statement.....	7
Part 2: Eligibility.....	9
Dependent child.....	10
Principal caregiver .....	11
Residence and transitional residence .....	12
How to apply.....	13
Who should apply.....	14
Relationship periods.....	15
Part 3: Adjustments relating to trusts and companies.....	18
Settlor of a trust .....	18
Major shareholder of a close company.....	22
Payments from a trust .....	24
Part 4: Adjustments relating to dependent children, and spouses, civil union partners or de facto partners.....	25
Passive income over \$500 of dependent children.....	25
Receipts of child support and spousal maintenance.....	28
Payments of child support and spousal maintenance .....	28
Non-residents' foreign-sourced income.....	29
Part 5: Adjustments relating to employment .....	30
Salary and wages under international agreements.....	30
Distributions from superannuation schemes.....	31
Reduced salary in exchange for employer-provided motor vehicle for personal use..	32
Short-term charge facility.....	33
Fringe benefits of controlling shareholders.....	34
Part 6: Adjustments related to pensions, life insurance annuities, retirement savings scheme contributions and portfolio investment entities .....	36
Overseas pensions .....	36
Life insurance annuities and superannuation fund pensions.....	37
Retirement savings scheme contributions incorrectly taxed.....	37

Distributions of contributions from retirement savings schemes.....	39
Income from portfolio investment entities.....	39
Part 7: Adjustments relating to carrying on a business .....	40
Main income equalisation deposits and refunds.....	40
Losses .....	41
Part 8: Adjustment for other payments to the person over \$5,000 in total .....	43
Loans under ordinary commercial terms and conditions.....	47
Capital receipt from the sale of property .....	48
Repayment of a loan or mistaken or misdirected payment .....	49
Refund of a payment .....	50
Payment from ownership of investment activity or business .....	50
Payment from a deceased's estate .....	51
Money won from gambling or from a New Zealand lottery .....	51
Payment on a person's behalf from a local authority or public authority .....	51
Forgiveness of debt by a local authority .....	51
Charitable distribution.....	51
Educational scholarship or educational bursary .....	51
Student loan.....	52
Medical or funeral grant .....	52
Payments under an insurance contract, other than a payment for a loss of income ...	52
Compensation for a loss other than a loss of income.....	52
Compensation under the Accident Compensation Act 2001.....	53
Foster care allowance.....	53
Other allowances under the Oranga Tamariki Act 1989 .....	53
Monetary benefit under the Social Security Act 2018 that is exempt income .....	54
Exempt pensions or allowances under the Veterans' Support Act 2014 .....	54
Exempt allowances and benefits.....	54
Amount declared not to be income for the purposes of the Social Security Act 2018 by regulations made under s 422 of that Act.....	55
Included in the family scheme income of a person under another section .....	55
Expressly excluded from family scheme income under another section .....	56
Payment to relieve the adverse effects of an emergency event.....	56
Appendix: Adjustments for student loan repayment purposes.....	57
References   Tohutoro.....	59
About this document   Mō tēnei tuhinga .....	61

## Summary | Whakarāpopoto

1. Working for Families tax credits help with the costs of raising a family<sup>1</sup>. To be eligible for Working for Families tax credits, a person must satisfy eligibility criteria. The criteria vary for each type of credit.
2. A person's entitlement to credits will depend in part on the amount of their family scheme income. In general, as a person's family scheme income increases, their entitlement to credits decreases.
3. The starting point for calculating family scheme income is a person's net income. This is the person's annual gross income less total annual deductions for a tax year. The net income is then adjusted, as necessary, to arrive at family scheme income. Every person who is eligible to receive Working for Families tax credits must consider whether their net income needs to be adjusted and report those adjustments to the Commissioner.
4. The primary purpose of this interpretation statement is to provide guidance to customers and their advisors on adjustments required to calculate family scheme income.

## Introduction | Whakataki

5. In general, a person's family scheme income is used in the calculation of a person's entitlement for Working for Families tax credits.
6. Family scheme income is calculated by applying the adjustments in subpart MB, as necessary, to a person's net income for income tax.
7. A person's Working for Families entitlement also takes into account the family scheme income of the person's spouse, civil union partner or de facto partner. This means that the person's spouse, civil union partner or de facto partner also needs to consider the relevant adjustments to net income to arrive at family scheme income. The person's spouse, civil union partner or de facto partner can also complete their own calculation of family scheme income.
8. A person's entitlement to Working for Families tax credits is based on information the Commissioner holds and information the applicant provides. The person must verify that the determination is correct and advise the Commissioner of changes that affect

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<sup>1</sup> The names of the four main types of credits are Family tax credit, In-work tax credit, Minimum family tax credit and Best Start tax credit.

the calculation. The form [IR215](#),<sup>2</sup> can be used to inform the Commissioner of adjustments to net income.

9. In 2011, the scope of family scheme income was broadened significantly due to integrity concerns. At the time, the calculation of family scheme income did not necessarily reflect the means actually available to some families. The revised definition, including subsequent amendments, requires net income to be adjusted to reflect a wider view of income.
10. In May 2025, the Government released a discussion document on Working for Families tax credits.<sup>3</sup> The Government proposed simplifying the definition of family scheme income by removing adjustments that are not used often or present a low integrity risk. The Government expects this will reduce the level of administrative, customer compliance and debt issues that arise with the current definition. This statement deals with the current legislation.
11. The concept of family scheme income is also used for determining student loan repayments. The corresponding adjustments to net income for student loan repayment purposes are in schedule 3 of the Student Loan Scheme Act 2011. While most adjustments to net income for student loan purposes mirror the adjustments for Working for Families tax credits, there are some differences. These differences are listed in the Appendix to this statement. The rest of the statement discusses family scheme income only for Working for Families tax credit purposes.

## How to navigate this statement

12. The balance of this statement is divided into eight parts. Part 1 outlines the key terms used in the statement, while Part 2 discusses eligibility for Working for Family tax credits. The remaining parts explain the adjustments that may need to be made to net income. To help determine what parts may be relevant, use Figure | Hoahoa 1. This diagram summarises the content of each part. Each part must be considered to ensure family scheme income is calculated correctly.

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<sup>2</sup> Adjust your income: Student loans and Working for Families – IR215 (form, Inland Revenue, April 2024).

<sup>3</sup> Empowering families: Increasing certainty and preventing debt in the Working for Families scheme (government discussion document, Inland Revenue, May 2025).

**Figure | Hoahoa 1 – Navigating the statement**

<a href="#"><u>Part 1</u></a>	<ul style="list-style-type: none"> <li>• Key terms</li> </ul>
<a href="#"><u>Part 2</u></a>	<ul style="list-style-type: none"> <li>• Eligibility</li> </ul>
<a href="#"><u>Part 3</u></a>	<ul style="list-style-type: none"> <li>• Settlers of trusts</li> <li>• Shareholders of close companies</li> <li>• Payments from trusts</li> </ul>
<a href="#"><u>Part 4</u></a>	<ul style="list-style-type: none"> <li>• Dependent children</li> <li>• Spouses, civil union partners or de facto partners</li> </ul>
<a href="#"><u>Part 5</u></a>	<ul style="list-style-type: none"> <li>• Employment</li> </ul>
<a href="#"><u>Part 6</u></a>	<ul style="list-style-type: none"> <li>• Overseas pensions</li> <li>• Life insurance annuities and superannuation fund pensions</li> <li>• Retirement savings scheme contributions</li> <li>• Income from portfolio investment entities</li> </ul>
<a href="#"><u>Part 7</u></a>	<ul style="list-style-type: none"> <li>• Income equalisation deposits and refunds</li> <li>• Losses</li> </ul>
<a href="#"><u>Part 8</u></a>	<ul style="list-style-type: none"> <li>• Receipts over \$5,000 in total during the year used for usual living expenses or to replace income</li> </ul>

## Part 1: Key terms used in this statement

13. Figure | Hoahoa 2 explains some of the key terms relevant to calculating Working for Families tax credits that are used in this interpretation statement.

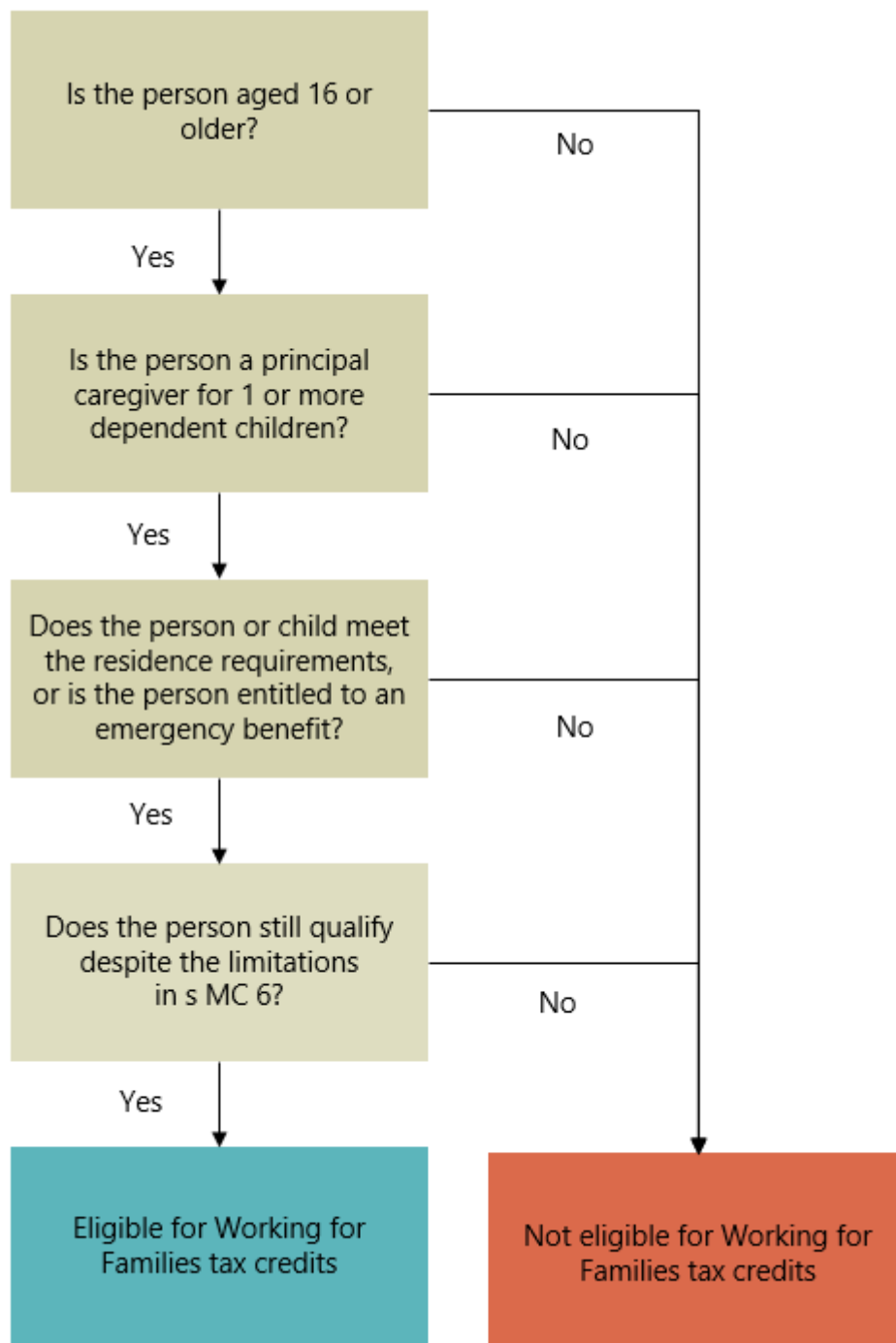
**Figure | Hoahoa 2 – Key terms**

Term	Meaning
<b>dependent child</b>	A child, in the care of a principal caregiver, who is aged 15 years or younger, 16 or 17 years old and financially dependent, or is 18 years old, financially dependent and at school or a tertiary institution. The child must not be married, in a civil union or a de facto relationship.
<b>entitlement period</b>	The part of the relationship period during which a person's entitlement to a particular combination of Working for Families tax credits remains the same. An entitlement period may end or reset if a continuing requirement in s MC 8 is no longer met, even though the person may remain eligible for Working for Families tax credits overall.
<b>family scheme income</b>	Net income of a person adjusted under subpart MB.
<b>net income</b>	Gross income less annual total deductions of the person for a tax year.
<b>principal caregiver</b>	The person who has the primary responsibility for the day-to-day care of the child on a more than temporary basis. It can include a person in share-cared situations who has exclusive care of the child for defined periods.
<b>relationship period</b>	An unbroken period in a tax year, which can be the full tax year or a part of the tax year, during which a person's relationship status and the qualifying criteria for Working for Families tax credits remain the same. A relationship period is relevant to determining the family scheme income that applies for abatement purposes.
<b>transitional resident</b>	In general, a tax resident who has not been tax resident at any time in the previous 10 years and has not previously been a transitional resident.
<b>Working for Families tax credits</b>	Financial assistance to help raise a family comprising four separate credits, each with varying criteria for eligibility and different amounts of payments.

## Part 2: Eligibility

14. To be eligible to receive Working for Families tax credits, a person must meet the qualifying criteria under ss MC 3 to MC 7 and the continuing requirements in s MC 8. Figure | Hoahoa 3 illustrates the qualifying criteria and continuing requirements in general. Further information about the eligibility requirements follows the flowchart.

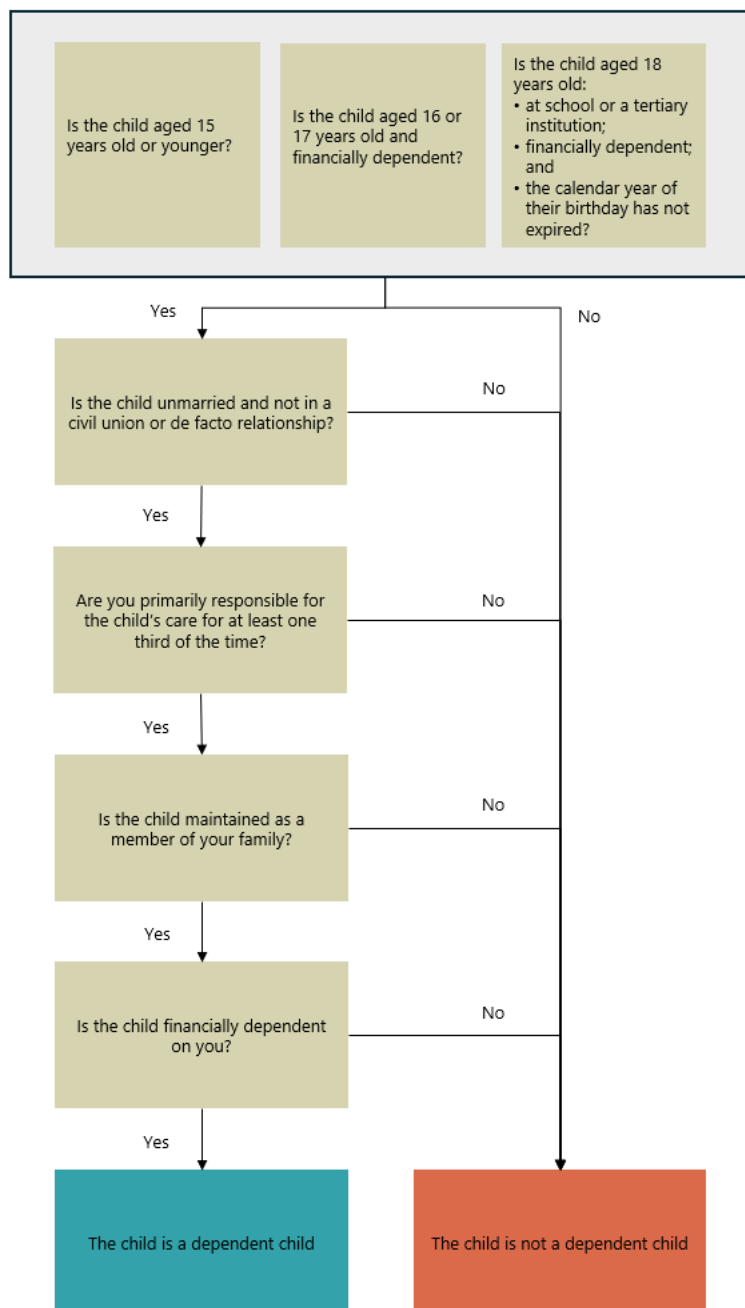
**Figure | Hoahoa 3 – Is the person eligible to receive Working for Families tax credits?**



## Dependent child

15. One of the requirements for Working for Families tax credits is the existence of a “dependent child”. Figure | Hoahoa 4 illustrates how to determine if a child is a dependent child.<sup>4</sup> As the flowchart shows, different criteria apply depending on the age of the child. Each child must be considered separately.

**Figure | Hoahoa 4 – Is the child my dependent child?**



<sup>4</sup> See definitions of “child” and “dependent child” in s YA 1 and s MC 9 (Credits for person aged 18).

## Principal caregiver

16. "Principal caregiver" is also a defined term.<sup>5</sup> A principal caregiver is not necessarily the dependent child's parent. There may be more than one principal caregiver for a dependent child in shared-care situations. A person who is caring for a child on a temporary basis is not a principal caregiver. The Commissioner's interpretation of "temporary basis" is discussed in [QB 16/01: Income tax, Working for Families tax credits – principal caregiver – dependent child – primary responsibility for day-to-day care – meaning of "temporary basis"](#).<sup>6</sup> It also explains the meaning of principal caregiver and dependent child.
17. Essentially, a person can qualify as a principal caregiver in two ways. The first is where the person has primary responsibility for the day-to-day care of the child. There is an exclusion to this for situations where a person has the primary responsibility for the child, but it is only on a temporary basis. For instance, if the principal caregiver is absent overseas or in hospital for a few weeks and someone else is taking care of the day-to-day care of the child, the second person does not become the principal caregiver. The second is where there is shared care of the child and the person has exclusive care of the child for at least a third of the time in a 4-month period or the tax year (eg shared care where the child spends alternate weeks with each of their parents).
18. Figure | Hoahoa 5 summarises what it means to have primary responsibility for a dependent child and when a person who does not have primary responsibility may qualify as a principal caregiver.

**Figure | Hoahoa 5 – Two ways to qualify as a principal caregiver**

Principal caregiver	
Primary responsibility	Shared care
You have the primary responsibility for the day-to-day care of the child other than on a temporary basis.	You live apart from someone else who also qualifies for Working for Families tax credits and you have the child in your exclusive care for a third of the time.

<sup>5</sup> See s MC 10 for specific definitions of principal caregiver for each credit.

<sup>6</sup> QB 16/01: Income tax, Working for Families tax credits – principal caregiver – dependent child – primary responsibility for day-to-day care – meaning of "temporary basis" (*Tax Information Bulletin* Vol 28, No 3 (April 2016): 124).

## Residence and transitional residence

19. The residence requirement can be met by either the dependent child or the principal caregiver(s) but the tests differ. In general, the dependent child must be ordinarily resident in New Zealand and legally here.<sup>7</sup> The principal caregiver must be ordinarily resident in New Zealand, legally here, a tax resident and not be a transitional resident nor a spouse, civil union partner or de facto partner of a transitional resident.<sup>8</sup>
20. A transitional resident is generally a person who becomes a tax resident in New Zealand but has not been a tax resident in the previous 10 years. They are exempt on most forms of foreign-sourced income for approximately 4 years.<sup>9</sup> A person and their spouse, civil union partner or de facto partner cannot claim the transitional resident exemption and receive Working for Families tax credits.
21. If the person prefers to receive Working for Families tax credits, they can elect not to receive the exemption. They can do this by applying for Working for Families tax credits. If their spouse, civil union partner or de facto partner is also eligible to be a transitional resident, the application is also an election for them not to be a transitional resident.<sup>10</sup> The election cannot be changed so applicants should consider carefully whether the exemption or Working for Families credits is the better choice.<sup>11</sup>
22. If one member of a couple is resident in New Zealand and claiming Working for Families tax credits and the other person is non-resident but becomes a transitional resident, the new resident will need to make an election not to be a transitional resident<sup>12</sup> otherwise eligibility for credits will end. This is because the existing person will be the spouse, civil union partner or de facto partner of the transitional resident and no longer meet the definition of principal caregiver.<sup>13</sup>
23. Figure | Hoahoa 6 summarises eligibility for Working for Families tax credits depending on the tax residence status of the person and, if relevant, their spouse, civil union partner or de facto partner, and whether an election has been made to cease being a transitional resident. In the table, partner includes the spouse, civil union partner or de facto partner of the person.

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<sup>7</sup> Section MC 5(3).

<sup>8</sup> Section MC 5(2).

<sup>9</sup> Sections HR 8(1) to HR 8(3).

<sup>10</sup> Section HR 8(5).

<sup>11</sup> Section HR 8(6).

<sup>12</sup> Section HR 8(4).

<sup>13</sup> Section MC 10(1)(b)(ii).

**Figure | Hoahoa 6 – Eligibility for Working for Families tax credits and transitional residents**

Person's tax residence status	Partner's tax residence status	Opted out	Eligibility for Working for Families tax credits
Transitional resident	N/A - single	No	Not eligible. Foreign-sourced income is generally exempt.
Transitional resident	N/A - single	Yes	May be eligible if other requirements are met. Must pay tax on foreign-sourced income.
Transitional resident	Transitional resident	No	Not eligible. Foreign-sourced income is generally exempt.
Transitional resident	Transitional resident	Yes	May be eligible if other requirements are met. Must pay tax on foreign-sourced income.
Resident	Non-resident	N/A	May be eligible if other requirements are met. Must include foreign-sourced income of partner in family scheme income.
Resident	Transitional resident	No	The person loses their eligibility but the foreign-sourced income of partner is generally exempt.
Resident	Transitional resident	Yes	The person remains eligible if the partner opts not to receive the exemption on foreign-sourced income and other requirements are met.

## How to apply

24. If a person is eligible to receive Working for Families tax credits, they can apply through their myIR account, the online tool on Inland Revenue's [website](#)<sup>14</sup> or by phone.
25. A person can choose how frequently they receive their payments:
  - **Weekly or fortnightly.** This option is commonly chosen and the entitlement is based on estimates of the person's family scheme income for the next tax year (1 April to 31 March). At the end of the tax year, the Commissioner works out the person's Working for Families tax credits based on their actual family scheme income. The person must provide relevant information to the Commissioner, such as adjustments to net income. If the amount received is more than their entitlement, the person needs to repay the difference to Inland Revenue.
  - **Lump sum payment.** If this option is chosen, a person receives their entitlement in a lump sum after the end of the tax year (31 March) once the assessment

<sup>14</sup> [ird.govt.nz/working-for-families/apply](http://ird.govt.nz/working-for-families/apply)

process is complete. The entitlement is based on the person's actual family scheme income.

26. The application requires the person to include:
  - their net income and indicate whether their spouse, civil union partner or de facto partner (if applicable) receives salary and wages, and if not, advise what other income they receive (using the list of income sources provided); and
  - the name and date of birth of each child in the person's care, including the number of days per fortnight that the child is in their care if a shared-care arrangement is in place.
27. The application also requires the person to provide information about any adjustments that may be necessary. The types of adjustments that may be necessary are listed in the IR215 and discussed in this statement. The person can complete this form through their myIR account or provide information about adjustments by phone to Inland Revenue's call centre.
28. If the person receives a main benefit, has no other income and the dependent child lives with them, an option exists for the Ministry of Social Development<sup>15</sup> to handle payments of Working for Families tax credits. In many situations though, the payment must come from Inland Revenue. Inland Revenue's [website](#) explains this in more detail.<sup>16</sup>

## Who should apply

29. In general, the principal caregiver applies for Working for Family tax credits. In shared-care situations, each principal caregiver completes an application.
30. Where more than one person in a family is eligible to receive Working for Families tax credits, only one application needs to be completed for all dependent children in the household.<sup>17</sup>
31. Figure | Hoahoa 7 illustrates some common living situations and the corresponding requirements to complete the Working for Families tax credits application. The figure assumes the principal caregiver meets the above eligibility requirements to receive Working for Families tax credits for a dependent child.

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<sup>15</sup> Also known as Work and Income.

<sup>16</sup> [ird.govt.nz/working-for-families/all-about-working-for-families/msd](http://ird.govt.nz/working-for-families/all-about-working-for-families/msd)

<sup>17</sup> Section MC 7.

**Figure | Hoahoa 7 – Family situations and application requirements**

Family situation	Completing application
Single principal caregiver, dependent child in full-time care	Principal caregiver completes the application
Single principal caregiver, shared care of dependent child (eg, 50/50 care)	Each principal caregiver completes the application individually (shared care is included in the Working for Families tax credits application)
Principal caregiver of dependent child has a spouse, civil union partner or de facto partner	One application is completed
Principal caregiver of a dependent child has a spouse, civil union partner or de facto partner who is the principal caregiver for a different child	One application is completed that includes all dependent children with the Commissioner deciding which caregiver qualifies for credits

## Relationship periods

32. Family scheme income is calculated for periods of time called relationship periods. There may be more than one relationship period in a tax year.
33. A relationship period is an unbroken period in a tax year during which a person's relationship status and qualifying criteria for Working for Families tax credits remain the same.<sup>18</sup> These qualifying criteria include, for example whether the person has a spouse, civil union partner or de facto partner, whether they are a principal caregiver of a dependent child, and whether residence requirements are met.
34. A new relationship period generally begins when there is a change in relationship status or when the person first meets, or ceases to meet, the qualifying criteria for Working for Families tax credits. Changes that do not affect relationship status or the qualifying criteria may instead result in a new entitlement period within the same relationship period.
35. Once these periods are worked out, the next step is to calculate the person's assessable income for a relationship period. Income from employment or government benefits is treated as if it was earned evenly each day during the time the person worked or received a benefit.<sup>19</sup> The total amount received is divided by the number of

<sup>18</sup> Section MC 11.

<sup>19</sup> Sections MB 1(1)(a) and (b).

days employed or on a main benefit and that amount is multiplied by the number of days in the relationship period.

36. Other types of income, such as that from investments or rental properties, are treated as if the income (and any expenditure) was earned (or incurred) evenly across the whole year, even if it was received all at once. To do this, the total income from these sources is divided by the number of days in the year to get a daily amount. That daily amount is then multiplied by the number of days in the relationship period.
37. If the relationship period is shorter than a full year, the income is adjusted to show what it would be over a full year. This is done by multiplying the assessable income calculated for the relationship period by 365 and dividing by the number of days in the relationship period.<sup>20</sup>
38. Within each relationship period is a more specific timeframe called the “entitlement period”. An entitlement period is the part of the relationship period during which a person’s entitlement to a particular composition of Working for Families tax credits remains the same. An entitlement period ends when one or more of the continuing requirements in s MC 8 is no longer met. In some cases, this will result in a person no longer being eligible for Working for Families tax credits. In other cases, the person may remain eligible, but a new entitlement period will begin because the amount or type of credits they are entitled to has changed. In general, credits are adjusted to reflect the length of an entitlement period and, where relevant, the extent of shared care.
39. Example | Taura 1 illustrates the calculation for a person earning income from employment.

#### **Example | Taura 1 – Relationship period of less than a year**

Angus is entitled to receive Working for Families tax credits for his two dependent children from 1 April 2025. On 27 September 2025, he marries Sarah. Angus and Sarah did not live together before the marriage. The marriage creates a second relationship period in the tax year.

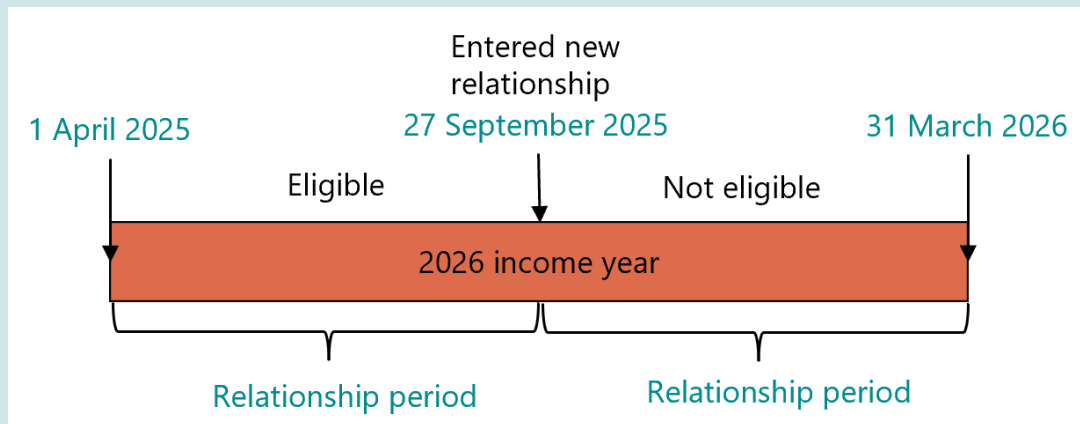
Sarah is a transitional resident and has not opted out of the exemption for foreign-sourced income. As Angus becomes the spouse of a transitional resident who has not made an election under s HR 8(4), he is no longer eligible for Working for Families tax credits from the date of their marriage (s MC 10(1)(b)(ii)).

The first relationship period for the 2025 income year is 179 days (1 April 2025 to 27 September 2025) as shown in Figure | Hoahoa 8.

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<sup>20</sup> Section MB 2.

**Figure | Hoahoa 8 – Timeline of relationship periods**



Angus' only source of income during the first relationship period is from full-time employment, which he quits on 31 October 2025 having earned \$49,500. He starts a new job on 1 December 2025. Angus needs to calculate assessable income earned during the first relationship period from employment. The income from his new job is outside the first relationship period and is not relevant to the calculations.

Income from employment is deemed to be earned at a uniform daily rate:

$$\begin{aligned} \text{Daily amount} &= \text{salary} \div \text{number of days in employment} \\ &= \$49,500 \div 213 \\ &= \$232.39 \end{aligned}$$

Having determined the daily rate, the amount earned during the relationship period is:

$$\begin{aligned} \text{Amount earned during relationship period} &= \text{daily amount} \times \text{number of days} \\ &= \$232.39 \times 179 \\ &= \$41,597.81 \end{aligned}$$

As the relationship period is less than a year, it needs to be adjusted to an annual amount under s MB 2:

$$\begin{aligned} \text{Annual amount} &= \text{person's family scheme income} \times 365 \div \text{number of days in period} \\ &= \$41,597.81 \times 365 \div 179 \\ &= \$84,822.35 \end{aligned}$$

Assuming Angus has no adjustments, his family scheme income for the 2026 income year is **\$84,822.35**. This is the amount that will be used to calculate Angus' entitlement to Working for Family tax credits.

The calculation of the family tax credit under s MD 3 is:

$$\begin{aligned} \text{Credit} &= \text{prescribed amount} \times \text{days in the entitlement period} \div 365 \\ &= (\$7,121 \text{ (first child)} + \$5,802 \text{ (second child)}) \times 179 \div 365 \end{aligned}$$

$$= \$6,337.58$$

Under s MD 13, the credit reduces as family scheme income increases using the following formula:

$$\begin{aligned}\text{Abatement} &= \text{full-year abatement} \times \text{days in the entitlement period} \div 365 \\ &= (\$84,822 - \$42,700 \text{ (threshold)}) \times 0.27 \text{ (abatement rate)} \times 179 \div 365 \\ &= \$5,577.41.\end{aligned}$$

Angus will receive \$6,337.58 less \$5,577.41 equals **\$760.17**.

## Part 3: Adjustments relating to trusts and companies

40. This part focuses on adjustments that may be necessary in calculating family scheme income for people who have interests in trusts and companies. It first addresses the adjustments a settlor of a trust may need to make. This may include attributing income from a company or companies owned by the trustee of the trust. It then considers the adjustment a major shareholder of a close company may need to make. Finally, it explains adjustments people may need to make if they receive payments from trusts and are not the settlor. These adjustments prevent people shifting income to related entities to increase their entitlement to Working for Families tax credits.

### Settlor of a trust

41. If a person is a settlor of a trust at any time during an income year, they may need to include a share of the trust's income in their family scheme income.<sup>21</sup> Where the trust has an interest in a company or companies, the trustee's share of each company's retained net income may also need to be attributed to the settlor.
42. Part 2 of [IS 24/01: Taxation of trusts](#) explains that the definition of settlor is broad and captures people who transfer value to a trust without receiving equivalent value in return.<sup>22</sup> However, for the purposes of family scheme income, a person who is a settlor solely because they provide personal services for less than market value in the administration of the trust or the maintenance of trust property does not need to make an adjustment.<sup>23</sup> For example, if the only reason the person is a settlor under the

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<sup>21</sup> Section MB 7.

<sup>22</sup> IS 24/01: Taxation of trusts *Tax Information Bulletin* Vol 36, No 2 (March 2024): 8.

<sup>23</sup> Section MB 7(1).

definition is because they mow the lawns of the trust's property for free, this adjustment does not apply.

43. A person also does not need to consider this adjustment if:<sup>24</sup>
- the trust is a charitable entity registered under the Charities Act 2005;
  - the trust is solely for the benefit of a local authority;
  - the trust is one where the interest and dividends the trustee derives would be exempt income of the trustee under s CW 45 (funeral trusts);
  - the trust is a superannuation fund; or
  - the person and the members of the person's family are not permitted to benefit from the person's trust except under an order of a court.

44. If this adjustment applies, the amount of the adjustment is calculated using the following formula, adjusted for any main income equalisation account amounts (see [132])

$$(\text{trustee's adjusted net income} + \text{companies income}) \div \text{settlor number}^{25}$$

45. Trustee's adjusted net income is the net income of a trustee for an income year. This is the amount after any allocation of beneficiary income. The amount cannot be less than zero.<sup>26</sup>
46. If the person is the settlor of two trusts and one has net income and the other has a net loss, the amounts cannot be set off against one another. The trust with the net loss will have trustee's adjusted net income of zero. In addition, if a trust has net income for the current year and a loss to carry forward, the loss is disregarded.
47. Companies income is calculated using the following formula:<sup>27</sup>

$$\text{trustee's interest} \times (\text{income} - \text{dividends})$$

48. The trustee's interest is the percentage of voting interests<sup>28</sup> held by the trustee on the last day of the income year.<sup>29</sup> If the voting interests of the trustee and associated persons are under 50%, it is not necessary to do the calculation for that company.<sup>30</sup>

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<sup>24</sup> Section MB 7(2).

<sup>25</sup> Section MB 7(3).

<sup>26</sup> Section MB 7(4)(a).

<sup>27</sup> Section MB 7(5).

<sup>28</sup> The definition of "voting interests" is in s YA 1.

<sup>29</sup> Section MB 7(6)(a).

<sup>30</sup> Section MB 7(4)(b).

49. The associated persons definitions are in ss YB 1 to YB 16. By way of example, under s YB 8, a trustee and a settlor of the trust are associated. If the trustee holds 31% of voting interests in a company and a settlor holds 20%, the income of the company needs to be attributed<sup>31</sup> as total voting interests are more than 50%.
50. "Income" is the net income<sup>32</sup> of the relevant company for the company's income year.
51. "Dividends" is the total dividends paid by the relevant company for the company's income year.
52. If the trustee and associated persons hold voting interests of 50% or more in more than one company, the calculation must be done for each company and the results added together. A net loss for a company is treated as zero. The total amount of companies' income cannot be less than zero.
53. If the trustee or the company makes a main income equalisation deposit for an income year, the amount is added to the trustee's adjusted net income or companies' income, as applicable.<sup>33</sup> Conversely, if the trustee or relevant company receives a main income equalisation refund for an income year, the amount is deducted from trustee's adjusted net income or companies' income, as applicable.<sup>34</sup>
54. If there is more than one settlor of the trust, the result of adding the two income figures is divided by the number of settlors who were alive at any time in the income year. This means that if a settlor of a trust was deceased for the entire year, they are not counted.
55. The attribution of trustee income is illustrated in Example | Taura 2 and Example | Taura 3.

### **Example | Taura 2 – Attribution of trustee's adjusted net income – no company income**

Michael and Christina receive Working for Families tax credits for their four children. Both Michael and Christina are settlors of the M&C Trust.

The trust owns a rental property from which it derived \$25,000 of rental income after expenses during the year. The M&C Trust retained \$5,500 of that income as trustee income, after distributing the other \$19,500 to its beneficiaries during the year. Neither the M&C Trust nor Michael and Christina hold any shares or voting interests in any company. There were no deposits or refunds from main income equalisation accounts. The calculation for determining the amount of trustee's income that each of

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<sup>31</sup> Section MB 7(3).

<sup>32</sup> Net income is calculated under s BC 4.

<sup>33</sup> Section MB 7(7).

<sup>34</sup> Section MB 7(8).

Michael and Christina will have attributed to them as family scheme income is as follows:

$$\begin{aligned}\text{Attributed income} &= (\text{trustee's adjusted net income} + \text{companies income}) \\ &\quad \div \text{settlor number} \\ &= (\$5,500 + 0) \div 2 \\ &= \$2,750\end{aligned}$$

Christina is the principal caregiver for the purposes of Working for Families tax credits and must include \$2,750 in her family scheme income and Michael must include \$2,750 in his family scheme income.

### Example | Taura 3 – Attribution of trustee's adjusted net income - company income

Fahadh and Nazriya are settlors of the FN Trust. The FN Trust is the 100% shareholder of FN Limited. They have shared care of one dependent child and are each principal caregivers.

The FN Trust earned \$7,500 in interest during the year, together with a \$30,000 dividend from FN Limited. The FN Trust retained \$20,000 of trustee income and distributed the remaining \$17,500 to its beneficiaries during the year.

FN Limited had net income of \$75,000 during the year and paid a dividend of \$30,000 to the FN Trust.

The relevant calculations are as follows for Fahadh and Nazriya.

$$\begin{aligned}\text{Companies income} &= \text{trustee's interest} \times (\text{income} - \text{dividends}) \\ &= 100\% \times (75,000 - 30,000) \\ &= \$45,000\end{aligned}$$

$$\begin{aligned}\text{Attributed income} &= (\text{trustee's adjusted net income} + \text{companies income}) \\ &\quad \div \text{settlor number} \\ &= (\$20,000 + \$45,000) \div 2 \\ &= \$32,500\end{aligned}$$

Fahadh and Nazriya must each include \$32,500 of attributed trustee income in their individual family scheme calculations.

## Major shareholder of a close company

56. An adjustment may be required by people who are major shareholders of close companies on the last day of the company's income year.<sup>35</sup> Essentially, this adjustment attributes income amounts retained in close companies to the major shareholders for family scheme income purposes. The amount also attributes interests held by dependent children of a major shareholder or their spouse, civil union partner or de facto partner.
57. A "major shareholder" in relation to a close company means, in general, a person who has the power to control, directly or indirectly, at least 10% of the voting interests of the company:<sup>36</sup>
58. A company is a "close company" if:<sup>37</sup>
- more than 50% of the voting interests in a company are held at a time by five or fewer natural persons or trustees (any natural persons that are associated, such as a married couple, are treated as one person); or
  - when a market value circumstance exists for the company and more than 50% of market value interests are held by five or fewer natural persons or trustees (as above, any natural persons that are associated are treated as one person).
59. In most cases, whether a company is a close company is determined by measuring the voting interests. However, sometimes voting interests are not a true measure of the ownership of a company and in these cases a market value circumstance exists. In these cases, the ownership interests in the company are based on the true economic value of the interest rather than any nominal or face value so that ownership cannot be manipulated for tax purposes.
60. If this adjustment applies, two formulas are used to calculate the amount to be included in family scheme income. The result cannot be less than zero, so losses do not reduce family scheme income. Section MB 4(3) sets out the first formula:
- $$(\text{person's interest} + \text{attributed interest}) \times (\text{income} - \text{dividends})$$
61. The components of the formula are defined in s MB 4(4).
62. A "person's interest" is the percentage of voting interests for the company held on the last day of the company's income year by the person.<sup>38</sup>

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<sup>35</sup> Section MB 4.

<sup>36</sup> Section YA 1.

<sup>37</sup> Section YA 1.

<sup>38</sup> The definition of "voting interest" is in s YA 1.

63. An “attributed interest” includes the interests of dependent children of major shareholders in the company. Essentially this means that the shareholdings of the major shareholder and their dependent children are aggregated for the purposes of determining how much income from the company to attribute to the major shareholder. The dependent children’s interests are attributed to those shareholders using the following formula:

$$\text{dependent child interest} \div \text{relevant major shareholders}$$

64. A “dependent child interest” is the total percentage of voting interests on the last day of the company’s income year held by the person’s dependent children or dependent children of the person’s spouse, civil union partner, or de facto partner.<sup>39</sup>
65. “Relevant major shareholders” are the total number of people who are major shareholders of the company on the last day of the company’s income year if they are the person, the person’s spouse, civil union partner or de facto partner or a principal caregiver. The formula prevents the same interest being double-counted.<sup>40</sup>
66. “Income” is the net income of the company for the company’s income year. If a deposit is made to a main income equalisation account, this must be added to the company’s income.<sup>41</sup> If a refund is received from a main income equalisation account, this can be subtracted.<sup>42</sup>
67. “Dividends” paid by the company for the income year are deducted from net income as these are generally already received by the major shareholders and included in their net income.
68. Example | Taura 4 and Example | Taura 5 illustrate how this adjustment works.

#### **Example | Taura 4 – Attribution of close company income by major shareholder**

Anastacia receives Working for Families tax credits for her two children. She holds 25% of the voting interests in a company. Her parents own the remaining 75%. Therefore, it is a close company and Anastacia is a major shareholder.

The company made a net profit of \$150,000 and paid dividends totalling \$90,000 during the year. It did not have a main income equalisation account.

Anastacia's attributed income calculation is:

$$\text{Attributed income} = (\text{person's interest} + \text{attributed interest}) \times (\text{income} - \text{dividends})$$

<sup>39</sup> Section MB 4(6).

<sup>40</sup> Section MB 4(6)(b).

<sup>41</sup> Section MB 4(7).

<sup>42</sup> Section MB 4(8).

$$\begin{aligned} &= (25\% + 0\%) \times (\$150,000 - \$90,000) \\ &= \$15,000 \end{aligned}$$

Anastacia must include \$15,000 of income in her family scheme income calculation. This equates to her share (25%) of the profit \$60,000 retained in the company, being income of \$150,000 less the \$90,000 dividend. As her children do not have voting interests in the company, the attributed interest is 0%.

### **Example | Taura 5 – Attribution of close company income by major shareholder whose children have voting interests in the company**

Ming receives Working for Families tax credits for his three dependent children. He holds 20% of the voting interests in a company, his three children each own 20% and his mother holds the remaining 20%.

The company made a net profit of \$100,000 and paid no dividends.

Ming's attributed income calculation is:

$$\begin{aligned} \text{Attributed income} &= (\text{person's interest} + \text{attributed interest}) \times (\text{income} - \text{dividends}) \\ &= (20\% + (60\% \div 1)) \times (\$100,000 - \$0) \\ &= 80\% \times \$100,000 \\ &= \$80,000. \end{aligned}$$

Ming must include \$80,000 in his family scheme income calculation as income attributed from the company.

## **Payments from a trust**

69. A person who receives a payment from a trust will generally need to include it in their family scheme income.<sup>43</sup> This adjustment excludes a payment that is beneficiary income because it is already included in a person's net income. This adjustment does not apply where the person is a settlor of a trust because of s MB 7 (discussed from [41]).
70. This adjustment includes payments such as:
- retained trustee income;
  - capital gains;
  - the amount settled on the trust (ie corpus); and
  - loans from a trust to a beneficiary that are not on commercial terms.

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<sup>43</sup> Section MB 12B(1).

71. Section MB 12B(3) gives the Commissioner the discretion to determine the circumstances in which a payment from a trust should be excluded from the calculation of family scheme income. The Commissioner considers that a person's family scheme income should not ordinarily include:
- genuine distributions from charitable trusts;
  - arm's-length loans from family trusts; and
  - payments from trusts for the purchase of property from the person by the trust on arm's-length terms.

## Part 4: Adjustments relating to dependent children, and spouses, civil union partners or de facto partners

72. Four adjustments may be required to determine a person's family scheme income relating to dependent children, and spouses, civil union partners or de facto partners. These adjustments are:
- including passive income over \$500 received by dependent children (see from [75]);
  - including child support or maintenance payments received (see from [87]);
  - excluding child support or maintenance payments made (see [92]); and
  - including foreign-sourced income of non-resident spouses, civil union partners or de facto partners (see from [93]).

### Passive income over \$500 of dependent children

73. An amount of passive income that a dependent child receives over \$500 in a year needs to be included in the family scheme income calculation of the principal caregivers.<sup>44</sup> This adjustment prevents principal caregivers lowering family scheme income by allocating income from companies and trusts to dependent children, or placing investments in their names.
74. The following types of passive income are included in this adjustment:<sup>45</sup>
- resident passive income;
  - royalties;

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<sup>44</sup> Section MB 11.

<sup>45</sup> Section MB 11(1).

- rent;
- beneficiary income that is not minor beneficiary income, from a testamentary trust or from a group investment fund;
- attributed income from a portfolio investment entity that is not a superannuation fund or retirement savings scheme; and
- distributions from a listed portfolio listed entity.

Each of these types of passive income is considered in turn from [76].

75. If the child has more than one principal caregiver, the child's income less the \$500 is divided by the number of principal caregivers. Each caregiver includes that amount in their family scheme income. As a principal caregiver may not have visibility of a child's passive income, especially when trusts and companies are involved, it may be necessary to make enquiries of another principal caregiver about whether any income has been allocated to the child.

## Resident passive income

76. Resident passive income includes:<sup>46</sup>

- interest;
- dividends;
- taxable Māori authority distributions other than a retirement scheme contribution; and
- replacement payments paid to a person under a share-lending agreement.

77. Example | Tauria 6 illustrates this adjustment.

### Example | Tauria 6 – Passive income of dependent children may need to be included in family scheme income

Kimberleigh has two dependent children, Xavier and Malakai. She splits the care of the children with their father. The father also qualifies as a principal caregiver.

Kimberleigh's mother died recently and left each child \$10,000 in her will. Kimberleigh invested the inheritance on behalf of her children in term deposits.

During the year, the children received interest of \$450 each from their deposits. Xavier received \$150 from another deposit in his name.

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<sup>46</sup> Sections YA 1 and RE 2(1).

Any amount more than \$500 for each child must be included in Kimberleigh's family scheme income. This is \$100 for Xavier ( $\$450 + \$150 - \$500$ ).

However, because Kimberleigh shares the care of Xavier with another principal caregiver, the \$100 needs to be divided by two. Therefore, Kimberleigh needs to include \$50 in her family scheme income. The father is also a principal caregiver and needs to include \$50 in his family scheme income.

As Malakai's income is under \$500, it is disregarded.

## Royalties

78. A royalty includes a payment for the use of or right to use a copyright.<sup>47</sup>

## Rent

79. Rent is generally an amount received for the lease of property.

## Beneficiary income

80. Beneficiary income is generally an amount of income a trustee derives to the extent to which:

- it vests absolutely in interest in a beneficiary in the income year; or
- is paid to a beneficiary of the trust within defined timeframes.<sup>48</sup>

81. Further information on beneficiary income is in Part 5 of [IS 24/01](#).

## Attributed portfolio investment entity income

82. Attributed income from a portfolio listed entity that is not a superannuation fund or a retirement savings scheme is passive income. Further information on portfolio investment entities, superannuation funds and retirement savings schemes is in [Part 6](#).

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<sup>47</sup> Section CC 9(2).

<sup>48</sup> Section HC 6.

## Distributions from a listed portfolio listed entity

83. A “listed PIE” is generally a portfolio listed entity that is listed on a recognised exchange in New Zealand.<sup>49</sup> Further information on listed portfolio listed entities is in [Part 6](#).

## Receipts of child support and spousal maintenance

84. The receipt of child support and spousal maintenance under the Child Support Act 1991 is exempt income for income tax purposes.<sup>50</sup>
85. A payment in the nature of maintenance out of money belonging to a person’s spouse, civil union partner, de facto partner, former spouse, former civil union partner or former de facto partner is also exempt income for income tax purposes.<sup>51</sup> These payments are not made under the Child Support Act 1991.
86. The meaning of “payments in the nature of maintenance” was considered by Judge Bathgate in *Case H25* (1986) 8 NZTC 251 at page 255 as being payments of money for the payee’s maintenance and support, which may be for food, clothing and accommodation, or for a more general provision other than necessities, to provide as well for the comfort and convenience of the payee, according to the payer’s and the payee’s situation in life. The judge noted that such payments are normally made periodically and pursuant to an agreement between the parties.
87. Because payments of child support and spousal maintenance are exempt income, they are not included in a person’s net income. However, these amounts are available to support the person and their dependent children so they need to be included in family scheme income.<sup>52</sup>
88. If a person has an entitlement to receive a payment of child support or maintenance, but no payment is received, it is not necessary to include it in family scheme income. If the amount is something other than maintenance, such as a gift, the recipient will need to consider whether the payment needs to be include in the “other” category discussed in [Part 8](#).

## Payments of child support and spousal maintenance

89. If a person has paid child support or spousal maintenance or a payment in the nature of maintenance to a person’s current or former spouse, civil union partner or de facto

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<sup>49</sup> Section YA 1.

<sup>50</sup> Section CW 32(a).

<sup>51</sup> Section CW 32(b).

<sup>52</sup> Section MB 1(2).

partner, these amounts can be deducted from the person's family scheme income.<sup>53</sup> These amounts are not deductible for income tax purposes from the person's income, but they reduce the money available to support the person and their dependent children so they can be deducted from a person's family scheme income.

## Non-residents' foreign-sourced income

90. If the person's spouse, civil union partner or de facto partner is non-resident, their foreign-sourced income needs to be included in the person's family scheme income. The effect of this adjustment is that the foreign-sourced income of a non-resident spouse, civil union partner or de facto partner income is included in family scheme income to ensure equitable treatment with families where both spouses, civil union partners or de facto partners are resident in New Zealand. The income must be included even if the non-resident spouse, civil union partner or de facto partner does not pay it to a principal caregiver resident in New Zealand.
91. Non-residents' foreign-sourced income is defined in s BD 1(4) as an amount that is foreign sourced and the person is a non-resident at the time it is earned. A "non-resident" is a person who is not a "New Zealand resident"<sup>54</sup>. For the purposes of family scheme income, a New Zealand resident is defined in s MA 8 as a person who is ordinarily resident and does not include a person who is unlawfully resident. This is different to the test of tax residence used to determine if the amount is included in net income. **IS 25/16: Tax residence** provides more information about tax residence of natural persons in Part 1.
92. Example | Taura 7 illustrates the adjustment.

### Example | Taura 7 – Non-residents' foreign sourced income to be included in family scheme income

Susan and Charles are Scottish and have never been resident in New Zealand. They have three dependent children. Susan recently relocated to New Zealand with the children. Charles intends to follow at an indefinite time once he ceases work in Scotland.

Although eligible to be a transitional resident and receive a temporary tax exemption on foreign-sourced income, Susan decides to apply for Working for Families tax credits. This means she is no longer eligible for the exemption and needs to include Charles' foreign-sourced income in her family scheme income.

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<sup>53</sup> Section MB 1(3).

<sup>54</sup> Section YA 1.

Charles joins Susan in New Zealand. He is eligible to be a transitional resident and receive a temporary tax exemption on foreign-sourced income. Susan's application did not affect this as he was non-resident and not eligible to be a transitional resident when she applied. However, if Charles decides to keep the exemption, Susan will no longer be eligible to receive Working for Families tax credits.

If he decides to opt out of the exemption, Susan will continue to be eligible to claim Working for Families tax credits. See para [19] about transitional residence and Working for Families tax credits.

## Part 5: Adjustments relating to employment

93. Five adjustments need to be considered in relation to employment. These adjustments are:
- exempt income from salary or wages paid under international agreements (see [94]);
  - distributions from superannuation schemes (see from [95]);
  - reduced salary in exchange for employer-provided motor vehicle for personal use (see from [101]);
  - short-term charge facilities (see from [102]); and
  - fringe benefits received by controlling shareholders (see from [107]).

### Salary and wages under international agreements

94. Some amounts of salary and wages paid under international agreements are exempt income of the person. This means the amount is not included in the person's net income. However, the amount is still available to support the person and their family with living expenses. Therefore, these amounts need to be included in the person's family scheme income.<sup>55</sup> Amounts of salary or wages that are exempt from income tax under the following legislation are included in a person's family scheme income:
- Arbitration (International Investment Disputes) Act 1979;
  - Consular Privileges and Immunities Act 1971;
  - Diplomatic Privileges and Immunities Act 1968;
  - International Finance Agreements Act 1961; and

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<sup>55</sup> Section MB 1(2)(b).

- Pitcairn Trials Act 2002.

## Distributions from superannuation schemes

95. A person may need to include a distribution from a superannuation scheme in their family scheme income.<sup>56</sup> This adjustment may apply when:
- a person receives a distribution from a superannuation scheme in an income year; and
  - an employer of the person has made contributions to the superannuation scheme in the:
    - income year in which the distribution was received; or
    - 2 income years immediately before that income year; and
  - the person continues to work for the employer for 1 month or more after the date of the distribution.
96. A superannuation scheme<sup>57</sup> is mainly for the provision of retirement benefits to natural persons. The scheme can take the form of a trust, unit trust, company or other arrangement. It may also be a non-resident.
97. If this adjustment applies, the distribution is deemed to be assessable income in the tax year or years corresponding to the income year or years in which the contributions were made. This means a distribution in the current year, including contributions from previous years, may result in reassessments.
98. However, a person does not include amounts attributable to contributions a person made to the scheme in their family scheme income.
99. The adjustment does not apply:
- where the distribution is "as a result of and on or after the person's retirement from employment with an employer who was a contributor to the scheme".<sup>58</sup> A permanent cessation of employment needs to take place.
  - if the superannuation scheme is a KiwiSaver scheme. A KiwiSaver scheme is a scheme that is registered on the register of managed investment schemes as a KiwiSaver scheme.<sup>59</sup> This includes KiwiSaver withdrawals for the purposes of first home purchases, significant financial hardship, or serious illness/injury.

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<sup>56</sup> Section MB 5.

<sup>57</sup> Section YA 1.

<sup>58</sup> Section MB 5(2)(a).

<sup>59</sup> Section YA 1 and s 6(1) of the Financial Markets Conduct Act 2013.

- if the superannuation scheme is a complying superannuation fund. A complying superannuation fund is a registered superannuation scheme with membership rules broadly in line with the KiwiSaver rules.<sup>60</sup>

100. Example | Taura 8 illustrates this adjustment.

### Example | Taura 8 – Distribution from a superannuation scheme

Harriet is a member of her employer's superannuation scheme. During the year, she contributes \$10,000 to the scheme, while her employer contributes \$7,000.

During the same year, Harriet receives a distribution of \$25,000 from the scheme.

Harriet ceased working for her employer 3 weeks after receiving the distribution.

Harriet does not need to include the distribution of the contribution by her employer in her family scheme income as she did not remain employed for at least 1 month following the distribution.

#### Variation

Harriet continues to work for her employer for 3 months after the distribution. In this case, Harriet must include the distribution in her assessable income less amounts attributable to her contributions. This assumes the exemptions at para [99] do not apply.

## Reduced salary in exchange for employer-provided motor vehicle for personal use

101. If an employee has a motor vehicle for personal use in substitution for a greater amount of employment income, the amount by which the employment income would be higher is included in family scheme income. Example | Taura 9 illustrates this adjustment.

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<sup>60</sup> Section YA 1 and s 6(1) of the Financial Markets Conduct Act 2013.

### Example | Taurira 9 – Reduced salary in exchange for provision of motor vehicle included in family scheme income

Conrad's employer gives him the choice between a salary of \$100,000 and the personal use of a motor vehicle or a salary of \$110,000. He chooses the lower salary and use of the motor vehicle.

Conrad must include \$10,000 in his family scheme income as this is the amount by which his income would have been higher had he chosen differently.

## Short-term charge facility

### What a short-term charge facility is

102. A short-term charge facility<sup>61</sup> is a type of arrangement where an employee can get goods or services that have no connection with their employer or its operations for their personal use, the employer provides some or all of the payment and it is not a fringe benefit under s CX 10. Section CX 10 deals with employment-related loans.
103. The short-term charge facilities can be provided by multiple businesses not connected to the employee's employer or their operations. This means the employee (ie, the person calculating their family scheme income) needs to calculate the aggregate of their benefits to determine whether they exceed the threshold for inclusion (discussed next).

### Amounts to include in family scheme income

104. For short-term charge facilities to be included in family scheme income, their aggregate value, excluding FBT, for a person in the relevant income year must be more than the smaller of:
- \$1,200; or
  - 5% of the employee's salary or wages.
105. If the threshold is exceeded, the amount to be included is the aggregate value of all short-term charge facility fringe benefits, including FBT.<sup>62</sup> Two options exist for calculating the FBT paid on the benefit:<sup>63</sup>

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<sup>61</sup> Section CX 25(3).

<sup>62</sup> Section MB 7B(2).

<sup>63</sup> Section MB 7B(3).

- the rate of FBT the employer uses on the benefit; or
- the maximum basic rate of FBT specified in sch 1, part C, table 1 (63.93%).

106. Example | Taura 10 illustrates this adjustment.

### Example | Taura 10 – Short-term charge facility included in family scheme income

Andrea is a bookkeeper at an accounting firm and is the principal caregiver for a dependent child. She receives a gross salary of \$57,000.

Andrea's employer provides her with supermarket vouchers in recognition of her good work across the year. The aggregate value of the vouchers is \$1,700.

#### Determine whether the threshold is exceeded

The threshold is the lesser of \$1,200 or 5% of Andrea's salary (\$2,850).

Because the value of the vouchers (\$1,700) is more than \$1,200 (the smaller of the above numbers), the threshold is exceeded and Andrea must include the amount of the vouchers, plus FBT, in her family scheme income.

#### Calculate the FBT

Andrea cannot get the FBT rate her employer uses, so she must use the maximum rate available of 63.93%:

$$\begin{aligned} \text{FBT on the benefit} &= \text{value of the vouchers} \times 63.93\% \\ &= \$1,700 \times 63.93\% \\ &= \$1,087 \end{aligned}$$

#### Adjustment to family scheme income

$$\begin{aligned} \text{Adjustment to family scheme income} &= \text{value of the vouchers} + \text{FBT amount} \\ &= \$1,700 + \$1,087 \\ &= \$2,787 \end{aligned}$$

Andrea must include **\$2,787** in her family scheme income.

## Fringe benefits of controlling shareholders

107. When an employee has control of a company and receives certain fringe benefits, they may need to include the value of the benefits in their family scheme income.<sup>64</sup> This is because they can influence how they are rewarded for their employment and could artificially lower their family scheme income.

<sup>64</sup> Section MB 8.

108. An employee is in control of the company if they and associated persons hold voting interests of 50% or more on the last day of the income year. The rules relating to who is an associated person are in subpart YB. Further information on these rules is on Inland Revenue's website ([Associated persons](#))<sup>65</sup>.
109. The relevant fringe benefits are those listed in s RD 47, many of which are easily substitutable for cash. Such benefits are attributable to individual employees for the purposes of the FBT rules. Attributable fringe benefits are:
- the provision of a motor vehicle;
  - employer-related loans (excluding a loan by a life insurer);
  - benefits exceeding \$1,000 for:
    - subsidised transport;
    - contributions to a superannuation scheme;
    - contributions to a sickness, accident or death benefit fund;
    - contributions to funeral trusts; and
    - payments of a specified insurance premium or contributions to an insurance fund for a friendly society; and
  - unclassified benefits where the total taxable value for the employee is \$2,000 or more in the relevant year.<sup>66</sup>
110. The value of the fringe benefit to be included in a person's family scheme income is equivalent to the gross cash value of the benefit, which comprises the:
- taxable value of the fringe benefit that the company must attribute to the person under the Act; and
  - the company's FBT liability in relation to that fringe benefit.
111. Example | Taura 11 illustrates this adjustment.

### **Example | Taura 11 – Attributable fringe benefit included in family scheme income**

Kemara is an employee of XYZ Ltd. He has more than 50% of the voting interests in the company.

Kemara is married and has three children aged under 13.

Kemara receives a salary of \$70,000 and is provided with a motor vehicle (with a cost price of \$60,000 including GST) that is always available for private use.

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<sup>65</sup> Associated persons (webpage, Inland Revenue, last updated 1 April 2025).

<sup>66</sup> Section RD 47.

XYZ Ltd is required to calculate and pay FBT on Kemara's private use of the motor vehicle using the formula in s RD 29(4):

$$\begin{aligned} \text{Attributable fringe benefit} &= \text{days} \times \text{schedule 5 amount} \div 365 \\ &= 365 \times (20\% \times \$60,000) \div 365 \\ &= \$12,000 \end{aligned}$$

XYZ Ltd chooses to pay FBT at the rate of 63.93% on the taxable value of \$12,000 under s RD 50(5)(a). The FBT is \$7,671.60.

The adjustment to family scheme income is:

Attributable fringe benefit	\$12,000
FBT	<u>\$7,671</u>
<b>Total adjustment</b>	<b><u>\$19,671</u></b>

Kemara needs to include \$19,671 in his family scheme income. If XYZ Ltd is a close company, he also needs to consider whether any adjustment is required under s MB 4 (see from para [56]).

## Part 6: Adjustments related to pensions, life insurance annuities, retirement savings scheme contributions and portfolio investment entities

112. The adjustments described in this part relate to retirement savings or investments in portfolio investment entities.

### Overseas pensions

113. If a New Zealand tax resident receives an overseas pension, it may need to be included in their family scheme income if it has been treated as exempt income under s CW 28(2)(a).<sup>67</sup>
114. An overseas pension is exempt if it reduces a monetary benefit paid to a person under the Social Security Act 2018. To the extent that the amount is exempt, it must be included in a person's family scheme income.
115. Example | Taurira 12 illustrates this adjustment.

<sup>67</sup> Section MB 1(2)(a).

### Example | Taura 12 – Overseas pension included in family scheme income

Catherine is a New Zealand tax resident and the principal caregiver for her grandchild. She receives an overseas pension as defined in s 187 of the Social Security Act 2018 of \$10,000 from her homeland of Germany. Catherine is also entitled to receive New Zealand superannuation of approximately \$32,000 a year.

Catherine's New Zealand superannuation entitlement is reduced by the amount of the overseas pension to \$22,000 under s 189 of the Social Security Act 2018.

Under the double tax agreement with Germany, New Zealand has the sole taxing rights on Catherine's pension but for income tax purposes the \$10,000 is treated as exempt income as that amount has been deducted from her New Zealand superannuation. For the purposes of Working for Families tax credits, Catherine must include the \$10,000 in her family scheme income.

## Life insurance annuities and superannuation fund pensions

116. If a person receives a life insurance annuity that is exempt income under s CW 4 or receives a pension from a superannuation fund, 50% of the amount received needs to be added to family scheme income.<sup>68</sup> The percentage reflects that some portion of an amount represents the return of the original capital investment rather than income.<sup>69</sup>
117. An annuity is exempt income when it is paid to a person under a life insurance policy:
- offered or entered into in New Zealand by a life insurer; or
  - outside New Zealand by a life insurer resident in New Zealand.<sup>70</sup>
118. A pension received from a superannuation fund<sup>71</sup> is also exempt from income tax and 50% needs to be added to family scheme income.

## Retirement savings scheme contributions incorrectly taxed

119. A retirement savings scheme is a type of investment entity that holds contributions made for retirement purposes. It must follow strict rules that limit access to the funds until the individual reaches retirement age. These rules ensure that withdrawals are

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<sup>68</sup> Section MB 10.

<sup>69</sup> Working for Families tax credits: Definition of "family scheme income" *Tax Information Bulletin* Vol 23, No 1 (February 2011): 59, at 64.

<sup>70</sup> Section CW 4.

<sup>71</sup> Section YA 1.

generally not allowed before retirement, except in specific cases such as repaying a student loan, paying for tertiary education, buying a first home, or in other approved circumstances.<sup>72</sup> A retirement scheme contribution is a contribution in money to a retirement savings scheme for the benefit of a member of the contributor.<sup>73</sup>

120. A contribution to a retirement savings scheme is generally excluded income of a person under s CX 50B and is not included in net income nor family scheme income because the funds cannot be accessed freely.
121. However, if the person has provided the retirement scheme contributor or the retirement savings scheme a rate that is lower than the correct rate, the contribution is no longer excluded income and must be included in the person's income tax return so that it can be taxed correctly. As it will become part of net income of the person, it will also be included in family scheme income.
122. In these circumstances, the amount can be deducted from family scheme income because it is included in the person's net income and is not available to assist with daily living costs as it is locked in until retirement.
123. Example | Taura 13 and Example | Taura 14 illustrate this adjustment.

#### **Example | Taura 13 – Contribution correctly taxed**

Keegan is a member of a retirement savings scheme. Keegan provided the scheme with his prescribed investor rate of 17.5%.

During the year, a contribution of \$2,500 was made to the scheme on Keegan's behalf and retirement scheme contribution tax at a rate of 17.5% was deducted.

Keegan's prescribed investor rate is correct, and he does not need to include the amount of the contribution in his income tax return.

Keegan does not deduct the \$2,500 from his family scheme income because it is not included in his net income.

#### **Example | Taura 14 – Contribution incorrectly taxed**

Motoko is a member of a retirement savings scheme. She provided the scheme with her prescribed investor rate of 17.5%.

During the year, a contribution of \$2,500 was made to the scheme on Motoko's behalf and retirement scheme contribution tax at a rate of 17.5% was deducted.

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<sup>72</sup> Section RH 3.

<sup>73</sup> Section RH 2.

At the end of the income year, Motoko discovers her prescribed investor rate is incorrect and should have been 28%. Motoko includes the \$2,500 contribution in her income tax return and pays the extra tax that should have been deducted.

Motoko can deduct \$2,500 from her family scheme income because that amount was included in her net income and not treated as excluded income for income tax purposes.

## Distributions of contributions from retirement savings schemes

124. A person may need to include a distribution of a retirement savings scheme contribution in their family scheme income.<sup>74</sup> The amount of the distribution is included in the assessable income of the recipient and so becomes part of their family scheme income.
125. This applies when:
- a person receives a distribution of a retirement scheme contribution from a retirement savings scheme in an income year;
  - retirement savings scheme contribution tax has been withheld;
  - the person is not eligible for New Zealand superannuation at the time of the distribution; and
  - the person is eligible for a distribution of a retirement scheme contribution from a retirement scheme contributor.

## Income from portfolio investment entities

126. A person who derives income from an investment in a portfolio investment entity may need to include the income in their family scheme income.<sup>75</sup>
127. This adjustment does not apply if the portfolio investment entity is a superannuation fund or retirement savings scheme. Superannuation funds and retirement savings schemes have rules that restrict the availability of distributions to the person until they reach an age of retirement. As a person cannot easily access the money in their fund or scheme to assist with daily living costs, the income is not included in family scheme income.

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<sup>74</sup> Section MB 6.

<sup>75</sup> Section MB 1(5)(a).

128. Amounts attributed from other portfolio investment entities need to be included in a person's family scheme income. Example | Taura 15 illustrates this adjustment.

#### **Example | Taura 15 – Portfolio investment income included in family scheme income**

Kyla invests a portion of her wages from her part-time job in a cash portfolio investment entity. She provides the scheme provider with her correct prescribed investor rate of 10.5%.

During the year, Kyla is attributed \$500 of income from the investment. This is correctly taxed at her prescribed investor rate of 10.5%, so she does not need to include the \$500 in her income tax return for the year.

However, Kyla must include the \$500 in her family scheme income calculation.

#### **Listed portfolio investment entities**

129. A distribution derived from a listed portfolio investment entity in an income year is included in the calculation of family scheme income.<sup>76</sup> A listed portfolio investment entity is a portfolio investment entity that is listed on a recognised exchange in New Zealand.
130. As the amounts are available to fund the family's living expenses they must be included in family scheme income.

## **Part 7: Adjustments relating to carrying on a business**

131. Two adjustments might apply to a person who is carrying on a business and is eligible to receive Working for Families tax credits. The first concerns main income equalisation deposits and refunds for those with primary sector businesses (see from [132]), and the second concerns businesses making losses (see from [137]).

### **Main income equalisation deposits and refunds**

132. The main income equalisation scheme helps eligible businesses to even out income fluctuations. They can pay money into the scheme to reduce their income in a successful year, and receive a refund from the scheme to increase their income in a less profitable year. Income from farming, fishing and forestry is eligible for the scheme.

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<sup>76</sup> Section MB 1(5)(b).

## Deposits into the scheme

133. For income tax purposes, a person is allowed a deduction for a deposit into their income equalisation account,<sup>77</sup> reducing their net income for that year. However, a person's family scheme income is increased by an amount of a main income equalisation deposit paid during the income year.<sup>78</sup>
134. Reversing the deduction taken in the person's income tax return for the deposit gives a true reflection of a person's financial means that are available to meet their living costs.

## Refunds from the scheme

135. Deposits made into the income equalisation account are generally able to be withdrawn after a period of 12 months. When the amount is refunded, the refund is included in the person's net income. However, their family scheme income is decreased by the amount of the refund from a main income equalisation account during the income year.<sup>79</sup> This is to prevent double counting because the income is taken into account in the year in which the deposit is made.
136. Adjustments for main income equalisation deposits and refunds also apply to major shareholders in close companies (s MB 4) and settlors of trusts (s MB 7). These sections are discussed in [Part 3](#).

## Losses

137. If a person carries on more than one business or investment activity, any net loss derived from one activity is typically not able to be offset against the income from another activity.<sup>80</sup> An investment activity includes passively holding an investment asset such as a rental property.

## Carrying on more than one business or investment activity

138. Losses from two businesses or investment activities carried on by the person can be offset "if the Commissioner considers that the 2 or more activities are of the kind that are normally carried on in association with each other".<sup>81</sup>

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<sup>77</sup> Section DQ 1.

<sup>78</sup> Section MB 1(5D).

<sup>79</sup> Section MB 1(5E).

<sup>80</sup> Section MB 3.

<sup>81</sup> Section MB 3(3).

139. The businesses must be carried on by the person. A person cannot offset a loss from a trust or company against a profit they make as a sole trader.
140. The Commissioner decides if two or more activities are usually carried out together, allowing them to be treated as a single activity. This decision is based on whether the businesses are typically, usually or commonly expected to be associated.
141. For example, if a person runs two dairy farms separately but could have run them as one or operates two types of orchards separately but could have combined them, these could be seen as normally carried on together. Similarly, a person's kiwifruit packing house and orchard operation could be considered associated because they complement each other.
142. Where assets are used in carrying on two or more activities, deductions must be "appropriately apportioned" between the activities based on the use of the asset in those activities. An appropriate apportionment will depend on the circumstances.
143. Example | Taura 16 and Example | Taura 17 illustrate this adjustment.

#### **Example | Taura 16 – Loss not to be included in family scheme income**

Trudi is the 100% shareholder in a company, Nuts and Bolts Limited and the principal caregiver for a dependent child. Nuts and Bolts Limited runs a hardware store. The company returned a profit of \$70,000 in its income tax return for the year.

Trudi also runs a tool repair store as a sole trader (Fix It All). This is run out of the back of the hardware store. Trudi returned a net loss of \$20,000 of self-employed income for Fix It All.

For the purposes of Working for Families tax credits, the net loss in her name is treated as net income of zero. As Nuts and Bolts Limited is a close company and Trudi is a major shareholder, she must include attributed income from the company in her family scheme income. She cannot offset the loss from Fix It All against the company as a separate entity.

#### **Variation**

Trudi runs both the hardware store business and the tool repair business as a sole trader. As she carries on more than one business and the activities of selling tools and repairing them are normally carried on in association with each other, Trudi can offset the loss of \$20,000 against the profit of \$70,000 in her family scheme income calculation.

### Example | Taura 17 – Loss to be included in family scheme income

David owns a shoe repair store that made a net loss of \$15,000 during the year.

Because of the store's poor performance, David also started a lawn mowing and landscaping business during the year, which resulted in a net profit of \$30,000 for the year.

David returned a net profit of \$15,000 in his individual income tax return as self-employed income.

Because the two businesses are not of a kind that would normally be associated or carried on with each other, David cannot treat these activities as a single activity. He cannot offset the loss from the shoe repair store against the lawn mowing and landscaping business profit and his family scheme income will be \$30,000 assuming there are no other adjustments.

## Part 8: Adjustment for “other” payments to the person over \$5,000 in total

144. A person may need to include other monetary payments received by them in the calculation of their family scheme income under s MB 13(1) if the total value of those monetary payments exceeds \$5,000 in the year. If an amount is included under s MB 13(1), the numerous exclusions in s MB 13(2) also need to be considered.
145. The payments can be paid or provided from any source (eg, they could come from employers, government agencies or family). The amounts might be paid directly or indirectly.
146. A payment is relevant for this adjustment if the person uses it to:
  - replace lost or diminished income of the person or the person's family (eg, payments of insurance or compensation payments that are income related); or
  - meet usual living expenses of the person or the person's family.
147. There is no definition of usual living expenses. However, the Commissioner considers it to refer to amounts used to meet a person's common or habitual day-to-day living costs. The usual living expenses of a person looks at that person's own circumstances, not at what expenses might be regarded as usual in general. These will generally be expenses that are regularly incurred, such as housing, food and utilities, rather than one-off, unusual or exceptional costs. Whether a payment is used to meet a person's usual living expenses will be a question of fact and circumstance in each case.

148. Example | Taura 18 and Example | Taura 19 illustrate how usual living expenses can differ between families.

#### **Example | Taura 18 – Private school fees to be included in family scheme income**

Maia is the principal caregiver of two children and receives Working for Families tax credits. Her children already attend a private school and Maia ordinarily pays the school fees of \$6,000 per year from her own income. This year, Maia's parents (the children's grandparents) pay the \$6,000 directly to the school.

The \$6,000 is included in Maia's family scheme income under s MB 13(1), because the payment is made on Maia's behalf and is used to meet her family's usual living expenses (education costs the family normally pays).

Whether any exclusions in s MB 13(2) can apply will need to be considered. These are discussed in detail below.

#### **Example | Taura 19 – Private school fees not included in family scheme income**

Aria is the principal caregiver of one child and receives Working for Families tax credits. Aria ordinarily sends her child to a local public school and does not usually pay private school fees. Aria's parents decide to pay \$8,000 in private school fees directly to a private school so the child can attend there instead.

The \$8,000 is not included in Aria's family scheme income, because it is not used to meet Aria's family's usual living expenses – it funds an additional expense the family would not ordinarily incur.

149. If an amount is relevant, the person then needs to consider whether it is excluded under s MB 13(2). The list of exclusions is set out in Figure | Hoahoa 10 and discussed from paragraph [153]. If it is not excluded and the total amount is over \$5,000, the person must adjust their family scheme income by the total amount.
150. Example | Taura 20 shows how the adjustment is calculated.

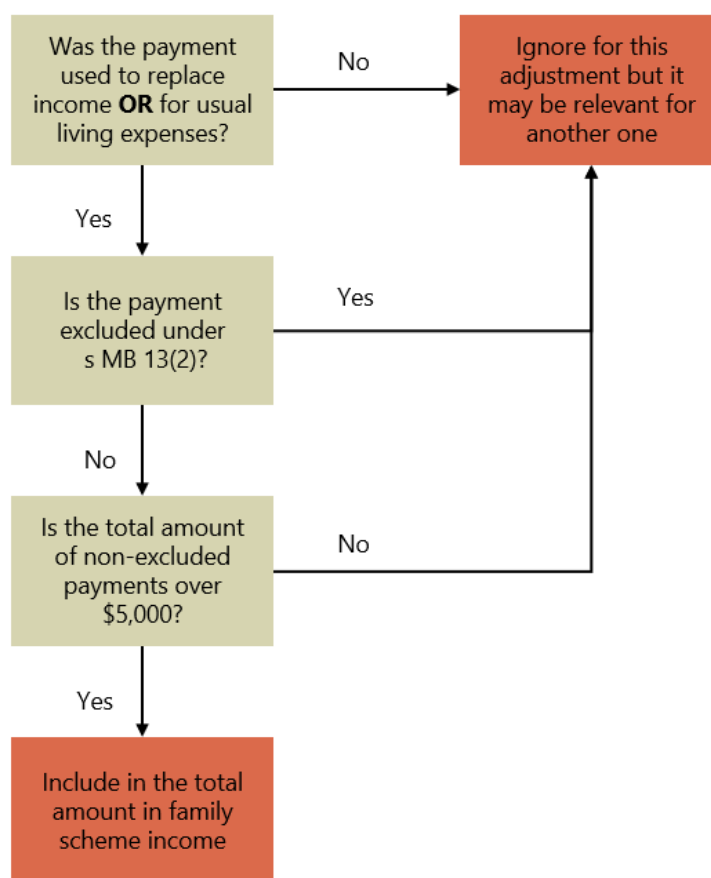
#### **Example | Taura 20 – Other payments included in family scheme income**

Arahia receives Working for Families tax credits for her dependent child. Arahia's parents gave her \$200 for her birthday. She used this amount to buy herself some jewellery. Her parents also give her \$250 a week to pay her rent and other living costs.

The \$200 was not used to meet usual living expenses and is disregarded for this adjustment. The \$13,000 (\$250 x 52) was used to meet usual living expenses, is not excluded and the total of all payments not excluded is over \$5,000. Arahia must include \$13,000 in her family scheme income.

151. The flowchart in Figure | Hoahoa 9 sets out the questions a person should answer when considering whether this adjustment applies to them.

**Figure | Hoahoa 9 – Receipt of other payments**



152. Figure | Hoahoa 10 summarises exclusions from the “other” category. These are explained further from [153].<sup>82</sup>

**Figure | Hoahoa 10 – Payments excluded from family scheme income under s MB 13(2)**

Payments excluded from the other category	Section
Loans under ordinary commercial terms	MB 13(2)(a)

<sup>82</sup> Section MB 13(2).

<b>Payments excluded from the other category</b>	<b>Section</b>
Non-taxable amounts from the disposal of land or personal property	MB 13(2)(b)
Repayments of loans or mistaken payments	MB 13(2)(bb)
Refunds of overpaid tax, student loan payments, or child support payments	MB 13(2)(bc)
Payments from ownership of an investment or business on capital account	MB 13(2)(bd)
Payments from a deceased's estate	MB 13(2)(be)
Money won from gambling or a New Zealand lottery	MB 13(2)(bf)
Payments made on behalf of a person from a local or public authority	MB 13(2)(c)
Debt forgiven by a local authority	MB 13(2)(d)
Charitable distributions from registered charitable entities	MB 13(2)(e)
Amounts received for educational scholarships or bursaries	MB 13(2)(f)
Student loans under the Student Loan Scheme Act 2011	MB 13(2)(g)
Grants for medical treatment or funerals	MB 13(2)(h)
Payments under insurance contracts (except for loss of income insurance)	MB 13(2)(i)
Compensation payments (other than for loss of income)	MB 13(2)(j)
Lump sum compensation payments under the Accident Compensation Act 2001	MB 13(2)(k)
Foster care allowances under the Oranga Tamariki Act 1989	MB 13(2)(kb)
Payments to young persons for living costs or independence under the Oranga Tamariki Act	MB 13(2)(kc)
Exempt monetary benefits under the Social Security Act 2018	MB 13(2)(l)
Exempt pensions or allowances under the Veterans' Support Act 2014	MB 13(2)(m)
Payments that are exempt income under specific sections of the Act	MB 13(2)(n)
Amounts declared not to be income under the Social Security Act 2018	MB 13(2)(o)

Payments excluded from the other category	Section
Payments already dealt with under another provision	MB 13(2)(p)
Amounts expressly excluded under another section	MB 13(2)(q)
Payments to relieve adverse effects of an emergency event	MB 13(2)(r)

## Loans under ordinary commercial terms and conditions

153. A loan received by a person under ordinary commercial terms and conditions is excluded from the “other” payments adjustment.
154. This exclusion will include drawings in most circumstances. In practice, where the payment of drawings increases an overdrawn current account, they are commonly repayable on demand, with interest charged at the market rate or the Commissioner’s FBT interest rate, calculated on a daily balance and debited to the account at year end. These arrangements are often documented by directors’ or shareholders’ resolutions to evidence the terms of the loan and to mitigate dividend or FBT consequences. The Commissioner considers that these types of arrangements, where they are well documented and non-concessionary interest is charged, would constitute a loan on “ordinary commercial terms and conditions” and be excluded under this section.
155. Example | Taura 21 illustrates this adjustment as it applies to drawings.

### Example | Taura 21 – Drawings not included in family scheme income

Morgan is the sole shareholder-employee of a close company. Morgan’s shareholder current account is already overdrawn by \$10,000. During the income year, Morgan takes drawings totalling \$30,000 to meet usual living expenses, increasing the overdrawn balance to \$40,000.

The company and Morgan treat the overdrawn balance as a loan repayable on demand. The terms are recorded in a directors’ resolution, and interest is charged on the daily balance at the Commissioner’s FBT interest rate and debited to the current account at year end. In these circumstances, the drawings (to the extent they increase the overdrawn balance) are part of a loan on ordinary commercial terms and are excluded from family scheme income under s MB 13(2)(a).

156. This exclusion does not include “soft loans”. Soft loans are usually between related parties such as family members or family-controlled entities and generally contain non-commercial features. Non-commercial features include:

- interest charged at a significantly lower rate than the prevailing market rate;
- a grace period to make required repayments; and
- long repayment terms or a flexible repayment schedule.

157. In circumstances where drawings are paid to a shareholder which increases the shareholder's current account and that overdrawn balance is not on ordinary commercial terms and conditions, the Commissioner considers these will represent a soft loan which cannot be excluded under this section. A soft loan in this situation could be where there is no evidence that shows the current account is required to be repaid (for example through a shareholder salary or dividend), or no, or concessionary interest is charged on the balance.

158. Example | Taura 22 and Example | Taura 23 illustrate this adjustment.

#### **Example | Taura 22 – Loan not included in family scheme income**

Judah is made redundant and takes out a \$10,000 personal loan from his bank to assist with his family's living costs until he finds new employment.

Even though Judah uses the loan to meet usual living expenses, it is excluded in calculating whether other payments exceed \$5,000 because the loan is on ordinary commercial terms and conditions on the basis it is received from a recognised financial institution on arm's-length terms.

#### **Example | Taura 23 – Loan included in family scheme income**

Sia receives a loan from his parents of \$3,000 to assist him in paying the living costs of his young family. His parents agree Sia does not have to repay the loan until he has the financial means to do so.

Sia must include the full \$3,000 in calculating whether other payments exceed \$5,000 as it is used to meet his day-to-day living costs and is not a loan under ordinary commercial terms and conditions.

## **Capital receipt from the sale of property**

159. An amount a person receives from the disposal of land or personal property is excluded if it is not assessable income. This is illustrated in Example | Taura 24.

### Example | Taura 24 – Funds received from sale of property

Brogan has a garage sale and sells items the family no longer needs.

Even though the proceeds are used for living expenses, they are excluded from the calculation of other payments because the proceeds from selling the items are not assessable income.

## Repayment of a loan or mistaken or misdirected payment

160. Repayments of loans made to the person are excluded.
161. In situations where the payment of drawings to a shareholder decreases their current account that has a positive balance for the shareholder, the drawings represent a repayment of a loan from the shareholder to the company. The payment of drawings in this situation would be excluded under this section.
162. Repayments of a mistaken payment or misdirected payments the person has made are also excluded. These repayments are merely restoring the person to the position they were in before the loan or misdirected or mistaken payment. This is illustrated in Example | Taura 25 and Example | Taura 26.

### Example | Taura 25 – Repayment of a loan

Walter lends his brother-in-law Hank \$20,000 to help him buy a car. Hank repays this amount 6 months later when he receives his annual bonus.

Walter does not need to include this amount in the calculation of other payments for Working for Families tax credits even if he uses it for his daily expenses because the payment from Hank is the repayment of a loan.

### Example | Taura 26 – Exclusion of drawings

Samuel operates a car yard as a sole trader and sells the business to a company of which he is the sole shareholder.

The purchase price is not paid in cash but is credited to Samuel's shareholder's current account, resulting in a positive current account balance. This positive balance reflects a loan from the shareholder to the company.

In subsequent years, instead of receiving a shareholder salary or dividends, Samuel takes drawings from the company to meet living expenses. Each drawing reduces the positive current account balance.

These drawings represent repayments of the loan owed by the company to Samuel and are therefore excluded from family scheme income.

## Refund of a payment

163. A refund of a payment, including a refund of overpaid tax, student loan payments, or child support payments, is excluded. This is illustrated in Example | Taura 27.

### Example | Taura 27 – Tax refund

Jane receives Working for Families tax credits for her three dependent children.

During the income year, Jane receives a refund from Inland Revenue of \$300 for overpaid income tax for the previous year. Jane uses this money to pay her rent.

Because the amount received is a refund of overpaid tax, Jane does not need to include the amount in calculating whether other payments exceed \$5,000 even though the payment is used for day-to-day expenses.

## Payment from ownership of investment activity or business

164. A payment, other than a payment by a trustee, from the person's ownership of an investment activity or business, where the payment received is on capital account and not a loan is excluded. This is illustrated in Example | Taura 28.

### Example | Taura 28 – Payment from ownership of investment activity or business

Shaun has been a shareholder of construction company We Build It Limited for 10 years. During the year, he decides to sell his shares to the remaining shareholders.

Shaun receives a payment of \$250,000, which he uses, in part, for his day-to-day living expenses. Shaun does not need to include the \$250,000 in calculating whether other payments exceed \$5,000 as the amount is a payment from the disposal of his ownership interest in a business, is on capital account and is not a loan.

## Payment from a deceased's estate

165. A payment received from a deceased's estate is not included in calculating whether other payments exceed \$5,000 even if it is used to meet usual living expenses.

## Money won from gambling or from a New Zealand lottery

166. Money won from gambling or from a New Zealand lottery, as those terms are used in the Gambling Act 2003, is not included in calculating whether other payments exceed \$5,000 even if it is used to meet usual living expenses. For example, money won from Lotto, casinos and the TAB is excluded.

## Payment on a person's behalf from a local authority or public authority

167. Payments made on behalf of a person from a local authority or public authority are not included in calculating whether other payments exceed \$5,000. For example, some local authorities offer individuals living with disabilities grants to assist with costs related to home modifications, mobility equipment or transport assistance. These amounts do not need to be included in the calculation of other payments.

## Forgiveness of debt by a local authority

168. An amount of debt forgiven by a local authority is not included in calculating whether other payments exceed \$5,000. This could include writing off an overdue rates amount.

## Charitable distribution

169. A charitable distribution from a charitable entity registered under the Charities Act 2005<sup>83</sup> is not included in calculating whether other payments exceed \$5,000.

## Educational scholarship or educational bursary

170. Amounts received for the purposes of an educational scholarship or educational bursary are not included in calculating whether other payments exceed \$5,000.

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<sup>83</sup> Find information on registered charities using the Charities Services search tool: Charities Services: Search the Register (webpage, Internal Affairs).

## Student loan

171. A student loan under the Student Loan Scheme Act 2011 is not included in calculating whether other payments exceed \$5,000.

## Medical or funeral grant

172. A grant for the payment of expenses relating to medical treatment or a funeral is not included in calculating whether other payments exceed \$5,000.

## Payments under an insurance contract, other than a payment for a loss of income

173. A payment under an insurance contract, other than a payment for the loss of income, is not included in calculating whether other payments exceed \$5,000.
174. A payment for the loss of income is not part of this exclusion. Generally, it would be taxable under s CE 11 and be included in family scheme income as it is part of net income. It is not double-counted as it is excluded from the other payments category under another provision (see [189]). This is illustrated in Example | Taura 29.

### Example | Taura 29 – Insurance payouts

Gerald's car is damaged in a motor vehicle accident. He has comprehensive car insurance and receives a payout of \$2,500 for repairs.

The amount is not included in calculating whether other payments received by Gerald exceed \$5,000.

Gerald becomes ill and has to stop paid work. He has loss of income insurance and receives payments under the policy. These payments are not excluded from calculating whether payments exceed \$5,000 under this category. However, as they are included in net income they are excluded under the category at [189].

## Compensation for a loss other than a loss of income

175. Any other compensation payments, other than for a loss of income, are not included in a person's family scheme income.
176. For example, a payment received as compensation for humiliation, loss of dignity or injury to feelings under the Employment Relations Act 2000 is not income for tax

purposes.<sup>84</sup> If a person received a payment for humiliation, loss of dignity, or injury to feelings and this money was used to meet their living expenses, it would be excluded from calculating whether other payments exceed \$5,000.

## Compensation under the Accident Compensation Act 2001

177. A lump sum compensation payment under the Accident Compensation Act 2001 is not included in calculating whether other payments exceed \$5,000. This is illustrated in Example | Taura 30.

### Example | Taura 30 – Lump sum compensation not included in family scheme income

Scott receives Working for Families tax credits for his two dependent children.

Scott has a serious sporting injury during the year and receives a one-off payment from the Accident Compensation Corporation of \$10,000 as compensation. Scott uses this money for his rent and utility expenses.

A lump sum compensation under the Accident Compensation Act 2001 is excluded from calculating whether other payments exceed \$5,000.

## Foster care allowance

178. A payment of a foster care allowance under s 363 of the Oranga Tamariki Act 1989 is not included in calculating whether other payments exceed \$5,000.

179. The purpose of payments received under s 363 of the Oranga Tamariki Act 1989 is to meet the reasonable needs of the child or young person in the person's care, including the costs of board, personal items such as clothes, and pocket money.

180. The amounts payable vary according to the child's age and specific needs. Payment rates for the care of the child or young person are adjusted on 1 April each year.

181. This allowance is exempt income<sup>85</sup> for income tax.

## Other allowances under the Oranga Tamariki Act 1989

182. Also excluded from the calculation of whether other payments exceed \$5,000 are payments made to a young person who lives with a caregiver:

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<sup>84</sup> BR PUB 06/05: Assessability of payments under the Employment Relations Act for humiliation, loss of dignity, and injury to feelings (public ruling, Inland Revenue, June 2006).

<sup>85</sup> Section CW 33(1)(ba).

- to meet the young person's living costs (s 386AAG of the Oranga Tamariki Act 1989); and
- to assist them to achieve independence (eg, assisting with obtaining accommodation, enrolling in education or obtaining employment – s 386B of the Oranga Tamariki Act 1989).

183. These payments are exempt income<sup>86</sup> for income tax purposes.

## **Monetary benefit under the Social Security Act 2018 that is exempt income**

184. Monetary benefits received under the Social Security Act 2018 that are exempt income under the Act are not included in calculating whether other payments exceed \$5,000. These benefits include, for example, the Accommodation Supplement, the Winter Energy Payment, Childcare Assistance, the Child Disability Allowance, the Disability Allowance, the Funeral Grant, Hardship Assistance and Special Assistance.

## **Exempt pensions or allowances under the Veterans' Support Act 2014**

185. A pension or allowance paid under the Veterans' Support Act 2014 that is exempt income is not included in calculating whether other payments exceed \$5,000.

## **Exempt allowances and benefits**

186. The following allowances that are exempt from income tax are also excluded from calculating whether other payments exceed \$5,000:
- A participation allowance under regulations made under Social Security Act. The Governor-General may make regulations to permit an allowance to be paid to people participating in certain activities, as approved by the Ministry of Social Development (eg, payments may be made for certain training and education courses or community or social development programmes).
  - A payment under the Cost of Living Payment Scheme.
  - An amount derived by a trustee of a trust created for the benefit of people harmed by thalidomide, or a distribution to a beneficiary from the trust.

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<sup>86</sup> Section CW 33(1)(ba).

- An amount derived by a trustee of the New Zealand Agent Orange Trust that represents the settlement fund and income attributable to the fund, or a distribution to a beneficiary from the trust.

## **Amount declared not to be income for the purposes of the Social Security Act 2018 by regulations made under s 422 of that Act**

187. Under s 422 of the Social Security Act 2018, the Governor-General may make regulations to authorise the Ministry of Social Development to:
- take no account of specified income for a specified period up to a maximum amount when calculating the rate of benefit;
  - disregard all or part of the income derived from personal effort of a severely disabled person; or
  - take no account of a redundancy or retirement payment when calculating the income of a person for the purposes of determining the rate of their benefit.
188. To the extent any of the above amounts are declared not to be income, they are excluded from calculating whether other payments exceed \$5,000.

## **Included in the family scheme income of a person under another section**

189. If a payment has already been dealt with under another provision, it is not included again under s MB 13. For example, if a person receives a payment from a trust and that amount is included in family scheme income under s MB 12B, it is not included in the calculation of "other" payments.
190. This exclusion can also apply to drawings. Where drawings represent genuine advances of salary or wages, the amounts are included in the person's family scheme income through their net income. In these circumstances, the drawings are an advance of the same payment that is ultimately included as employment income and do not constitute a separate payment for the purposes of this section regardless of how they are used by the person. The drawings would be excluded under this section. This situation is illustrated in Example | Taura 31.

### **Example | Taura 31 – Drawings not included in family scheme income**

Taylor is the sole shareholder and employee of a close company. During the income year, Taylor receives drawings totalling \$40,000 which he uses to meet

usual living expenses. Under the arrangement between Taylor and the company, the drawings are taken in anticipation of a shareholder salary that will be determined once the company's end-of-year financial position is known. At the end of the income year, the company resolves to pay Taylor a shareholder salary of \$40,000.

In this situation, the drawings are an advance of salary. The \$40,000 salary is included in Taylor's net income and therefore in family scheme income under s MB 1. The drawings are not included separately, as they are an advance of the same payment already included under another section and are therefore excluded under this section.

Even if Taylor's drawings exceeded the salary subsequently paid to him, provided his shareholder loan account is properly documented and a non-concessional rate of interest is charged, the balance of the drawings would be excluded from Taylor's family scheme income as a loan under ordinary commercial terms under s MB 13(2)(a) as explained at [154].

## **Expressly excluded from family scheme income under another section**

191. An amount expressly excluded from a person's family scheme income under another section is not included under s MB 13.

## **Payment to relieve the adverse effects of an emergency event**

192. Under s 91AAS of the Tax Administration Act 1994, the Commissioner can determine that an event is an emergency event if the event meets the requirements of paras (a) and (b) of the definition of "emergency" in the Civil Defence Emergency Management Act 2002.<sup>87</sup>
193. If the person receives a payment to relieve adverse effects as a result of the emergency event, that amount is excluded from the person's family scheme income.
194. Paragraphs (a) and (b) of the definition of emergency in s 4 of the Civil Defence Emergency Management Act 2002 state that an emergency means a situation that:

- (a) is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado,

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<sup>87</sup> Section 4 of the Civil Defence Emergency Management Act 2002.

cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a lifeline utility, or actual or imminent attack or warlike act; and

- (b) causes or may cause loss of life or injury or illness or distress or in any way endangers the safety of the public or property in New Zealand or any part of New Zealand

195. An example of the Commissioner using his power to issue a determination declaring an event to be an emergency event for the purposes of this adjustment is [Determination DET 26/03](#) which relates to the Wellington severe weather event of 18 and 19 April 2026.

## Appendix: Adjustments for student loan repayment purposes

196. As discussed at [11], most of the adjustments to a person’s net income for Working for Families tax credits are also relevant for determining a person’s adjusted net income for student loan repayment obligations. The corresponding adjustments for student loan repayment purposes are set out in sch 3 of the Student Loan Scheme Act 2011. However, there are some differences.
197. Figure | Hoahoa 11 lists adjustments that do not need to be made for student loan repayment purposes.

**Figure | Hoahoa 11: Adjustments not required for student loan purposes**

Adjustment	Explanation
Child support, maintenance and child tax credits	[84]–[89]
Passive income of dependent children	[73]–[83]
Non-resident foreign-sourced income of person’s spouse	[90]–[92]
Other payments	[144]–[194]

198. Figure | Hoahoa 12 lists an adjustment that must be made for student loan purposes but is not required for Working for Families tax credits.

**Figure | Hoahoa 12: Additional adjustment required for student loan purposes**

<b>Non-resident foreign-sourced income</b>	<p>A non-resident borrower needs to include their foreign-sourced income in their adjusted net income as if the borrower were a New Zealand resident.</p> <p>For example, a borrower who leaves New Zealand to work overseas and ceases to be a New Zealand tax resident must include in their adjusted net income all income they receive from outside New Zealand even though this is not required for income tax.</p>
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Accident Compensation Act 2001

Arbitration (International Investment Disputes) Act 1979

Charities Act 2005

Child Support Act 1991

Civil Defence Emergency Management Act 2002, s 4 ("emergency")

Consular Privileges and Immunities Act 1971;

Diplomatic Privileges and Immunities Act 1968;

Employment Relations Act 2000

Financial Markets Conduct Act 2013, s 6, sch 3

Gambling Act 2003

Income Tax Act 2007, ss BD 1, CC 9, CE 11, CW 4, CW 32, CW 33, CW 45, CX 10, CX 25, CX 56C, DQ 1, HC 6, subpart MB, subpart MC, RD 29, RD 47, RE 2, RH 2, RH 3, YA 1 ("child", "close company", "complying superannuation fund", "dependent child", "KiwiSaver Scheme", "listed PIE", "major shareholder", "resident passive income", "voting interest"), subpart YB, YC 2, YD 1, sch 1, sch 5

International Finance Agreements Act 1961

Oranga Tamariki Act 1989, ss 363, 386AAG, 386B

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## About this document | Mō tēnei tuhinga

Interpretation statements are issued by the Tax Counsel Office. They set out the Commissioner's views and guidance on how New Zealand's tax laws apply. They may address specific situations we have been asked to provide guidance on, or they may be about how legislative provisions apply more generally. While they set out the Commissioner's considered views, interpretation statements are not binding on the Commissioner. However, taxpayers can generally rely on them in determining their tax affairs. See further [Status of Commissioner's advice](#) (Commissioner's statement, Inland Revenue, December 2012). It is important to note that a general similarity between a taxpayer's circumstances and an example in an interpretation statement will not necessarily lead to the same tax result. Each case must be considered on its own facts.