NEW LEGISLATION > ACT ARTICLES

COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020

Issued: 25 March 2020

Public 2020 No 8

The Act includes amendments aimed at assisting the broader economic recovery from COVID-19 and measures to provide relief to taxpayers financially impacted by COVID-19.

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Depreciation deductions for non-residential buildings

Sections DB 65, EE 31, EE 35, EE 37, EE 38, EE 60, EE 61, EE 64, EE 67, EZ 13, EZ 14 and YA 1 of the Income Tax Act 2007

These amendments reinstate a positive depreciation rate for long-lived non-residential buildings from the beginning of the 2020–21 income year.

Background

The depreciation rate for long-lived buildings was set to zero from the beginning of the 2011–12 income year. Long-lived buildings have an estimated useful life of 50 years or more. Buildings with a shorter estimated useful life have continued to be depreciable. The adjusted tax value of these buildings remained in the owner's tax accounts.

There was a transitional rule for building owners who had not previously separated out items of fit-out from the building. This rule allowed deductions for a portion of the building's value each year.

New Zealand's position of a zero-depreciation rate for almost all buildings is unusual internationally. International studies have generally found that buildings do depreciate. The Tax Working Group reviewed and recommended changes to these tax settings. The Government has accepted the Group's recommendation to reinstate depreciation for industrial and commercial buildings. However, the Government did not support reinstating depreciation on residential buildings because the data shows these buildings have a slower rate of economic depreciation.

Key features

Depreciation deductions for non-residential buildings are allowed from the beginning of the 2020–21 income year. The amendments apply to non-residential buildings owned at the beginning of the 2020–21 income year or acquired after the beginning of that year. This includes capital improvements. New definitions of "non-residential building" and "residential building" have been added.

The depreciation rate for a building with an estimated useful life of 50 years or more is 2% diminishing value or 1.5% straight line.

Application date

The amendments apply for the 2020–21 and later income years.

Detailed analysis

Setting a positive depreciation rate reinstates depreciation deductions for long-lived non-residential buildings from the beginning of the 2020–21 income year. While these buildings have always been depreciable property, they were subject to a zero percent depreciation rate. From the beginning of the 2020–21 income year the depreciation rate for long-lived non-residential buildings is either 2% diminishing value or 1.5% straight line.

Opening tax book value

The depreciation rate for long-lived buildings was set to zero from the beginning of the 2011–12 income year. The adjusted tax value of such buildings was effectively suspended at this point. Now a positive depreciation rate applies to long-lived non-residential buildings, owners of these assets can begin to claim depreciation deductions.

For buildings owned at the end of the 2010–11 income year, the opening value for the 2020–21 income year is the:

- adjusted tax value at the end of the 2010–11 income year, less fit-out deductions taken under the section DB 65 transitional rule (if applicable); plus
- non-deductible capital expenditure incurred on that building from the end of the 2010–11 income year to the start of the 2020–21 income year.

For buildings acquired after the end of the 2010–11 income year, the opening value for the 2020–21 income year is the:

- cost of the building; plus
- non-deductible capital expenditure incurred on the building from the time it was acquired until the beginning of the 2020–21 income year.

Depreciation recovery

If a building is sold, the amount of depreciation recovery income continues to be calculated taking into account total depreciation deductions taken before 2011–12 (if any). As a result of these amendments, the depreciation recovery calculation for non-residential buildings disposed of after the beginning of the 2020–21 income year will also need to account for depreciation deductions in the 2020–21 and future income years.

Non-residential buildings

Section YA 1 is amended. Two new definitions have been inserted and the definition of "building" has been repealed. A "non-residential building" is any building that is not a "residential building".

A "residential building" is defined as:

- a "dwelling" as defined in Section YA 1; and
- a building in which accommodation is ordinarily provided for periods of less than 28 days at a time if the building, together with other buildings on the same land, has less than four units intended for separate occupation.

The definition of "dwelling" encompasses owner-occupied houses and apartments, and houses and apartments subject to residential tenancies.

The second limb of the definition of residential building ensures there is certainty that the definition of "residential building" includes buildings such as a bach that the owner uses but also rents out on a short-term basis, and also buildings used exclusively for short-term accommodation provided by owners such as Airbnb properties. These may be within the definition of "dwelling", but this amendment puts beyond doubt that those buildings remain subject to the zero depreciation rate. The less-than four units provision excludes larger commercial premises such as motels from being treated as residential buildings.

Repeal of the 2010 transitional rule

As a result of reinstating a positive depreciation rate for non-residential buildings, the transitional building fit-out rule introduced as part of the 2010 reforms is no longer required. Accordingly, section DB 65 has been repealed. As noted above, the adjusted book value of the building is required to be adjusted for past section DB 65 deductions.

Special depreciation rate

The ability to apply for and be granted a special depreciation rate from the Commissioner has been restored for non-residential buildings.

Increase in the provisional tax threshold

Sections RC 3, RC 4, RC 6, RC 9, RC 13, RC 14, RC 16, RM 12, and YA 1 of the Income Tax Act 2007

This amendment permanently increases the residual income tax threshold for being required to pay provisional tax from $2,500 to $5,000. As a result, a number of taxpayers are no longer required to make provisional tax payments throughout the year. This will assist those businesses with cashflow issues during the COVID-19 outbreak and beyond.

Background

Section RC 3(1)(a) of the Income Tax Act 2007 previously provided that a person whose residual income tax in an income year is more than $2,500 was required to pay provisional tax. This threshold is used several times throughout subpart RC and elsewhere, such as for dealing with:

- voluntary provisional tax payments;
- the standard uplift method;
- provisional tax instalments; and
- the GST ratio method.

The threshold referred to in these sections, and others, has been changed in accordance with the implementation of this measure (with the exception of a terminating provision in section RZ 1).

Provisional tax is paid in three equal instalments over an income year. The requirement to make these payments imposes compliance costs on taxpayers. It also has an impact on cashflow as provisional tax instalments comprise cash that a taxpayer is unable to use during the year before terminal tax is due.

This measure removes around 95,000 taxpayers from the provisional tax regime.

Key features

This measure changes the threshold for paying provisional tax so that fewer taxpayers are required to pay provisional tax instalments throughout the year. For taxpayers with residual income tax of between $2,500 and $5,000, instead of paying provisional tax throughout the income year, they will now only have to pay by 7 February following the end of the income year.

Example 1: Increase in the provisional tax threshold

Jenny is a tour guide who provides tours of the Lord of the Rings filming location sites around Wellington through her company Jenstar Tours Limited (JTL). She gets the majority of her customers from tourist ships visiting Wellington. In the 2019–20 income year, JTL's tax liability was $8,000, but because of the recent changes to restrict tourist ships in response to COVID-19, JTL's tax liability in 2020–21 is expected to be half of that amount.

The Government's change to the provisional tax threshold from $2,500 to $5,000 means that JTL is not a provisional taxpayer for the 2020–21 income year. Instead of paying tax in instalments throughout the 2020–21 income year, JTL will not have to pay tax until 7 February 2022, which improves its cashflow during the year.

Application date

The amendment applies for the 2020–21 and later income years.

Increase in the low-value asset write-off threshold

Section EE 38(2) of the Income Tax Act 2007

This amendment temporarily increases the low-value asset write-off threshold from $500 to $5,000 in the short term before decreasing this threshold to $1,000 on a permanent basis. This allows taxpayers to immediately deduct expenditure on assets that cost up to $5,000 (and subsequently $1,000) rather than depreciating them over the life of the asset. This will decrease the tax liabilities of taxpayers in the short term and therefore assist with cashflow including during the COVID-19 outbreak. It may also encourage continued investment by businesses in the short term.

Background

Since 2005, the threshold value in section EE 38(2)(b) of the Income Tax Act 2007 for low-value asset write-offs had been $500. Assets costing up to this threshold could be immediately expensed, which provides all of the tax benefit in the year the asset was purchased.

For example, capital expenditure on property that costs $2,000 exceeded the previous low-value asset write-off threshold and so was required to be depreciated over a number of years. Expenditure on an asset costing $300, however, could be immediately deducted so that all of the tax benefit was generated in the year of purchase, even if the asset lasts much longer than one year.

Key features

This measure increases the value of property that is eligible to be written off in the year of purchase from $500 to $5,000, before decreasing that threshold to $1,000. This means that expenditure on assets costing up to the new threshold can be deducted immediately, so that all of the tax benefit is claimed up front. This will provide increased cashflow in the short term.

Example 2: Increase in the low-value asset write-off threshold

Capes Comics Limited (Capes) is a comic store that sells comics and comic-related merchandise. The store's owner, Clark, wants to expand by investing in two new display cabinets worth $4,600 in total. Clark believes that this will increase his sales of high-value action figures.

However, with the COVID-19 restrictions, he is anxious about investing $4,600, especially given that he can only deduct the cost of the cabinets over time through tax depreciation (rather than immediately).

The Government's change to the low-value asset write-off threshold means that Capes can claim an immediate deduction for the cost of the cabinets. This allows Capes to reduce its tax paid this year by $1,288 (28% of $4,600), instead of that amount being spread over a number of years.

Application dates

The amendment to increase the low-value asset write-off threshold to $5,000 applies for property purchased on or after 17 March 2020. The amendment to subsequently lower this threshold to $1,000 will apply for property purchased on or after 17 March 2021.

Research and development tax credits – broader access to refunds

Sections LA 5 and LZ 14 of the Income Tax Act 2007

The amendment to section LA 5 brings forward the application date of new broader refundability rules, so that these can apply from the first year of the R&D Tax Incentive scheme.

Background

COVID-19 has caused significant disruption to all businesses in New Zealand. There is a significant risk that this disruption could cause many R&D-performing businesses in New Zealand to reduce or stop their R&D. While ceasing R&D saves businesses money now, it means some New Zealanders will lose their jobs, fewer innovative products will be developed, and there will be a deeper and more protracted decline in economic activity. This weakens our economy's ability to recover once the global economy has stabilised.

The Taxation (Research and Development Tax Credits) Act 2019 introduced an R&D Tax Incentive regime from the 2019–20 income year ("year 1"). The R&D Tax Incentive was developed under tight timeframes, so there was insufficient time to develop comprehensive refundability rules before the legislation was enacted. As a consequence, in year 1 of the Incentive, limited refundability rules (based on another R&D scheme, the R&D Tax Loss Credit) were put in place to provide refundable credits for a small portion of eligible R&D tax credit claimants ("year 1 limited refundability rules").

The Government reviewed the R&D Tax Incentive's refundability rules in 2019 and developed some new, broader refundability rules. These new rules were put into place by the recently enacted Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020, and were originally intended to apply from the 2020–21 income year ("the year 2 broader refundability rules").

To provide cash to businesses now and encourage them to continue with their R&D despite COVID-19, this amendment brings the application date of the year 2 broader refundability rules forward to the 2019–20 income year. This is intended to enable more businesses to access refundable R&D tax credits, and provide some businesses with larger refunds than they would have obtained under the year 1 limited refundability rules.

Key features

The amendment to section LA 5 changes the rules for R&D tax credit refunds in the 2019–20 income year, to make refundable credits more accessible for businesses. It does this by bringing forward the application date of year 2 broader refundability rules to the 2019–20 income year (year 1 of the R&D Tax Incentive scheme). These rules would otherwise have applied from the 2020–21 income year (year 2 of the R&D Tax Incentive scheme).

Prior to this amendment, limited refundability rules applied in the 2019–20 income year, which only allowed businesses who met certain prescriptive criteria to access refundable credits. A $255,000 cap also applied to limit the total amount of credits that could be refunded.

The year 2 broader refundability rules, which now apply from the 2019–20 income year, remove the prescriptive refundability eligibility criteria and replace the $255,000 cap with a new refundability cap based on labour-related taxes. These new rules are aimed at enabling more businesses to access R&D tax credit refunds, and allowing more of these businesses to access greater amounts of refundable credits.

The year 2 broader refundability rules now apply by default to all claimants in the 2019–20 income year. Businesses have the option of using the previous year 1 limited refundability rules if they prefer. When filing an R&D supplementary return, each business will be asked to confirm which set of refundability rules they intend to apply to their claim.

From the 2020–21 income year onwards (year 2 of the R&D Tax Incentive scheme), all businesses are required to use the year 2 broader refundability rules.

Detailed analysis

The amendment brings forward the application date of the year 2 broader refundability rules introduced in the Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020. Instead of applying from the 2020–21 income year, these new rules will apply from the 2019–20 income year.

The broader refundability rules (default option)

The year 2 broader refundability rules now apply from the 2019–20 income year (sections LA 5(4B), (5B) and (5C)). They apply by default, unless a business chooses to apply the limited refundability rules in section LZ 14 (section LA 5 (5D)).

Under these rules, a loss-making business (or a business with insufficient income tax to pay to offset its R&D tax credits against) can be eligible for R&D tax credit refunds provided it is eligible for the tax credit more generally. It can obtain R&D tax credit refunds up to a new labour-related tax cap. The cap is made up of any labour-related taxes (PAYE, ESCT, and FBT):

- paid by the business, and
- paid by companies the business is controlled by or which sit within the same wholly-owned group, if these companies have allocated amounts to the business for the purposes of the cap.

No cap applies to refundable R&D tax credits paid to levy bodies, or derived from eligible expenditure on approved research providers.

Transitional 2020–21 amount deleted

This amendment deletes the "transitional 2020–21 amount" portion of the refundability cap formula (see section 101 of the Taxation (KiwiSaver, Student Loans and Remedial Matters) Act 2020). The "transitional 2020–21 amount" is no longer needed because businesses can apply the year 2 broader refundability rules if they provide a better outcome for them in the 2019–20 income year.

Eligibility of tax-exempt entities for refundability

The amendment to LA 5(4B) means that tax exempt entities that otherwise satisfy the R&D Tax Incentive's general eligibility criteria may now be eligible for refundability in the 2019–20 income year. These entities and their associates were previously largely ineligible for refundability under the limited refundability rules.

Note that from the 2020–21 income year, entities which receive income that is tax exempt under sections CW 38, 39, 40, 41, 42 and/or 55BA of the Income Tax Act 2007 will be ineligible for the R&D tax credit. Refer to the Taxation (KiwiSaver, Student Loans and Remedial Matters) Act 2020 for more information on this exclusion.

The limited refundability rules

New section LZ 14 sets out the limited refundability rules, which businesses can choose to apply instead of the broader refundability rules if they prefer (section LA 5(5D)). A business can obtain R&D tax credit refunds under the limited refundability rules, provided it is a company and:

- is in a tax loss position, or has insufficient income tax liability to utilise all of its R&D tax credits in the 2019–20 income year;
- satisfies the R&D tax loss cash-out corporate eligibility and wage intensity criteria in sections MX 2 and MX 3;
- does not derive exempt income (other than certain exempt income from dividends), and is not associated with a person who derives exempt income;
- is not a listed company, and is not associated with a listed company; and
- does not have an outstanding tax liability.

Only the first $255,000 of the business's R&D tax credits is refundable, which is the equivalent of $1.7 million of eligible expenditure. Any remaining R&D tax credits may be carried forward to the 2020–21 income year if the entity is eligible for the Incentive that year and the shareholder continuity requirements in section LY 8 are met.

Choosing between the year 1 and year 2 refundability rules

Businesses may choose to use the limited refundability rules or the broader refundability rules in the 2019–20 income year, but they cannot use both. Only the broader refundability rules are available from the 2020–21 income year.

Example 3: Applying the broader refundability rules

Moppy's Chicken Factory ("Moppy") has brought forward tax losses from the 2018–19 income year. It claims R&D tax credits in the 2019–20 income year, but does not have enough income tax to pay to use all of its credits. Moppy determines that it will be able to receive more refundable R&D tax credits if it applies the broader refundability rules, because it has $500,000 of surplus R&D tax credits and has paid $500,000 of PAYE in the 2019–20 income year (so its refundability cap is $500,000).

Moppy files its income tax and R&D supplementary returns soon after 31 March 2020. It advises Inland Revenue that it would like to apply the broader refundability rules. Inland Revenue processes Moppy's claim and refunds Moppy $500,000 of R&D tax credits.

Use of money interest remission

Section 183ABAB of the Tax Administration Act 1994

Use of money interest (UOMI) is charged when a taxpayer fails to make a payment of tax on time. This measure adds to existing legislative mechanisms that allow UOMI to be remitted. However, these pre-existing legislative mechanisms are not fit for purpose to respond to an event such as COVID-19.

The amendment allows Inland Revenue to remit interest on a late payment if the taxpayer's ability to make the payment on time was significantly adversely affected by the COVID-19 outbreak. This would include both when a taxpayer is physically unable to make a tax payment on time and when a taxpayer's financial capability to pay tax on time is adversely affected because of the economic nature of the COVID-19 outbreak.

Background

The purpose of UOMI is to encourage taxpayers to pay their tax on time and compensate the Government for the loss of use of money from taxpayers underpaying their tax. It applies to all tax types administered by Inland Revenue, including income tax and GST. UOMI also applies to underpayments of tax that are withheld at source, such as PAYE and RWT. UOMI also applies to Working for Families debt.

In certain circumstances the Commissioner may remit UOMI on a late tax payment. For the remission of interest in response to emergency events, the pre-existing rules provided for an Order in Council process to allow the Commissioner to remit UOMI where a taxpayer is "physically prevented" from making a payment. However, the Commissioner could not remit interest for a taxpayer that was financially unable to make a payment on time because of the emergency event.

The pre-existing rules around remitting UOMI in emergency events were directed at situations or events where public safety is of paramount concern because of the risk of injury or death, typically due to a natural disaster. This statutory framework was not fit for purpose to respond to the nature of the economic shock of COVID-19 where a taxpayer may be financially unable to pay their tax on time.

Key features

Interest remission

New section 183ABAB allows the Commissioner of Inland Revenue to remit use of money interest if a taxpayer's ability to make a tax payment on time is significantly adversely affected by an outbreak of COVID-19. This includes both where a taxpayer has been physically unable to make a payment on time, for example, because they have been quarantined and do not have the ability to make the payment electronically while quarantined, and where a taxpayer's financial capability to make a payment on time has been adversely affected because of the economic impacts of COVID-19.

For interest to be remitted the taxpayer must ask for it to be remitted and the Commissioner must be satisfied that the taxpayer has asked for the relief as soon as practicable and made the payment of tax as soon as practicable. The interest would not be remitted until the core tax debt has been paid.

Further guidance on how the Commissioner will determine if a taxpayer's ability to make a payment on time has been significantly adversely affected by COVID-19 is available at https://www.ird.govt.nz/covid-19/manage-my-tax/penalties-and-interest

Sunset provision

The Commissioner's ability to remit interest only applies for the 24 months following the enactment date of 25 March 2020. However, this period can be extended by an Order in Council made on the recommendation of the Minister of Revenue. This Order in Council would need to be made within the initial 24 months during which the Commissioner can remit interest.

The extension to the time limit would expire after the period given by the order or 6 months after the order came into force if the order did not specify a time limit. However, the time limit could be extended further by subsequent Orders in Council so long as they are made before the date on which the preceding order would expire.

In recommending the making of an Order in Council, the Minister of Revenue would need to be satisfied that the ability of taxpayers to pay tax on time is likely to continue to be significantly adversely affected by COVID-19 beyond the expiry of the time limit.

Application dates

The Commissioner's ability to remit interest has applied since 25 March 2020. However, the Commissioner may remit interest that has accrued on tax payments due on or after 14 February 2020.

Unless extended by Order in Council, the Commissioner's ability to remit interest will expire after 24 March 2022.

Information sharing

Schedule 7, part C, clause 23B Tax Administration Act 1994

The amendment enables Inland Revenue to share taxpayer information with other government departments to assist the efficient and effective delivery of the Government's COVID-19 response.

Background

Currently, tax legislation requires Inland Revenue staff to keep taxpayer information confidential unless a specific legislative exception authorises the disclosure. Current exceptions in the tax legislation enable Inland Revenue to share information with specific agencies. These existing exceptions will be used, where possible, to share information with other agencies to assist in the response to the COVID-19 outbreak.

However, there may be situations where, as a result of the outbreak, it is desirable for Inland Revenue to share information with other agencies with which Inland Revenue does not have any existing arrangements or where the existing arrangements are not flexible enough to allow the required sharing to occur.

A similar provision to this one applied during the Canterbury earthquake and allowed Inland Revenue to share information with other government agencies as part of the government's response to the Earthquake. This amendment is modelled on that provision.

Key features

The amendment inserts a new clause 23B into schedule 7 of the Tax Administration Act to allow Inland Revenue to share information with other government agencies in order to respond to the COVID-19 outbreak. This provision is targeted, time limited, and only used when existing legislative provisions are not adequate to share information.

The other agencies Inland Revenue could share information about persons or entities with are government departments, the New Zealand Police, ACC, and Kāinga Ora – Homes and Communities. The information would only be shared for the purpose of enabling those agencies to provide assistance to individuals and businesses, to fulfil any obligation or function, or exercise any power in response to the COVID-19 outbreak. The information shared would not be available for use in administering other assistance not related to COVID-19.

The information that could be shared would be both individual and non-individual information and may include, but is not limited to, identifying information, contact and location information, financial information, and family information. The provision would also enable information to be shared to enable the government agency to undertake compliance activity related to that COVID-19 assistance.

This provision will be used, for example, to share information with the Ministry of Social Development to assist in determining employers' entitlement to the wage subsidy and in auditing claims to counter fraud.

Currently, tax legislation requires those persons who have access to taxpayer information to keep that information confidential and not disclose or use it for a purpose other than that for which it was provided. This requirement would also apply to the information sharing to assist the response to the COVID-19 outbreak.

As a safeguard, Inland Revenue retains a discretion as to whether to share information and sharing would only occur where the information is readily available, it is reasonable and practicable to share, and it is not undesirable to share the information.

Application dates

The amendment applies from the date of announcement of the change, being 17 March 2020.

The amendment will apply for a period of two years only unless extended by an Order in Council. This would allow the Government to continue sharing information, if required, in response to COVID-19 after the two-year period.

Removal of hours-test from the in-work tax credit

Sections MA 7, MD 9, MD 10 & YA 1 of the Income Tax Act 2007

The In-Work Tax Credit is an income-tested cash payment of $3,770 per year to working families with children (plus an additional $780 per child for 4th and subsequent children). This amendment will remove the requirement for recipient families to normally be working at least 20 hours per week as a sole parent or a combined 30 hours per week as a couple.

Background

Currently, families that work a fluctuating number of hours from week-to-week or are unable to increase their hours of work do not receive the In-Work Tax Credit for weeks that they do not work – 20 hours for sole parents or 30 hours for couples. The number of families working reduced hours, or an unpredictable and varying number of hours, will increase as New Zealand's economy feels the impact of COVID-19.

Application date

The amendments apply from 1 July 2020.

Detailed analysis

The hours-test

Recipients of the In-Work Tax Credit are currently required to normally be working at least 20 hours per week as a sole parent or a combined 30 hours per week as a couple. This can result in families losing their entitlement to the In-Work Tax Credit in weeks where their hours have been reduced or families with unpredictable and varying hours, such as shift workers and those with multiple jobs, only being eligible for the credit in some weeks. Removing the hours test will ensure families that have their hours worked affected by COVID-19 will continue to receive the In-Work Tax Credit if they do not go onto an income tested benefit or student allowance and are earning some employment income.

Example 4

Janice is a sole parent who works two jobs and receives the In-Work Tax Credit. She is employed for 15 hours per week in one job, and 10 hours per week in another, working a combined 25 hours per week. Janice's second employer ceases operations and she is now only working 15 hours per week for the foreseeable future. From 1 July 2020 onwards, Janice would continue to receive the In-Work Tax Credit despite her weekly hours of work being reduced below 20.

Working for Families tax credits entitlement for emergency benefit recipients

Section MC 5 of the Income Tax Act 2007

The amendment allows people on a temporary visa who would not otherwise meet the Working for Families (WFF) residency criteria, to qualify for WFF, if the Ministry of Social Development (MSD) has granted them an emergency benefit. This ensures that people on a temporary visa who are granted an emergency benefit will qualify for the same WFF components as other beneficiaries.

Background

Prior to the amendment, emergency benefit recipients with dependent children and who are on a temporary visa, did not qualify for WFF tax credits. This was because they did not meet the residency criteria for WFF. The result was a difference in the financial support that these families could access, compared with other main benefit recipients with children.

In general, to receive a main benefit (including an emergency benefit) a person must be a New Zealand citizen or permanent resident and have resided in New Zealand for at least two years since becoming a citizen or resident. However, MSD has discretion to grant an emergency benefit in other circumstances[1] when those residency criteria are not met. Existing WFF legislation did not contain any comparable discretion.

The WFF residency requirements can be met by the child or the parent.

The WFF residency requirements can be met by the child if:

- the child is ordinarily resident in New Zealand; and
- is present in New Zealand for the period of entitlement.

[1] These circumstances can include not being eligible for another benefit, that they are in hardship and unable to earn a sufficient livelihood.

The WFF residency requirements can be met by the parent if:

- the parent is ordinarily resident in New Zealand; and
- has been in New Zealand for 12 months continuously at any time

Those on a temporary visa are specifically excluded from the definition of New Zealand resident for WFF. This exclusion was intended to prevent short-term visitors from accessing WFF but not those in exceptional circumstances.

The amendment ensures that families on a temporary visa who are granted an emergency benefit are able to access a comparable level of financial support to other recipients of main benefits.

Key features

If MSD grants an emergency benefit, to a person on a temporary visa, that person will qualify for the same WFF payment as other beneficiaries. That is, they could qualify for the family tax credit and Best Start, assuming they meet the other qualifying criteria. They will not qualify for the In-Work Tax Credit or minimum family tax credit because these payments are not available to a person receiving a main benefit.

Application date

The amendment applies from 1 April 2020.

GST on COVID-19 related social assistance payments

Section 89 of the Goods and Services Tax Act 1985

The amendment provides that payments made by the Ministry of Social Development in relation to wages or other income, or leave taken, as a consequence of COVID-19, are not to be regarded as taxable grants and subsidies for the purposes of the Goods and Services Tax Act 1985.

Background

The Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 (2020/44) added two new COVID-19 related payments made by the Ministry of Social Development to the schedule of non-taxable grants and subsidies contained in the Goods and Services Tax (Grants and Subsidies) Order 1992. The purpose of this Order was to ensure that GST-registered businesses that received these payments from the Ministry of Social Development did not need to return GST on them. This Order came into force on 24 March 2020, and consequently did not apply in respect of payments made by the Ministry of Social Development before that date.

New section 89 of the Goods and Services Tax Act 1985 is intended to ensure that GST-registered businesses that received these payments from the Ministry of Social Development before 24 March 2020 do not need to return GST on them.

Application date

The amendment came into force on 25 March 2020, the date of enactment. The amendment applies retrospectively to payments made from 17 March 2020.

Winter energy payment

Schedule 4, Part 8, Clause (1)(a), (b) and (c) of the Social Security Act 2018

This amendment reduced the rates of winter energy payment for 2021 and later years to $450 for single people with no dependent children (down from $900) and $700 for couples or single people with dependent children (down from $1,400). This restored the 2019 rates after a temporary doubling in the rates for 2020.

Background

In response to the economic impacts of COVID-19, the Government agreed that the annual rates of winter energy payments for 2020 would be $900 for single people with no dependent children, and $1,400 for couples or single people with dependent children. The increase is double the normal rate and was only intended to apply for the 2020 winter period (1 May to 1 October) when the impacts of COVID-19 are likely to be most pronounced.

Key features

The amendment ensures that the doubling of the winter energy payment rates for 2020 as part of the COVID-19 Recovery Package is only temporary. It reduces the rates back to their previous amounts of $450 and $700 for 2021 and later years.

Application date

The amendments to the winter energy payments rates come into force on 1 May 2021.

References

Legislative References

COVID-19 Response (Taxation and Social Assistance Urgent Measures) Act 2020

About this document

An explanation of changes to legislation