

Student Loan Scheme Amendment Bill

Commentary on the Bill

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POLICY CHANGES

OVERVIEW

With approximately 621,000 borrowers with a loan balance with Inland Revenue for collection, and a total nominal loan balance of approximately \$12.07 billion, the student loan scheme is a significant Crown asset and a major financial commitment by Government towards supporting those in tertiary education.¹ As such, it is important that the scheme is managed as efficiently as possible and that borrowers comply with their repayment obligations upon completion of their studies.

The student loan package announced in Budget 2011 focused on improving the value and fairness of the student loan scheme and encouraging personal responsibility for loan repayments. The changes proposed in this bill bring into effect those decisions.

The bill provides for Inland Revenue to receive details of a borrower's contact person from the loan manager (StudyLink). Every new loan application must include a contact person as a condition of accessing a student loan. When a borrower is in default and cannot be contacted, Inland Revenue will be able to talk to the contact person to try and locate the borrower.

In the interests of fairness across the student loan scheme, and to maximise repayments from New Zealand-based borrowers, the bill makes amendments to exclude losses from the calculation of "net income". The ability to offset losses against net income can reduce their liability for student loan repayment purposes.

As a consequence of this policy, the bill also includes amendments to extend the pay-period assessment policy to all salary and wage earnings.

Finally, the bill makes a number of amendments to the "repayment holiday" rules to improve repayments from overseas-based borrowers. Under the changes proposed, the repayment "holiday" whereby borrowers can take a break from their repayment obligations while they are overseas will be reduced from three years to one year. Borrowers will also have to apply for a repayment holiday, up to six months from their date of departure from New Zealand, and specify a New Zealand-based contact person.

¹ As at 30 June 2011.

EXCLUDE LOSSES FROM THE CALCULATION OF NET INCOME FOR STUDENT LOAN REPAYMENT PURPOSES

(Clauses 5, 9, 13, 14, 15, 16, 26, 27, 30 and 31)

Summary of proposed amendments

The bill contains amendments to exclude investment and business losses such as rental losses from the calculation of net income for student loan repayment purposes. The change was signalled in Budget 2011 and is intended to increase personal responsibility for debt repayment, maximise repayments from New Zealand-based borrowers and ensure fairness across the student loan scheme.

Application date

The amendments will apply from 1 April 2012.

Key features

When a borrower has one or more business or investment activities, the income and expenditure from an activity which results in a net loss should be ignored when calculating the net amount earned from both “other income” (business income) and pre-taxed income (for example, interest and dividends). A borrower’s repayment obligation is currently based on net income.

Clause 14 replaces the definition of “net income” with a new definition of “adjusted net income”. The definition alters the concept of net income to recognise that a net loss from one activity can no longer be offset against income from another activity in order to reduce a borrower’s repayment obligation.

Clause 15 then ensures the adjusted net income figure is used in the formula for calculating a borrower’s other income repayment obligation.

Clause 13 ensures that losses are excluded from the calculation of “net pre-taxed income”.

Excluding losses from the calculation of net income will mean that some borrowers will have an increased repayment obligation.

Background

The current definition of “income” for student loan repayment purposes is based on a “net income” approach. In calculating net income, a borrower may subtract annual total deductions (expenses and losses) from annual gross income. The calculation allows for example, a net loss generated from a rental property to be offset against income from other activities, effectively reducing a borrower’s repayment obligation.

ALTERNATIVE CONTACT PERSON

(Clauses 7, 29, 33 and 35)

Summary of proposed amendments

The proposed amendments allow alternate contact details provided to the loan manager (StudyLink) as a condition of accessing a student loan to be received and used by Inland Revenue once the loan is transferred.

Application date

The amendments apply from 1 January 2013.

Key features

Clause 7 allows Inland Revenue to receive details of a borrower's contact person from the loan manager. The loan manager is appointed by the "lender" (the Government) under the Student Loan Scheme Act to establish and administer loan balances that have not been transferred to Inland Revenue for collection.

When a borrower is in default, Inland Revenue will try and contact the borrower. If this is unsuccessful, Inland Revenue will approach the contact person.

Clause 29 provides for Inland Revenue to request the assistance of the contact person when the borrower is in default and cannot be located. The contact person must be willing to act in that capacity. The proposed amendment specifies that Inland Revenue may request the contact person provide the borrower's current address details, or ask the borrower to notify Inland Revenue of their details.

The contact person will only be contacted for the purpose of providing any up-to-date contact details for the borrower. No details of the loan such as the loan balance or the amount of the default will be given to the contact person. Inland Revenue will not use the contact details to follow up on the contact person's tax obligations.

Background

While borrowers are required to keep their contact details current, often these become out of date after they complete study. This can be a particular problem if the borrower goes overseas.

Having a contact person provides another way for Inland Revenue to locate borrowers who have lost touch to help them manage their loan.

The contact details requirement is distinct from the “nominated person” process. Borrowers may nominate a person to act on their behalf while they are overseas. The nominated person can act on behalf of the borrower and can make enquiries, receive statements and correspondence.

REPAYMENT HOLIDAY

(Clauses 17, 18, 19, 20, 29, 31 and 33)

Summary of proposed amendments

The proposed amendments reduce the repayment holiday for overseas-based borrowers from three years to one, and require borrowers to apply for a repayment holiday. Borrowers must apply before the expiry of six months from the date of departure and as part of the application process, borrowers must supply details of a contact person who resides in New Zealand.

Application date

The amendments will apply from 1 April 2012.

Key features

Clause 17 makes two significant changes to the repayment holiday provisions.

First, the repayment holiday entitlement will be reduced from three years to one year.

Secondly, borrowers who intend to go overseas from 1 April 2012 will have to apply to Inland Revenue if they want to enjoy a repayment holiday. To be considered, an application must be received before the borrower becomes overseas-based, typically six months after the date of departure. Applications will be successful only if the borrower supplies a contact person or confirms a contact person that has previously been supplied. The contact person must reside in New Zealand.

Clause 29 provides for Inland Revenue to request the assistance of the contact person when the borrower is in default and cannot be located. The contact person must be willing to act in that capacity. The proposed amendment specifies that Inland Revenue may request the contact person to provide the borrower's current address details, or ask the borrower to notify Inland Revenue of their details.

The contact person will only be contacted for the purpose of providing any up-to-date contact details for the borrower. No details of the loan such as the loan balance or the amount of the default will be provided to the contact person. Inland Revenue will not use the contact details to follow up on the contact person's tax obligations.

Borrowers who have used some of their entitlement before 1 April 2012, whether they are currently on a repayment holiday or not, will have their entitlement set to the lesser of one year or their remaining entitlement.

Background

Since 2007, borrowers have received an automatic three-year holiday from any repayment obligation when they leave New Zealand. The current three-year holiday is generous and can result in borrowers not resuming repayments when the repayment holiday comes to an end.

This policy change seeks to improve repayments from overseas-based borrowers. The application process, combined with the requirement to supply a New Zealand-based contact person, signals to borrowers the importance of repaying the student loan when the repayment holiday comes to an end.

EXTENDING PAY-PERIOD ASSESSMENTS TO THE SALARIES AND WAGES OF ALL BORROWERS

(Clauses 5, 8, 10, 11, 15, 21, 22, 23 and 24)

Summary of proposed amendments

The proposed amendments extend pay-period assessments to the salaries and wages of all borrowers. Borrowers with “other income”, such as rental or business income, will have their salary and wage earnings shift from an annual assessment basis, where the income is spread across a tax year, to pay-period assessments, where the focus is on ensuring correct repayment deductions are made at source. To achieve this, the bill contains amendments to exclude salary and wage income from the calculation of annual student loan repayment obligations for borrowers with “other income”. The amendments will also ensure that repayment deductions are correct in special circumstances such as secondary employment or full-time study.

Application date

The amendments will apply from 1 April 2012.

Key features

The bill extends pay-period assessments to all salary and wage earnings. Borrowers with other sources of income will still receive an annual assessment of any income that is not salary or wages.

Clause 15 changes the way that repayment obligations are calculated for borrowers with other income so that salary and wage earnings are excluded.

Clause 8 gives borrowers with “other income” access to the procedure by which an unused repayment threshold from a borrower's primary employment earnings can be allocated to the borrower's secondary employment earnings.

Clause 11 gives borrowers with other income access to the process under which certain borrowers who are full-time students may obtain an exemption from salary or wage deductions.

Clause 5 extends the definition of “significant over-deduction” to include borrowers with other income. In the event that a significant over-deduction is identified, Inland Revenue is required to notify the borrower, and the borrower may choose to receive a refund of the over-deduction.

Background

Pay-period assessments were introduced in the Student Loan Scheme Act 2011 and are a significant simplification measure, removing the need for the annual square-up assessment for most borrowers' salary and wage earnings.

As part of the Budget 2011 student loan package, it was announced that losses from investments or business activities would no longer be included when calculating a borrower's repayment obligation. As there is no longer the ability to offset losses, there is no need to distinguish between borrowers who receive other income and borrowers who do not. Pay-period assessments can now be extended to all salary and wage earnings.

REMEDIAL MATTERS

CONSEQUENTIAL AMENDMENTS

(Clauses 6, 12, 25, 28, 32 and 34)

Summary of proposed amendments

The bill also makes a number of minor technical amendments to the Student Loan Scheme Act 2011. These amendments relate to:

- Ensuring that where relief from late payment interest is provided, any amounts already paid are offset against any unpaid amount before being available for refund.
- The description of the objection process and the timeframe for objections that is required to be included in the contract provided to borrowers.
- Minor technical changes to the provision dealing with the imposition of the administration fee to ensure that borrowers are charged an administration fee if they have a loan balance or student loan debt of \$20 or more.
- A minor error in a date whereby instead of excluding refunds of overpayments made before 1 April 2006 as intended, the amendment incorrectly referred to overpayments before 31 March 2006.
- The application date of sections 170A and 173A of the Student Loan Scheme Act 2011, which should apply from 1 March 2012 instead of 1 April 2012.
- Ensuring that a significant over-deduction can be offset against a significant under-deduction before being refunded to the borrower. If a borrower had too much deducted in one period and not enough in another, the over-deduction could be used to satisfy the under deduction.