Student Loan Scheme Amendment Bill (No 2)

Officials' Report to the Finance and Expenditure Committee on Submissions on the Bill

November 2012

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OVERVIEW

The student loan scheme is a significant Crown asset and a major financial commitment by Government towards supporting those in tertiary education. The amendments contained in the Student Loan Scheme Amendment Bill (No 2), announced as part of Budget 2012, focus on improving the value of the student loan scheme and encouraging personal responsibility for loan repayments.

The bill introduces measures to:

- broaden the definition of “income” for student loan repayment purposes to broadly align with that used for Working for Families tax credits;
- implement an information-match with the New Zealand Customs Service to identify borrowers in serious default when they enter the country; and
- amend the Student Loan Scheme Act 2011 to ensure the delivery of the remaining core policy changes in the 2011 Act.

Broadening the definition of “income”

The bill proposes to broaden the definition of “income” for student loan repayment purposes to broadly align with the definition of “income” used for determining entitlement to Working for Families tax credits. The definition of “income” for student loan repayment purposes is important in terms of meeting the policy objective of ensuring a borrower’s repayment obligation accurately reflects their ability to repay.

Information-match with New Zealand Customs Service

Consistent with the Government’s focus on encouraging personal responsibility for loan repayments, the bill proposes to extend the existing information match with the New Zealand Customs Service for child support to also include contact information for student loan borrowers who are in serious default when they enter or leave New Zealand. The key impediment to collecting repayments from overseas-based borrowers is a lack of contact details which prevents Inland Revenue from engaging with this group. This information-match will mean that Inland Revenue can initiate contact with a borrower to discuss their situation and outstanding arrears.

System reprioritisation and technical amendments

The bill includes a number of amendments needed to ensure the delivery of the remaining core policy changes enacted in the Student Loan Scheme Act 2011. In 2009 Cabinet agreed to a new student loan management system as part of a shift from Inland Revenue’s existing computer system. The new system provided an opportunity to make the administration of the scheme more efficient and make compliance easier.

New student loan policy and rules were introduced into legislation and subsequently enacted in the Student Loan Scheme Act 2011. Some of the key policy changes included:

- providing a consolidated loan balance so borrowers could see all their loan draw-downs;
- moving from an end-of-year square-up of deductions to deductions each pay period for salary and wage earners; and
- changing the penalty regime, including a significant reduction in the penalty rate.

Implementation of the new loan management system proved to be more complicated than expected, and would have put at risk the ability to deliver on key student loan policy changes. In May 2011 Cabinet therefore agreed that the new rules in the 2011 Act should be implemented within Inland Revenue's current computer system. The new rules would be implemented using a phased approach, from 2012 through to 2013.

Because of the complexity of the student loan system, the detailed analysis has identified that the systems design, development and testing required to implement some of the 1 April 2013 changes is significantly greater than originally expected. To ensure timely delivery of the core Government policies contained in the 2011 Act, and the policies that have the greatest benefit for borrowers, it is proposed to not proceed with some of the measures in the 2011 Act.

The measures were selected on the basis that they met most or all the following criteria:

- They had a minimal impact on the repayments of borrowers.
- They had an impact on only a small number of borrowers.
- They reduced the pressure on Inland Revenue's student loan system changes.
- They were consistent with the policy intent of previous Cabinet decisions.

Four further measures are proposed not to proceed, see ("Matters raised by officials"), described in this report.

The bill also includes technical remedial amendments to ensure the Act works as intended.

Matters raised in submissions

Ten submissions were made in relation to the bill of which only a small proportion related to matters contained in the bill.

Whitireia Community Law Centre supported the broadening the definition of "income", and raised concerns about the use and privacy of borrower information received through the proposed information-sharing between Inland Revenue and the New Zealand Customs Service.

Other submissions also raised concerns about the use of borrowers' information and the privacy of information received via the proposed information-sharing between Inland Revenue and New Zealand Customs Service.

The Legislation Advisory Committee commented on the information-sharing provisions of the bill proceeding before the Privacy (Information Sharing) Bill is enacted and implemented, and the desirability of consulting with the Privacy Commissioner. The Legislation Advisory Committee also stated that the definition of "serious default" for the purpose of the information-sharing does not provide sufficient guidance and that more detailed criteria should be provided in the legislation.

The majority of submissions referred to matters not covered by the bill, mainly previous policy changes and the student support package as a whole.

The New Zealand Union of Students' Association and other submitters called for a complete review of the student support system, including its costing methodology, the adequacy of student support assistance, and the cumulative impact of Budget 2010, 2011, and 2012 changes on students and on the country.

Matters raised by officials

Since the introduction of the bill, officials have identified further changes needed to ensure the remaining core policy changes can be delivered and to address an unintended consequence of the recently implemented near real-time transfer of loan advances from StudyLink to Inland Revenue.

As mentioned above, the four further reprioritisation measures mentioned are:

- retaining the existing loan interest calculation method of accruing daily and charging and compounding annually;
- retaining the existing process of calculating loan interest for all borrowers and subsequently writing off the interest for New Zealand-based borrowers;
- reverting to the previous write-off rules for obligations less than $20; and
- retaining the existing way in which payments are allocated to repayment obligations and debt.

In addition to these matters officials propose an amendment to correct an unintended consequence of the recently implemented near real-time transfer.

Before 1 January 2012, the annual loan transfer occurred in February each year. This was replaced with a near real-time transfer, which allowed StudyLink to transfer loan information to Inland Revenue daily.

This near real-time transfer has had an unintended consequence, resulting in borrowers receiving end-of-year student loan assessments that would not have been issued were it not for the near real-time transfer. In effect, borrowers who had student loans for as little as two or three weeks would have assessments relating to the entirety of their previous year's income (salary and wages, and other income such as business income).

Officials consider that under the new loan-transfer process, borrowers' repayment obligations in the first tax year of becoming a borrower should be similar to what they were under the previous annual loan-transfer process.

Officials also propose to update the definition of "adjusted net income" for the student loan scheme in line with recent amendments to the definition of "family scheme income" for the Working for Families tax credit rules.

These amendments relate to the exemption of withdrawals from KiwiSaver after a member has reached the date of entitlement or for early withdrawals, and also correct and rationalise cross-references for the exemption of parts of overseas pensions.

Officials' recommendations are detailed in this report, along with technical amendments and minor remedial items.

Matters raised in submissions

BROADENING THE DEFINITION OF "INCOME"

Schedule 3, clause 9

Submission
(Whitireia Community Law Centre)

The submitter supports the changes to the definition of "income" for student loan purposes and is supportive of the main purpose of the bill to "improve the value of the student loan scheme and ensure that repayment obligations are determined on a fair and equitable basis for all borrowers regardless of the types of income they earn".

Recommendation

That the submission be noted.

INFORMATION-SHARING

Clauses 34 and 43 to 47

Submissions
(Legislation Advisory Committee, Te Mana Akonga – National Māori Tertiary Students' Associations, New Zealand Union of Students' Association, Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association, Waiariki Institute of Technology Student Association)

Submitters have raised general concerns regarding the privacy of information shared between Inland Revenue and Customs.

Whitireia Community Law Centre compares the proposed information-match with examples of information-sharing for the enforcing of other types of "wrongdoing" such as recovering child support debt or Ministry of Justice fines enforcement. It states that the Government does not view education as an investment, but rather views these individuals as criminals by placing restrictions on their ability to freely leave and enter New Zealand. The submitter also comments that many individuals will automatically fall within the definition of "serious default" due to having a substantial student loan on completion of their education.

Te Mana Akonga, Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association and Waiariki Institute of Technology Student Association have asked the committee to consider an investigation that will better profile the composition of the 91,000 borrowers living or travelling overseas to ensure the targeting under the information-sharing provisions of the bill are as non-prejudicial and free from discrimination as possible.

Te Mana Akonga submits that an investigation would be prudent for the many Māori who now reside in Australia and the impact of proposed changes in the bill would have on them as well as the many people who left Canterbury for Australia as a result of the earthquakes.

Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association and Waiariki Institute of Technology Student Association have asked if the committee will be seeking a full briefing by officials and the Privacy Commissioner on the impact of any information-sharing proposed under the bill, and will information from that briefing be shared with all interested or affected parties.

The Legislation Advisory Committee submits it is undesirable for the information-sharing provisions in this bill to proceed before the Privacy (Information Sharing) Bill is enacted and implemented. It suggests that officials should be requested to explain why this bill should proceed before the Privacy (Information Sharing) Bill is enacted and implemented. The submitter also emphasises the desirability of consulting with the Privacy Commissioner over the implementation of the information-sharing provisions in the bill.

Comment

The proposed information-sharing is based on the existing child support alerts match used by Inland Revenue and the New Zealand Customs Service (Customs).

The proposed information-sharing will:

- only affect borrowers in serious default of their repayment obligations. It will not affect borrowers who simply have a large student loan;
- only be used to contact borrowers, not prevent borrowers from entering or leaving New Zealand; and
- be used to obtain information that the affected borrowers agreed to provide when they took out a loan (that is, contact details).

Inland Revenue will send Customs the names, birthdates and IRD numbers of selected borrowers who are in serious default in relation to previously assessed repayment obligations. Customs will match this list against the names and birthdates of people upon their arrival and will transfer any contact details obtained for successful matches to Inland Revenue. The selection of cases is based on borrowers meeting the definition of serious default, no ethnic or demographic information is taken into account.

This information will be used by Inland Revenue to initiate contact with the borrower to discuss their situation and outstanding arrears. Inland Revenue will not be preventing borrowers from entering or leaving New Zealand.

The Privacy Commissioner has been consulted on the information-sharing provision. An Information Match Privacy Impact Assessment has been prepared by Inland Revenue in consultation with Customs and the Privacy Commissioner. The privacy assessment identifies the potential impacts on personal privacy and security of data and ways to mitigate those impacts without compromising the intent of the programme. The solution to implement the proposed changes builds on an existing data-match which has been operating effectively since 2007.

In relation to the Privacy (Information Sharing) Bill, the proposed information-sharing contained in the Student Loan Scheme Amendment Bill (No 2) simply extends the existing information-sharing between Inland Revenue and Customs to include student loan borrowers in serious default. At the time of writing this report, the Privacy (Information Sharing) Bill is awaiting its second reading after being introduced in August 2011.

Officials consider that extending the existing information-sharing to student loans should not be delayed due to the uncertainty of the timing of enactment of the Privacy (Information Sharing) Bill.

Recommendation

That the submissions be declined.

DEFINITION OF "SERIOUS DEFAULT"

Clauses 34 and 43 to 47

Submission
(Legislation Advisory Committee)

The definition of "serious default" for the purpose of information-sharing between Inland Revenue and the New Zealand Customs Service provides insufficient guidance. It would be desirable to have more detailed criteria in the legislation to provide more certain limits as to who may be caught by the definition.

Comment

Clause 44 inserts a definition of "serious default" in section 280G of the Customs and Excise Act 1996 for the purpose of information-sharing between Inland Revenue and the New Zealand Customs Service to locate borrowers who have a significant level of overdue student loan obligations when they enter or leave New Zealand. The definition of "serious default" specifies that it is the state of having an unpaid amount due and owing under the Student Loan Scheme Act 2011 and satisfying criteria established in a manner to be determined by the Commissioner.

The criteria determined for the definition of "serious default" will include:

- the amount of default; and
- the length of time in default.

The definition of "serious default" will be used as a mechanism to prioritise cases and manage the workload between Inland Revenue and the New Zealand Customs Service. In terms of scale, the average overseas-based borrower default amount is approximately $7,780, with over 14,000 borrowers having a default balance of over $10,000. Borrowers in default to any degree undermine the student loan scheme and place an additional burden on compliant borrowers.

However, making the definition publicly available would undermine the effectiveness of the information-sharing. If the criteria were publically available, borrowers may be able to circumvent the information-sharing process and avoid identification.

Recommendation

That the submission be declined.

STUDENT SUPPORT SYSTEM AND VALUATION OF THE STUDENT LOAN SCHEME

Submissions
(New Zealand Union of Students' Associations, Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association, Waiariki Institute of Technology Student Association)

The submitters have called for an overall review of the student support system, including the adequacy of student support assistance, and the cumulative impact of Budget 2010, 2011 and 2012 changes on students and on the country.

The New Zealand Union of Students' Association submitted that the Government overstated the cost of lending and that the "true" cost of lending is around about 8 cents in the dollar for the average graduate. It argues:

- The Crown's discount rate is too high and this overstates the cost (it suggested a discount rate of 3.5% is more appropriate for new lending).
- The cost of lending, that is the initial fair value write-down, neglects the positive impact of the interest unwind (the partial reversal of the loss in value that occurs as repayments are received); that is, the Crown books the cost of the policy changes at its upfront value and does not account for the positive financial flow from the interest unwind.

This submitter also states it believes further changes in relation to the collection of student loans from overseas-based borrowers may keep people overseas because of what they see as a "pernicious loans scheme".

Additionally, the submitter believes that policy formation for tertiary education is often hampered by the limitation of current data and that the bill cannot be viewed solely as a technical bill in isolation from the changes made over the preceding years.

Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association and Waiariki Institute of Technology Student Association have asked the committee "if it is a reasonable expectation for new graduates to have the opportunity to gain employment as part the social contract they enter into given the indebtedness that is created by the student loan scheme".

Comment

The submissions refer to matters that are not part of the bill and are therefore outside the scope for consideration.

Recommendation

That the submissions be declined.

CONSIDERATION OF PREVIOUS STUDENT SUPPORT CHANGES

Submissions

(Te Mana Akonga – National Māori Tertiary Students' Association, New Zealand Union of Students' Association, New Zealand Medical Students' Association, Whitireia Community Law Centre, Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association, Waiariki Institute of Technology Student Association)

The submitters have asked that the committee consider the cumulative and flow-on effects of successive changes to the student loan scheme and student support over the years, including but not limited to:

- the withdrawal of eligibility of the student allowance from postgraduate students (except for those studying for Bachelor degrees with honours);
- increasing the student loan repayment rate from 10% to 12%;
- excluding from access to the student loan scheme those aged 55 year or more;
- reducing the repayment holiday to one year and requiring overseas-based borrowers to apply for the repayment holiday;
- freezing the student allowance parental income threshold without CPI adjustment until 31 March 2016; and
- removing the payment incentive following the repeal of the excess repayment bonus.

The New Zealand Medical Students' Association states the bill does not meet its stated objective "to improve the value of the student loan scheme" for New Zealand's medical students and the New Zealand health system. It does not meet this objective for New Zealand's medical students and the New Zealand health system because it does not address the inefficient and inequitable impact of the seven-year equivalent full-time student (EFTS) cap on access to the student loan scheme on medical graduate retention and vocational choice, and New Zealand.

The submitter has therefore asked that the committee consider introducing in this bill either an exemption or an extension to the cap for medical students.

Te Mana Akonga has asked that the committee consider in particular the effects of the changes on Māori. Te Mana Akonga also comments that the reduction of the repayment holiday would have a great effect on those who have moved overseas to find work as a result of the Canterbury earthquakes.

Whitireia Community Law Centre submits that the three-year repayment holiday should be reinstated as it would provide graduates with some “room to breathe, establish themselves in a career and firmly stand on their own feet”. The submitter also states that many individuals tend to leave New Zealand for their “OE” which is part of the New Zealand culture and are away for two to three years obtaining valuable skills and experience which will have a positive gain for New Zealand and imposing penalties while overseas will only deter individuals from returning.

Massey University Extramural Students’ Society, Lincoln University Students’ Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students’ Association and Waiariki Institute of Technology Student Association have asked the committee if it will be forming a view on whether the recent reduction of the repayment holiday is “instilling greater fairness and accountability”. They also ask that, as a period free from repayments is an automatic feature of the equivalent student loan scheme in the United Kingdom, should the committee investigate treating all borrowers the same way.

Comment

The submissions refer to matters that are not part of the bill and are therefore outside the scope for consideration.

Recommendation

That the submissions be declined.

STUDENT LOAN REPAYMENTS AND SOCIAL ASSISTANCE

Submissions
(New Zealand Union of Students' Associations, Massey University Extramural Students' Society, Lincoln University Students' Association, Student Association of Waikato Institute of Technology, Victoria University of Wellington Students' Association, Waiariki Institute of Technology Student Association)

Student Loan repayments should be considered a reduction in income for calculating eligibility for social assistance (for example, Working for Families tax credits, income-tested benefits). In particular submitters ask if the committee will be addressing the situation of Working for Families tax credits being calculated based on income before student loan repayments are taken into account.

Submitters also ask the committee if it is correct to state that the student loan collection system "works as a tax".

Comment

The submissions refer to matters that are not part of the bill and therefore are outside the scope for consideration.

Recommendation

That the submissions be declined.

LEGISLATIVE PROCESS AND COMMUNICATION OF CHANGES

Submission
(New Zealand Union of Students' Associations)

Many student support changes receive insufficient public and Parliamentary scrutiny as they are authorised outside the legislative process (that is, through Budget or Cabinet decision, loan contracts, and regulations). Those types of changes should also go through the public oversight provided by the Select Committee.

The submitter also raises issues relating to time lags between Budget announcements and steps to respond to students' questions. The submitter has raised those issues with StudyLink.

Comment

The submission refers to matters that are not part of the bill and therefore are outside the scope for consideration.

However, officials note that changes announced as part of Budget are communicated to students, borrowers and other stakeholders through a range of mechanism, such as:

- information available on departments' websites immediately following Budget announcements;
- emails to affected students alerting them to the changes;
- fact sheets detailing the changes sent to student associations and education providers; and
- stakeholder meetings in main centres.

Recommendation

That the submission be declined.

REGULATORY IMPACT STATEMENT

Submissions
(Te Mana Akonga – National Māori Students' Association, New Zealand Union of Students' Associations)

The submitters comment on the Regulatory Impact Statement (RIS) on the bill. Te Mana Akonga submits that the RIS is devoid of any comments on the impact of the proposed changes on Māori and as Māori are not only stakeholders but also Treaty partners, the submitter believes this is an oversight of the RIS and would like more information on this.

The New Zealand Union of Students' Associations comment that they found the RIS deficient, especially in terms of the analysis applied to affected borrowers, impacts on the investment in tertiary education as a whole, and the context of the Tertiary Education Strategy.

Comment

The information presented in the RIS is limited by the data collected by agencies. For example, Inland Revenue does not collect income data broken down by ethnicity or other demographic factors. However, the proposed changes are not thought to have a differential effect on ethnic or other demographic groups of borrowers.

Recommendation

That the submissions be noted.

Matters raised by officials

REPAYMENT OBLIGATIONS FOR FIRST-TIME BORROWERS

Submission
(Matter raised by officials)

Officials recommend that the bill amend the end-of-year assessment legislation to provide that when a person becomes a new borrower after 31 December in a tax year, they are not subject to the end-of-year assessment for that tax year. This corrects an unintended consequence of the change from an annual loan transfer to a near real-time transfer of loan advances from the loan manager (StudyLink) to Inland Revenue, Repayment deductions from the salary or wages of borrowers should continue to be made from the date that borrowers first draw down a loan.

The amendment should apply from 1 April 2012 for the 2013 and future tax years.

Officials also recommend including the relief provided through the Student Loan Scheme Act 2011 (Transitional Provisions) Regulations 2012 in the current bill.

Comment

The Student Loan Scheme Act 2011 changed the law relating to when and how student loan information is transferred from StudyLink to Inland Revenue. Previously, borrowers' loan balances only transferred to Inland Revenue annually in February. This transfer included all of the loan advances relating to courses of study that had finished in the previous calendar year. For example, a borrower who took out a loan in February 2011 to cover their fees, and then received living costs payments throughout the 2011 year, would have all of this lending information transferred to Inland Revenue in February 2012.

From 1 January 2012 Inland Revenue has received information about every loan advance in near real-time. A borrower who took out a loan in February 2012 to cover their fees would have that loan transferred to Inland Revenue immediately.

This near real-time transfer of information between agencies gives borrowers a single view of their consolidated loan balance, rather than having amounts held by both agencies.

However this earlier transfer has had the unintended consequence that new borrowers' repayment obligations will be calculated on the borrower's income for the entire tax year, even when they have had the loan for a short time.

Officials consider that under the new loan transfer process, borrowers' repayment obligations in the first tax year of becoming a borrower should be similar to what they were under the previous annual loan-transfer process. Under the annual loan transfer process, a person who became a new borrower after 31 December in a tax year would not have an end-of-year assessment for that tax year. New borrowers were still required to have repayment deductions from their salary and wages earned after they become a borrower.

The Student Loan Scheme Act 2011 (Transitional Provisions) Regulations 2012 provided relief from repayment obligations for borrowers affected by this situation for the 2012 tax year. The regulation will expire on 1 April 2015. However, the relief provided under the regulations should continue to be available after 1 April 2015 if necessary in relation to assessments for the 2012 tax year.

Recommendation

That the submission be accepted.

DEFINITION OF "ADJUSTED NET INCOME"

Clause 66 and schedule 3

Submission
(Matter raised by officials)

Recent clarifications to the definition of "family scheme income" under the Working for Families tax credit rules were not reflected in the proposed changes to the definition of "adjusted net income" for student loan purposes.

Officials recommend that these amendments to the definition of "family scheme income" also apply to the definition of "adjusted net income" for calculating student loan repayment obligations.

The amendments should apply from 1 April 2014 for the 2014–15 and later tax years.

Comment

The changes to the definition of "adjusted net income" in the bill are broadly aligned with the definition of "income" used for determining entitlement to Working for Families tax credits. Therefore it is appropriate that amendments made to the definition of "family scheme income" are reflected in the definition of "adjusted net income" for student loan purposes in the bill.

The definition of "family scheme income" has recently been amended by the Taxation (Annual Rates, Returns Filing, and Remedial Matters) Act 2012. The amendment ensures that a withdrawal made from KiwiSaver after a member has reached the date of entitlement to withdraw is not regarded as family scheme income. The amendment also ensures that early withdrawals made from KiwiSaver for a first home purchase, significant financial hardship or serious illness are also disregarded. The amendment also applies to withdrawals from complying superannuation funds.

The Taxation (Livestock Valuation, Assets Expenditure, and Remedial Matters) Bill also corrects and rationalises cross-references for the exemption of parts of overseas pensions for which the definition of family scheme income refers to. These exemptions are still relevant but their interaction with other legislation is complex and it is proposed that these are simplified. As a result, minor technical amendments to the definition of "adjusted net income" for student loan purposes are required to ensure the cross-references are correct.

Recommendation

That the submission be accepted.

SYSTEM REPRIORITISATION MEASURES

To ensure the delivery of the core policy changes in the Student Loan Scheme Act 2011, officials recommend the following changes.

Issue: Retain the existing loan interest calculation method

Submission

As the student loan scheme will continue to be administered in Inland Revenue's existing computer system, loan interest should continue to be accrued daily and charged and compounded annually. Therefore the changes due to come into force from 1 April 2013 should be repealed. Borrowers will see no change from the current practice.

The 2011 Act introduces changes from 1 April 2013 under which loan interest will be calculated daily and charged and compounded monthly. These changes were based on officials' expectations of how a loan management system would impose loan interest, and more closely resembles treatment of a commercial loan.

The amendment should apply from 1 April 2013.

Recommendation

That the submission be accepted.

Issue: Retain the existing interest-free loan process

Submission

As the student loan scheme will continue to be administered in Inland Revenue's existing computer system, the current application of the interest-free loan policy by calculating interest on the loans of all borrowers and applying the interest-free write-off to the loans of New Zealand-based borrowers should continue. Therefore the changes due to come into force from 1 April 2013 should be repealed. Retaining the current regime does not financially affect borrowers, as they will continue to be charged interest if they are overseas-based and will continue to have an interest-free loan if they are New Zealand-based.

Since the introduction of the student loan scheme, interest has been calculated for all borrowers. Since 2006 the interest-free policy has been implemented by charging interest to all borrowers and writing off interest for New Zealand-based borrowers.

In anticipation of the move to a new loan management system, the 2011 Act introduced a change from 1 April 2013 under which interest would not be calculated for New Zealand-based borrowers at all.

The amendment should apply from 1 April 2013.

Recommendation

That the submission be accepted.

Issue: Re-instate the under $20 obligation write-off

Submission

As the student loan scheme will continue to be administered in Inland Revenue's existing computer system, the discretion to write off small obligation amounts of less than $20 should continue. Borrowers will see no change from the current practice.

Under the Student Loan Scheme Act 1992, repayment obligations under $20 were not collected and were written off. For example, if a borrower had a repayment obligation of $1,000 for the tax year but Inland Revenue received only $983 during the year, the $17 was written off the loan, rather than remaining to be collected in the future.

When the loan scheme was proposed to be administered in a new loan management system, the provision regarding not collecting small amounts was revised when included in the Student Loan Scheme Act 2011. Under the 2011 Act, small amounts are not written off and remain part of a borrower's loan balance. These amounts would be collected through future repayment obligations.

The amendment to reinstate the $20 obligation write-off should apply from 1 April 2012 for the 2012–13 and later tax years.

Recommendation

That the submission be accepted.

Issue: Payment allocation

Submission

As the student loan scheme will continue to be administered in Inland Revenue's existing computer system, the existing payment-priority rules should apply. Therefore the new payment-allocation rules due to come into force from 1 April 2013 should be repealed. Borrowers will see no change from the current practice.

The current payment-priority provision offsets payments and deductions first against any interest charged, and then any remainder is used for any principal outstanding.

From 1 April 2013 the Student Loan Scheme Act 2011 introduces new payment-allocation rules based on officials' expectations of the new loan management system.

The amendment should apply from 1 April 2013.

Recommendation

That the submission be accepted.

TECHNICAL ISSUES

The following matters are proposed by officials to address technical issues that arose during the detailed analysis and design process to implement the changes in the student loan scheme legislation.

Issue: Notification of student loan shortfall penalty

Submission

Officials recommend that the notification of a student loan shortfall be considered separate from the notification of the student loan shortfall penalty.

The Student Loan Scheme Act 2011 requires Inland Revenue to notify a borrower of a student loan shortfall penalty, including details of the shortfall in the borrower repayment obligation. This requirement was based on the earlier proposal to move the administration of the loan scheme into a new loan management system.

As the administration of the loan scheme will remain in Inland Revenue's FIRST system, the implementation of the new student loan shortfall penalty will need to follow the tax rules. This means notifying borrowers separately of their student loan shortfall and shortfall penalty.

The amendment should apply from the day after Royal assent.

Recommendation

That the submission be accepted.

Issue: Calculation of loan interest during a leap year

Submission

Leap years are currently not accounted for in the calculation of loan interest. Officials consider it appropriate that for the purposes of calculating loan interest in a leap year, the additional day is taken into account. We therefore recommend that the legislation be amended.

The amendment should apply from the day after Royal assent.

Recommendation

That the submission be accepted.

Issue: Definition of “due date” for unpaid instalments of overseas-based obligations

Submission

There is a minor technical error in the current definition of “due date” in relation to an overseas-based instalment default. The definition incorrectly refers to “the dates determined” whereas it should refer to “the final date determined”.

The amendment should apply from the day after Royal assent.

Recommendation

That the submission be accepted.

Issue: Relief from penalties

Submission

The student loan penalties in the Student Loan Scheme Act 2011 (late filing penalty and student loan shortfall penalty) are modelled on penalties imposed for income tax. The Commissioner of Inland Revenue can grant taxpayers relief from penalties imposed under the income tax rules, however there is currently no such relief provided for penalties imposed for student loan purposes. Officials consider that as relief from penalties is provided under the income tax rules, similar relief should be provided for student loan penalties.

The ability to provide relief from penalties should also apply to the under-estimation penalty that is reintroduced by the bill. As relief from this penalty was provided under the Student Loan Scheme Act 1992, the 2011 Act should reflect this for consistency.

The amendment should apply from 1 April 2013.

Recommendation

That the submission be accepted.

Issue: Calculation of excess repayments from 1 April 2013

Submission

The definition of "excess repayment" should be amended to include any payments and voluntary borrower deductions received and applied to a tax year regardless of when the payments were received.

The current definition of "excess repayment" is used to determine borrowers' excess repayment bonus and any amount overpaid for a tax year that may be refunded.

The calculation of an excess repayment is currently limited to payments and deductions made up to either the end of the tax year or the final interim payment or overseas-based instalment due date for a tax year, which can be due after the end of the tax year.

Because of the repeal of the excess repayment bonus from 1 April 2013, this limitation is no longer required. Additionally, borrowers may pay an amount after the final interim payment or overseas-based instalment due date for a tax year that exceeds their repayment obligation or penalties for that tax year and these amounts should be considered excess repayments.

The amendment should apply from 1 April 2013 for the 2013–14 and later tax years.

Recommendation

That the submission be accepted.

Issue: Limiting repayment obligation and interim payments by excluding amounts due in future

Submission

The amount a borrower is required to repay, which is limited to the amount of the loan balance, should also exclude any amounts already assessed or required to be paid with a due date in the future.

There are situations when the amount a borrower is required to pay for a tax year is limited to the loan balance, but the borrower also has an amount owing for a previous tax year due in the future. As the amount owing for the previous tax year is not overdue it is still part of the loan balance. This means that a borrower's repayment obligation will include an amount that is already required to be paid in the future and the borrower would be billed twice for that amount. This is not the correct outcome.

The amendment should apply from 1 April 2012 for the 2012–13 and later tax years.

Recommendation

That the submission be accepted.

Issue: Providing assessments in certain situations

Submission

The bill currently limits notifying a borrower of their end-of-year repayment obligation to those borrowers who exceed the $1,500 adjusted net income thresholds.

Due to an oversight, this precludes notifying a borrower that they have no end-of-year repayment obligation. This can occur when a borrower is initially required to make payments for the tax year but upon confirmation of their actual income for the tax year, it exceeds the $1,500 threshold.

Officials recommend that these oversights are corrected and that borrowers in these situations are notified they have no end-of-year repayment obligation.

The amendment should apply from 1 April 2012 for the 2012–13 and later tax years.

Recommendation

That the submission be accepted.

Issue: Cross-referencing and other minor issues

Submission

A number of cross-references in the bill either need updating or have been omitted, and minor wording changes are needed to ensure consistency throughout the bill and to give effect to the original intent. These changes will not change the policy intent and officials propose these changes be made.

Recommendation

That the submission be accepted.