

Taxation (COVID-19 Resurgence Support Payments and Other Matters) Bill

Commentary on the Bill

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Taxation (COVID-19 Resurgence Support Payments and Other Matters) Bill – Commentary on the Bill.

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Overview of the Bill

BILL OVERVIEW

This Bill proposes amendments which support the proposed COVID-19 resurgence support payments (CRSP) scheme, as well as an amendment increasing the minimum family tax credit (MFTC) threshold.

COVID-19 resurgence support payments

The proposed CRSP scheme, to be administered by Inland Revenue, supports the Government's economic response to COVID-19. By providing financial support to businesses in the event of alert level escalations, the CRSP scheme aims to limit the economic and social impact of public health restrictions at higher alert levels.

The proposed scheme may be activated in the event of an increase in alert levels from alert level 1 to alert level 2 or higher, and after remaining at an alert level higher than 1 for seven days or more. The scheme would be available to all businesses in New Zealand each time it activates. The scheme would not be restricted to a particular region even in the event of a regional increase in alert levels as even a regional public health restriction may impact businesses across New Zealand.

To be eligible for the grant, applicants must have suffered a decline in revenue of 30% or more. This is calculated by comparing a seven-day period at alert level 2 or higher with the typical weekly revenue in the six weeks preceding the move from alert level 1. In addition, applicants must have been in business for at least six months.

The proposed CRSP scheme proposes a one-off support payment to businesses in the form of a grant. The proposed payment will comprise a base amount of \$1,500 per applicant plus \$400 per full-time equivalent¹ (FTE) up to a cap of 50 FTEs. Although the payment is capped at 50 FTEs, businesses with more than 50 FTEs may still apply.

The payment is further capped by four times the amount the applicant declares their revenue has declined by. The amount an applicant may receive under the scheme is the lower of the amount calculated using the formula above (\$1,500 plus \$400 per FTE), and four times the amount their revenue has declined by as declared by the applicant as part of their application.

The policies proposed in this Bill authorises Inland Revenue to make grant payments under the scheme, and other legislative amendments to support Inland Revenue's administration of the scheme.

Minimum family tax credit threshold

The MFTC is one of the Working for Families tax credits. Its purpose is to incentivise families with children to move off the benefit and into "full-time" work.² The MFTC achieves this by "topping up" the incomes of working families to an amount that is more than what they could potentially receive on a benefit. When benefit rates and thresholds are

¹ For the purposes of the CRSP scheme, employees who work 20 hours or more per week counts as 1.0 FTE, while employees who work less than 20 hours per week count as 0.6 FTE.

² For the purposes of the MFTC, "full-time" work is defined as 20 hours or more per week for sole parent families, and 30 hours or more per week for two-parent families.

increased, the MFTC must also be adjusted to ensure working families continue to be better off in work and receiving the MFTC, rather than remaining on the benefit.

From 1 April 2021, the benefit abatement thresholds will increase, allowing beneficiaries to earn a greater amount of additional income before their benefits start to reduce. As a consequence of the increase in benefit abatement thresholds, this Bill increases the MFTC threshold from 1 April 2021 meaning sole parent families remain financially better off in full-time work and receiving the MFTC, rather than remaining on the benefit.

COVID-19 resurgence support payments scheme

COVID-19 RESURGENCE SUPPORT PAYMENTS (CRSP) SCHEME

(Clauses 4 – 7, 9 and 11)

Summary of proposed amendment

This Bill proposes a new one-off support payment in the form of a grant to be paid out to eligible businesses in the event of a resurgence of COVID-19 and an escalation in alert levels. The Bill amends the Tax Administration Act 1994 and the Income Tax Act 2007.

Application date

The proposed amendment would apply from the date of enactment.

Key features

In the event of the COVID-19 resurgence support payments (CRSP) scheme being activated, following an increase in alert levels, businesses would be able to apply for a grant from Inland Revenue. The Bill contains amendments facilitating the administration of the scheme by Inland Revenue, including:

- providing for the scheme to be activated by Order in Council
- authorising the Commissioner of Inland Revenue to pay these grants
- directing the Commissioner of Inland Revenue to determine and publish the eligibility requirements and the terms and conditions for the scheme
- noting the circumstances under which the applicant is obligated to repay the grant
- noting the records that must be kept by the applicant for the purpose of this scheme, and
- allowing the Commissioner of Inland Revenue to publish information related to the CRSP scheme including the names of persons to whom the Commissioner has made a grant.

Background

The proposed CRSP scheme relates to the Government's objective to keep New Zealanders safe from COVID-19. This objective includes protecting jobs and livelihoods as well as strengthening the economy. To support this objective, a suite of financial supports is being put in place for businesses and individuals in the event of further alert level escalations following future resurgences of COVID-19 in the community. The aim of these financial supports is to reduce the risk and impact of resurgences by supporting workers to stay at home when sick and to encourage the support of this by businesses by sharing the cost of increased alert levels.

The following describes the features of the CRSP scheme that are not specified in the Bill.

The proposed CRSP scheme would be a one-off resurgence support payment which businesses can apply for each time the scheme is activated. The scheme may activate in the

event of an increase in alert levels from alert level 1 to alert level 2 or higher, and after remaining at an alert level higher than 1 for seven days or more. The scheme would be available to all businesses in New Zealand. The proposed scheme would not be restricted to a particular region even in the event of a regional increase in alert levels as even a regional public health restriction may impact businesses across the rest of New Zealand.

To be eligible to apply for a grant, applicants must have suffered a decline in revenue of 30% or more. This is calculated by comparing a seven-day period at alert level 2 or higher with the typical weekly revenue in the six weeks preceding the move from alert level 1.

The payment would comprise a base amount of \$1,500 per applicant plus \$400 per full-time equivalent³ (FTE) up to a cap of 50 FTEs. Though the payment is capped at 50 FTEs, businesses with more than 50 FTEs may still apply. Small to medium-sized businesses are the main beneficiaries of this scheme, as reflected by the payment cap, because smaller firms are less resilient to economic shocks than larger businesses.

The amount of decline in revenue will also be used to determine the size of the grant the applicant is eligible to receive. The amount of the grant will be the lower of the amount calculated using the formula (\$1,500 plus \$400 per FTE) and four times the amount the applicant's revenue has declined by as declared by them for the eligibility criteria.

In addition, applicants must have been in business for at least six months.

Detailed analysis

The Bill proposes to amend the Tax Administration Act 1994 and the Income Tax Act 2007.

The definition of "tax" in section 3 of the Tax Administration Act 1994 would be amended to include an amount payable in relation to the grant made under the CRSP scheme. The amendment would allow Inland Revenue to use its existing debt management and care and management powers to administer the grant.

The Bill proposes to add sections 7AAB and 7AAC to the Tax Administration Act 1994.

The proposed new section 7AAB authorises the Commissioner of Inland Revenue to make a grant under the CRSP scheme to an eligible applicant when the scheme has been declared active. The proposed new section outlines:

- the main criteria for activating the CRSP scheme – an escalation in alert levels for a week or longer, and
- the main eligibility criteria – that the applicant has suffered a significant reduction in revenue as a result of the escalation in alert levels.

While the details of these two criteria have not been specified in the Bill, the policies underpinning the scheme are that:

- The scheme may be activated when there is an increase in alert level from alert level 1 to alert level 2 or higher, and after remaining at an alert level higher than 1 for seven days or more.

³ This is calculated as 1.0 FTE for employees who work 20 hours or more per week and 0.6 FTE for employees who work less than 20 hours per week.

- A reduction in revenue of 30% or more constitutes “a significant reduction in revenue”. This is to be calculated by comparing a seven-day period at alert level 2 or higher with the typical weekly revenue in the six weeks preceding the move from alert level 1.

In the event of an increase in alert levels from alert level 1 for seven days or more, the proposed new section 7AAB authorises the Commissioner of Inland Revenue to make a grant under the CRSP scheme to an eligible person provided that the CRSP scheme is activated by an Order in Council made under the proposed new section 7AAC.

Once the proposed scheme is activated, the Commissioner of Inland Revenue would be required to determine and publish the eligibility criteria and determine the terms and conditions of the scheme.

The proposed new section 7AAB also requires the entire amount of the grant, and any amount payable under the CRSP terms such as interest and penalties if any, to be paid back to the Commissioner of Inland Revenue under particular circumstances. This would ordinarily be when a person receives the grant despite not meeting the eligibility requirements, or when the recipient of the grant subsequently breach the terms and conditions of the grant. However other circumstances may be specified in the terms and conditions.

The proposed new section 7AAB clarifies that the recipient of the grant must keep sufficient records to demonstrate that they meet the eligibility requirements and that they have not breached the terms and conditions. This information keeping requirement extends to the person who applied for the grant on behalf of the recipient.

The proposed new section 7AAB also allows for the CRSP scheme to be activated and grants made under this scheme for increases in alert levels prior to the enactment of this Bill.

The proposed new section 7AAC allows the scheme to be activated by Order in Council. Such an Order in Council may:

- specify the period in which the scheme will operate
- describe a class or classes of persons who may apply for support under the scheme
- the amount of the grant, and
- specify any amendments to the scheme as required.

The proposed new section 7AAC also allows the Order in Council to extend, renew, or replace a time limit in relation to the publication of information in relation to the CRSP scheme.

The definition of “income tax” in section 157(10) of the Tax Administration Act 1994 would be amended to include the entire amount of the grant that the recipient has to pay back. In the event that the recipient makes a default in the repayment of the grant to the Commissioner of Inland Revenue, the Commissioner is able to pursue the outstanding balance by issuing a notice under section 157.

The proposed new clause 13B into schedule 7, Part A, of the Tax Administration Act 1994 allows the Commissioner of Inland Revenue to publish information relating to the CRSP scheme. Information that the Commissioner intends to publish include the names of the persons to whom the Commissioner makes a grant to under the scheme. However, the Commissioner is limited in the types of information that can be published and the proposed

new clause imposes a time limit of 24 months for the information to remain published. This time limit may be extended by Order in Council made under the proposed new section 7AAC on the recommendation of the Minister of Revenue.

The proposed amendment to section MB 13 of the Income Tax Act 2007 excludes a payment under the CRSP scheme from the calculation of a person's family scheme income. The rationale behind this is a grant made under the CRSP scheme is for business purposes only. As the grant is not available for private use, it should not be included in calculating a person's family scheme income.

The definition of "exempt interest" in section YA 1 of the Income Tax Act 2007 would be amended to include interest payable in relation to the repayment of a grant under the CRSP scheme. This amendment relates to resident withholding tax (RWT) and ensures the grant recipient does not have to deduct RWT on any interest charged by the Commissioner of Inland Revenue.

Minimum family tax credit threshold

MINIMUM FAMILY TAX CREDIT (MFTC) THRESHOLD

(Clause 10)

Summary of proposed amendment

The Bill proposes an adjustment to the minimum family tax credit threshold to align with increases in benefit abatement thresholds. The proposed increase in the MFTC means that single parent families would remain better off in full-time work (defined as 20 hours for sole parents and 30 hours for couples) and are receiving the MFTC, rather than remaining on a benefit.

Application date

The proposed amendment would apply from 1 April 2021.

Key features

The Bill proposes an increase to the MFTC threshold from \$29,432 per year (after tax) to \$30,576 per year (after tax). This represents a \$22 increase in weekly income. The proposed new MFTC threshold is intended to apply from 1 April 2021.

Background

The MFTC is one of the Working for Families tax credits. Its purpose is to incentivise families with children to move off the benefit and into full-time work. The MFTC achieves this by “topping up” the incomes of working families to an amount that is more than what they could potentially receive on a benefit. When benefit rates and thresholds are increased, the MFTC must also be adjusted to ensure families continue to be better off in full-time work and receiving the MFTC, rather than remaining on the benefit.

From 1 April 2021, the benefit abatement thresholds will increase, allowing beneficiaries to earn a greater amount of additional income before their benefits start to reduce. As a consequence of the increase in benefit abatement thresholds, this Bill would increase the MFTC threshold from 1 April 2021 so that single parent families will remain financially better off in full-time work and receiving the MFTC, rather than remaining on the benefit.