

Sensitive

Office of the Minister of Revenue

Cabinet Legislation Committee

Taxation (Cost of Living Payments) Bill: Approval for Introduction

Proposal

1. This paper seeks the Cabinet Legislation Committee's authorisation for the introduction of the attached Taxation (Cost of Living Payments) Bill (the Bill) under urgency on 19 May 2022.
2. The Bill introduces amendments to the Income Tax Act 2007 and the Tax Administration Act 1994.

Policy

3. The Bill will implement the policy agreed by Cabinet to make cost of living payments. The Bill is necessary as amendments to existing legislation are required for Inland Revenue to administer the payments.

Cost of living payments

4. On 12 April 2022, Cabinet agreed to introduce new short-term cost-of-living payments to help households deal with the recent spike in inflation driven by COVID-19-related global supply chain issues and the war in Ukraine. This payment will provide transitional support as the government's extended fuel excise duty reductions and half price public transport policies are phased out.
5. The \$350 total payment amount will be made in three periodic instalments paid in August, September and October 2022. No application will be required from recipients.
6. The new cost-of-living payments will provide short-term support for low-to-middle income individuals who:
 - 6.1 earned up to \$70,000 in the 2021-22 tax year;
 - 6.2 are aged 18 or over;
 - 6.3 are New Zealand tax residents and present in New Zealand;
 - 6.4 currently hold a New Zealand bank account; and
 - 6.5 are not eligible to receive the Winter Energy Payment (WEP).
7. The payment will not be paid to individuals who are receiving a qualifying benefit (such as main benefit, New Zealand Superannuation or Veteran's

Pension) during the payment period. This is because these individuals will be receiving the WEP. The WEP provides between \$450 and \$700 to eligible recipients during the winter period.

8. The payment will be targeted using Inland Revenue data on individuals for the 2021-22 tax year, applying the following parameters:
 - 8.1 the income threshold test based on net income (gross income less allowable deductions for that year, before losses) for the 2021-22 tax year;
 - 8.2 individuals who have not filed an income tax return by the date of the first payment will begin receiving payments after they file (or as a lump sum after the monthly payment window closes); and
 - 8.3 individuals with no tax assessment will be excluded.
9. The eligibility criteria for the payment and the design parameters are not required to be included in legislation. Instead, the Bill requires that they be published on Inland Revenue's website.
10. The Bill proposes amendments to the Income Tax Act 2007 and the Tax Administration Act 1994 that are necessary for Inland Revenue to be able to administer the cost-of-living payments.
11. The proposed amendments will allow Inland Revenue to:
 - 11.1 include administration of the cost-of-living payments as one of the functions of the Commissioner of Inland Revenue; and
 - 11.2 use the information it holds to determine eligibility and make payments;
 - 11.3 recover the payments in cases of serious non-compliance, such as fraud.
12. The Bill also proposes that the cost-of-living payments be tax exempt and not included as income for Working Families tax credits.
13. It is also proposed that the payments will not be considered income or a cash asset for income support paid by MSD. This will be achieved by amending the Social Security Regulations 2018 and the Student Allowances Regulations 1998. MSD will progress these changes separately.

Timeframes

14. Cabinet agreed that the Bill be introduced on 19 May 2022 and passed under urgency. This will provide certainty for Inland Revenue and will allow sufficient time to implement the required changes to make the first payment on 1 August 2022.

Impact analysis

15. Due to time constraints a regulatory impact assessment was not submitted at the time that Cabinet approval of the policy relating to the Bill was sought [CAB-22-MIN-130 refers]. Instead, a Supplementary Analysis Report has been completed and submitted with this Cabinet paper.
16. The Inland Revenue Quality Assurance Panel has reviewed the Cost of living payments Supplementary Analysis Report (SAR) prepared by Inland Revenue and considers that the information and analysis summarised in the SAR partially meets the quality assurance criteria.
17. Analysis of the problem and potential options has been significantly constrained by shortened timeframes, Ministerial direction on options and lack of stakeholder consultation outside Government. Given this, the panel considers that the information in the RIS is as complete as could reasonably be expected and identifies the main judgements, risks and uncertainties within the policy.

Compliance

The Treaty of Waitangi

18. No formal steps have been taken to determine whether the provisions in the Bill are consistent with the principles of the Treaty of Waitangi.

The New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

19. The Bill has been provided to the Ministry of Justice to review whether it complies with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Departmental disclosure statement

20. The Bill complies with the departmental disclosure statement requirements. A draft departmental disclosure statement has been prepared and is attached.

The Privacy Act 2020

21. The provisions in the Bill comply with the principles and guidelines set out in the Privacy Act 2020. The Privacy Commissioner was consulted on the provisions in the Bill that relate to the use of existing information to administer the payments scheme.

Relevant international standards and obligations

22. No formal steps have been taken to determine whether the provisions in the Bill comply with New Zealand's international obligations.

The Legislation Guidelines

23. The Bill complies with the Legislation Guidelines (2021) which are maintained by the Legislation Design and Advisory Committee.

Consultation

24. Consultation on the provisions in this Bill with stakeholders (other than key government departments) did not occur due to time constraints and Budget sensitivities.

Binding on the Crown

25. The Bill amends the Income Tax Act 2007, which is binding on the Crown, and the Tax Administration Act 1994, which is not currently binding on the Crown.

Creating new agencies or amending law relating to existing agencies

26. The Bill will not create a new agency or amend law relating to existing agencies.

Allocation of decision-making powers

27. The Bill does not allocate decision-making powers.

Associated regulations

28. The Bill does not include associated regulations.

Other instruments

29. The Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

30. The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department (or equivalent position).

Commencement of legislation

31. The amendments will take effect on the day after the day the Bill receives Royal assent.

Parliamentary stages

32. The Minister of Revenue recommends that the Bill be introduced on 19 May 2022 and passed under urgency on the same day.

Proactive Release

33. The Minister of Revenue proposes to release this paper proactively, subject to redaction as appropriate under the Official Information Act 1982, after Budget Day.

Recommendations

The Minister of Revenue recommends that the Committee:

- 1 **note** that the Bill proposes amendments to the Income Tax Act 2007 and the Tax Administration Act 1994 that are necessary for Inland Revenue to be able to administer the cost-of-living payments;
- 2 **note** that the Bill proposes the cost-of-living payments be tax exempt and not included as income for Working for Families tax credits purposes;
- 3 **note** that the Bill does not include the eligibility criteria for the cost-of-living payments, but the Bill will require these criteria to be published on Inland Revenue's website;
- 4 **approve** the Taxation (Cost of Living Payments) Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 5 **authorise** the Minister of Finance and the Minister of Revenue to approve any drafting changes to the Bill, including its title, before its introduction;
- 6 **agree** that the Bill be introduced on 19 May 2022;
- 7 **agree** that the Government propose that the Bill be passed under urgency.

Authorised for lodgement

Hon David Parker
Minister of Revenue