

# **Taxation (Budget Measures) Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

#### *Reform of outdated tax credits*

As part of the Budget, the Government is proposing to abolish 3 outdated tax credits: the transitional circumstances tax credit (also known as the *income under \$9,880 tax credit*), the housekeepers tax credit, and the children's active income tax credit. The tax credits are being abolished as they are fiscally expensive but have long since ceased to have a strong policy justification. These reforms apply for the 2012–13 and later tax years.

The quick application is possible because, by and large, these tax credits are claimed only at year-end. It is possible, however, for 2 of the credits—the transitional circumstances tax credit and the children's active income tax credit—to be claimed by employees during the year through reduced Pay As You Earn (PAYE) deductions. Transitional rules for these taxpayers provide that the applicable PAYE rules continue until the end of the 2012–13 tax year. Such employees will benefit from the credits for the year if they do not file a tax return. They are not required to file a tax return as a result of receiving the credits; but if they do file a return, they may be assessed as having tax to pay.

In place of the children's active income tax credit, a new exemption is created for children, using the same eligibility criteria as for the

abolished credit. This exemption applies to income for which there is no withholding requirement, if the total of such income for the child is less than \$2,340. A child earning over \$2,340 of such income is required to pay tax on every dollar of that income.

This new rule aligns more closely with the original objective of the children's active income tax credit: reducing compliance costs for children by not forcing them to file income tax returns for small amounts of income. The present approach does not achieve this goal as many children file tax returns solely to gain access to the tax credit—generating unnecessary compliance and administration costs.

#### *Abolition of elections to leave herd valuation scheme*

As part of the Budget, the Government is also proposing to abolish the ability of farmers to change the valuation method for a type of specified livestock from the herd scheme to another livestock valuation method. Elections will not be effective if made on or after 18 August 2011. On that date, tax policy officials released for consultation a detailed issues paper, *Herd scheme elections*, which made it clear that the current situation was not acceptable to the Government. In deciding on the application date for the change, the Government took into account that current prices for sheep, beef, and dairy cattle are relatively high, which might be seen by farmers as a last opportunity to exit the herd scheme in the 2012–13 income year. Elections for such a change were required by the end of March 2012. The first tax payment that could be affected by the abolition will be the first instalment of provisional tax for the 2012–13 income year.

Legislation providing for the detailed consequences of the abolition will be introduced in a later taxation bill and subjected to the usual Parliamentary process.

#### *Student loan scheme: Repeal of 10% voluntary repayment bonus*

This Bill also gives effect to the announcement in Budget 2012 to repeal the 10% voluntary repayment bonus for any repayment of \$500 or more above a borrower's repayment obligation.

The objective of the bonus scheme was to encourage faster repayments by borrowers who were slow to repay their student loan, by encouraging them to pay off their loan more quickly and, as a consequence, to reduce the costs to the Government of the Student Loan Scheme.

The voluntary repayment bonus does not appear to be improving the value of the Student Loan Scheme, and the level of savings from the voluntary repayment bonus is lower than originally estimated. The take-up of the policy has largely been by individuals who were already paying back their loans quickly, and not by those who were slower to repay their loans. The bonus also appears to be encouraging some students to borrow when they do not need to do so. For example, a group of borrowers were in effect using the scheme to discount their annual fees, which was not the intention of the policy.

### **Regulatory impact statements**

Inland Revenue produced regulatory impact statements to help inform consideration of the reform of outdated tax credits and the abolition of elections to leave the herd valuation scheme. The Ministry of Education produced a regulatory impact statement on 10 May 2012 to help inform the main policy decisions taken by the Government relating to the repeal of the voluntary repayment bonus as part of the Student Support package.

A copy of each regulatory impact statement can be found at—

- <http://taxpolicy.ird.govt.nz/publications/type/ris>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

### **Clause by clause analysis**

*Clause 1* is the Title clause. The Bill is intended to be divided at the end of its committee of the whole House stage, and enacted as the following 2 Acts:

- Taxation (Budget Measures) Act 2012—*Parts 1 and 2*;
- Student Loan Scheme (Budget Measures) Amendment Act 2012—*Part 3*.

*Clause 2* states when the clauses come into force.

## Part 1

### Amendments to Income Tax Act 2007

*Clause 3* provides that *Part 1* amends the *Income Tax Act 2007*.

*Clause 4* inserts a new section *CW 55BB*, providing that income of certain minors is exempt income if there is no withholding requirement and the minor derives less than \$2,340 in the tax year. The prerequisites for a minor to be eligible for the exemption reflect the existing prerequisites for the children's active income tax credit. The exemption applies for the 2012–13 and later tax years.

*Clause 5* amends section *EC 8*. New subsection (3) provides that a person who elects to begin using the herd scheme, for a type of specified livestock for an income year, may not change to another valuation method, for the type of specified livestock and the same or a later income year, except by an election made before 18 August 2011.

*Clause 6* repeals sections *LC 3* to *LC 12*. Section *LC 3* provides for a tax credit for children. Section *LC 4* provides for a tax credit for transitional circumstances, which is available to a person engaged in full-time work for part of a year. Section *LC 5* gives the meaning of *engaged in full-time work*. Section *LC 6* provides for a tax credit for housekeeping payments for the services of a housekeeper. Section *LC 7* gives the meaning of *housekeeper*. Section *LC 8* gives the meanings of other defined terms. Section *LC 9* gives the amount of tax credit available to a person if the person is absent from New Zealand for part of a year. Section *LC 10* provides for a person who makes a return of income for a period other than a year. Section *LC 11* gives the amount of tax credit available to a person if the person is a non-resident for part of a year. Section *LC 12* provides for the assessment of a person who is a non-resident.

*Clause 7* amends section *YA 1* by repealing various definitions that are not needed as a result of *clause 6* and removing cross-references to sections repealed by *clause 6*.

*Clause 8* amends *schedule 2* by removing references to the tax code "ML", which is not used as a result of the abolition of the tax credit for transitional circumstances.

## **Part 2**

### **Amendments to Tax Administration Act 1994**

*Clause 9* provides that *Part 2* amends the *Tax Administration Act 1994*.

*Clause 10* amends *section 24B(3)*, by deleting a cross-reference and repealing a reference to a tax code, as a result of the abolition of some tax credits by *clause 6*.

*Clause 11* repeals *section 24H(7)*, which refers to the tax code relating to the abolished tax credit for transitional circumstances.

*Clause 12* amends *section 41A*, by deleting cross-references to repealed sections and removing references to housekeeping payments.

## **Part 3**

### **Student loan scheme: Repeal of 10% voluntary repayment bonus**

*Clause 13* provides that *Part 3* amends the *Student Loan Scheme Act 2011*.

*Clause 14* states the purpose of *Part 3*.

*Part 3* amends the *Student Loan Scheme Act 2011* to—

- remove eligibility for, and entitlement to, a 10% bonus (a reduction in the loan balance by an amount equal to 10% of a borrower's excess repayment for the relevant tax year) in respect of an excess repayment made for the borrower for the 2013–14 or a later tax year; but
- ensure any excess repayment bonus from an excess repayment by payments made for the 2012–13 tax year is determined and credited under the provisions that *Part 3* repeals on 1 April 2013 for later tax years; and
- ensure a borrower's overseas-based repayment obligation for the 2013–14 tax year is assessed taking into account any 2012–13 tax year excess repayment bonus of the borrower.

#### *Repeals of provisions on 10% bonus*

*Clauses 15 to 17* repeal *sections 118 and 121(1)(a) and (2)(a) and Part 3, subpart 1*, which relate to the 10% bonus. The repeals are

accompanied by application provisions to ensure that 2012–13 tax year repayments are the last ones eligible for the 10% bonus.

*Consequential changes to overseas-based  
repayment obligation*

*Clauses 18 and 19* make consequential changes to *sections 110 and 111* on the overseas-based repayment obligation. The changes are accompanied by application provisions to ensure that 2013–14 is the last tax year for which a 10% bonus for the previous year affects an overseas-based repayment obligation.

*Consequential repeals of  
spent amending provisions*

*Clause 20* repeals consequentially spent amending *sections 31(2), 32, 37, 39, and 40 of the Student Loan Amendment Act 2012*.

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*Hon Bill English*

## **Taxation (Budget Measures) Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Taxation (Budget Measures) Act **2012**.

**2 Commencement**

- (1) This Act comes into force on the day on which it receives the Royal assent, except as provided in this section. 5
- (2) **Section 5** comes into force on 18 August 2011.
- (3) **Sections 8, 10, and 11** come into force on 1 April 2013.
- (4) **Part 3**, except **sections 18, 19, and 20(2)**, comes into force on 1 April 2013. 10
- (5) **Sections 18, 19, and 20(2)** come into force on 1 April 2014.

**Part 1**  
**Amendments to Income Tax Act 2007**

**3 Income Tax Act 2007**

This Part amends the Income Tax Act 2007.

**4 New section CW 55BB inserted (Minors' income, to limited extent) 5**

(1) After section CW 55BA, insert:

**“CW 55BB Minors' income, to limited extent**

*“When this section applies*

“(1) This section applies for a tax year to a person, other than an absentee, when the person is— 10

“(a) younger than 15:

“(b) younger than 18, and attends—

“(i) a private primary school, state primary school, private secondary school, or state secondary school, in each case as defined in the Education Act 1964: 15

“(ii) an integrated school as defined in section 2 of the Private Schools Conditional Integration Act 1975: 20

“(iii) a school providing special education as defined in the Education Act 1964 and the Education Act 1989:

“(c) younger than 19, and—

“(i) was a person to whom **paragraph (b)** applied during the previous tax year; and 25

“(ii) turned 18 on or after 1 January in that previous tax year; and

“(iii) continues to attend a school of a kind referred to in **paragraph (b)**. 30

*“Exempt income—if less than limit*

“(2) An amount of income derived by the person in the tax year is exempt income if—

“(a) the income is none of—

“(i) a PAYE income payment: 35

“(ii) resident passive income:

“(iii) non-resident passive income:

- “(iv) excluded income:  
“(v) exempt income under another provision; and  
“(b) the person derives in the tax year a total amount of income meeting the requirements of **paragraph (a)** that is less than \$2,340. 5
- “Defined in this Act: absentee, excluded income, exempt income, income, non-resident passive income, PAYE income payment, resident passive income, tax year”.
- (2) **Subsection (1)** applies for the 2012–13 and later tax years.
- 5 Section EC 8 amended (Restrictions on use of herd scheme) 10**
- (1) In section EC 8, heading, replace “on” with “arising from”.  
(2) After section EC 8(2), insert:  
*“No election after 18 August 2011 to change from use of herd scheme 15*
- “(3) A valuation method other than the herd scheme is not available to a person, in an income year after the 2011–12 income year, for a type of specified livestock if the person—  
“(a) gives a notice of election, with application beginning for or before the income year, to use the herd scheme 20  
for the type of specified livestock; and  
“(b) does not give before 18 August 2011 a later notice of election, with application beginning for or before the income year, to use another valuation method for the type of specified livestock.” 25
- 6 Sections and headings in subpart LC repealed (Tax credits for natural persons)**
- (1) Repeal—  
(a) the heading before section LC 3:  
(b) section LC 3: 30  
(c) the heading before section LC 4:  
(d) sections LC 4 and LC 5:  
(e) the heading before section LC 6:  
(f) sections LC 6 to LC 8:  
(g) the heading before section LC 9: 35  
(h) section LC 9:  
(i) the heading before section LC 10:

- (j) sections LC 10 to LC 12.
- (2) **Subsection (1)** applies for the 2012–13 and later tax years, except as given by **subsection (3)**.
- (3) For the purposes of schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, **subsection (1)(d)** applies for PAYE income payments made on or after 1 April 2013. 5
- 7 Section YA 1 amended (Definitions)**
- (1) This section amends section YA 1.
- (2) In the definition of **civil union partner**, replace “sections LC 4 and LC 13 (which relate to tax credits for natural persons)” with “section LC 13 (Tax credits for independent earners)”. 10
- (3) Repeal the definition of **compensation**.
- (4) Repeal the definition of **engaged in full-time work**.
- (5) Repeal the definition of **home**. 15
- (6) Repeal the definition of **household member**.
- (7) Repeal the definition of **housekeeper**.
- (8) Repeal the definition of **housekeeping payments**.
- (9) Repeal the definition of **institution**.
- (10) In the definition of **non-refundable tax credit**, paragraph (a), delete “, excluding section LC 6 (Tax credits for housekeeping)”. 20
- (11) Repeal the definition of **paid work**.
- (12) Repeal the definition of **personal injury by accident**.
- (13) In the definition of **separated person**, delete “section LC 7 (Meaning of housekeeper),”. 25
- (14) In the definition of **spouse**, delete “section LC 4 (Tax credits for transitional circumstances) and”.
- (15) **Subsections (2) to (14)** apply for the 2012–13 and later tax years except as given by **subsection (16)**. 30
- (16) For the purposes of sections LC 4 and LC 5 and schedule 2, and of sections 24B and 24H(7) of the Tax Administration Act 1994, **subsections (2), (3), (4), (11), (12), and (14)** apply for PAYE income payments made on or after 1 April 2013.

**8 Schedule 2—Basic tax rates for PAYE income payments**

- (1) In schedule 2, part A, clause 1—
- (a) in the heading, replace “‘M’ , ‘ME’ , and ‘ML’ ” with “‘M’ and ‘ME’ ”;
- (b) in paragraph (b), replace “ ‘M’ , ‘ME’ , or ‘ML’ ” with “ ‘M’ or ‘ME’ ”. 5
- (2) In schedule 2, part A, clause 2—
- (a) in the heading, replace “‘M’ , ‘ME’ , and ‘ML’ ” with “‘M’ and ‘ME’ ”;
- (b) in the words before the formula, replace “ ‘M’ , ‘ME’ , 10 or ‘ML’ ” with “ ‘M’ or ‘ME’ ”.

**Part 2****Amendments to Tax Administration Act 1994**

- 9 Tax Administration Act 1994** 15  
This Part amends the Tax Administration Act 1994.
- 10 Section 24B amended (PAYE tax codes)**
- (1) In section 24B(3)(a), delete “LC 4 or”.
- (2) Repeal section 24B(3)(b).
- (3) **Subsections (1) and (2)** apply for the 2013–14 and later tax 20 years.
- 11 Section 24H amended (When entitlement to use tax code ends)**
- (1) Repeal section 24H(7).
- (2) **Subsection (1)** applies for the 2012–13 and later tax years. 25
- 12 Section 41A amended (Returns by persons with tax credits for housekeeping payments and charitable or other public benefit gifts)**
- (1) In the heading to section 41A, delete “housekeeping payments and”. 30
- (2) In section 41A(1), delete “section LC 6 or”.
- (3) In section 41A(3),—

- (a) delete “housekeeping payments under section LC 6 of that Act and”:
- (b) replace “payment or gift, or both,” with “gift”.
- (4) In section 41A(4),—
  - (a) delete “, in equal portions,”: 5
  - (b) delete “housekeeping payments and”:
  - (c) replace “payment or gift, or both,” with “gift”.
- (5) Repeal section 41A(5)(a).
- (6) In section 41A(10), delete “section LC 6 or”.
- (7) **Subsections (1) to (6)** apply for the 2012–13 and later tax 10 years.

### Part 3

#### Student loan scheme: Repeal of 10% voluntary repayment bonus

- 13 Student Loan Scheme Act 2011** 15  
This **Part** amends the Student Loan Scheme Act 2011.
- 14 Purpose**  
This **Part** amends the Student Loan Scheme Act 2011 to—
  - (a) remove eligibility for, and entitlement to, a 10% bonus (a reduction in the loan balance by an amount equal to 10% of a borrower’s excess repayment for the relevant tax year) in respect of an excess repayment made for the borrower for the 2013–14 or a later tax year; but 20
  - (b) ensure an excess repayment bonus from an excess repayment by payments made for the 2012–13 tax year is determined and credited under the provisions that this **Part** repeals on 1 April 2013 for later tax years; and 25
  - (c) ensure a borrower’s overseas-based repayment obligation for the 2013–14 tax year is assessed taking into account any 2012–13 tax year excess repayment bonus of the borrower. 30

#### *Repeal of provisions on 10% bonus*

- 15 Section 118 repealed (Interpretation)**
- (1) Repeal section 118.

- (2) **Subsection (1)** applies for the 2013–14 and later tax years.

**16 Section 121 amended (Options that apply to excess repayments)**

- (1) In section 121, repeal subsections (1)(a) and (2)(a).  
 (2) **Subsection (1)** applies for the 2013–14 and later tax years. 5

**17 Part 3, subpart 1 repealed**

- (1) In Part 3, repeal subpart 1.  
 (2) **Subsection (1)** applies for the 2013–14 and later tax years.

*Consequential changes to  
 overseas-based repayment obligation*

10

**18 Section 110 amended (Repayment obligations of overseas-based borrowers)**

- (1) In section 110(6)(b)(ii), delete “; and”.  
 (2) In section 110(6)(b), repeal subparagraph (iii).  
 (3) **Subsections (1) and (2)** apply for the 2014–15 and later tax years. 15

**19 Section 111 amended (Exceptions to repayment obligations of overseas-based borrowers)**

- (1) In section 111(5)(b)(ii), delete “; and”.  
 (2) In section 111(5)(b), repeal subparagraph (iii). 20  
 (3) **Subsections (1) and (2)** apply for the 2014–15 and later tax years.

*Consequential repeals of  
 spent amending provisions*

**20 Student Loan Scheme Amendment Act 2012 amended** 25

- (1) This section amends the Student Loan Scheme Amendment Act 2012.

- (2) Repeal sections 31(2) and 32.
  - (3) Repeal sections 37, 39, and 40.
-