

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

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill amends the Tax Administration Act 1994 and the Income Tax Act 2007.

The amendments proposed by the Bill in relation to the COVID-19 resurgence support payments (CRSP) scheme are aimed at assisting with the impacts of further COVID-19 outbreaks.

The Bill also sets the minimum family tax credit threshold for the 2021–22 and later tax years, a tax credit aimed at providing financial support to low-income working families.

### *COVID-19 resurgence support payments scheme*

The CRSP scheme is part of the suite of support packages to assist with the Government's response to COVID-19 and will be administered by Inland Revenue.

The CRSP scheme aims to limit the economic and social impacts of public health restrictions. It does so by providing financial support to businesses in the event of alert level escalations following further outbreaks of COVID-19 in the community. The Bill proposes amendments to support the administration of the CRSP scheme.

The 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 7 days or more. The scheme will be available to all businesses in New Zealand each time it activates. The scheme will 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 7-day period at alert level 2 or higher

with a typical weekly revenue in the 6 weeks preceding the move from alert level 1. In addition, applicants must have been in business for at least 6 months.

The proposed CRSP scheme introduces a one-off support payment to businesses in the form of a grant. The payment will comprise a base amount of \$1,500 per applicant plus \$400 per full-time equivalent (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 amount an applicant may receive under the scheme is further capped by the amount their revenue has declined by. The amount an applicant may therefore receive will be the lower of the amount calculated using the formula (\$1,500 plus \$400 per FTE), and 4 times the amount their revenue has declined by as declared by the applicant as part of their application.

#### *Minimum family tax credit*

This Bill sets the minimum family tax credit threshold for the 2021–22 and later tax years. It is increased from \$29,432 per annum to \$30,576 per annum to account for the increases in the benefit abatement thresholds in 2021.

#### **Departmental disclosure statement**

The Inland Revenue Department is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2021&no=8>

#### **Regulatory impact assessment**

The Ministry of Social Development and the Inland Revenue Department produced a regulatory impact assessment on 3 December 2020 to help inform the policy decision taken by the Government relating to the amendment to the minimum family tax credit in this Bill. The Treasury and the Inland Revenue Department produced a supplementary analysis report on 28 January 2021 relating to the policy decisions taken by the Government in relation to the CRSP scheme.

Copies can be found at—

- <https://taxpolicy.ird.govt.nz/publications>
- <https://www.treasury.govt.nz/publications/legislation/regulatory-impact-assessments>

#### **Clause by clause analysis**

*Clause 1* gives the title of the bill.

*Clause 2* gives the dates on which the clauses of the bill come into force.

## Part 1

### Amendments to Tax Administration Act 1994

*Clause 3* provides that *clauses 4 to 7* amend the Tax Administration Act 1994.

*Clause 4* amends section 3. *Subclause (2)* inserts a definition of *COVID-19 resurgence support payments scheme*. *Subclause (3)* amends the definition of *disputable decision* to exclude a decision to make, or to decline to make, a grant under the CRSP scheme from the list of disputable decisions. *Subclause (4)* amends the definition of *tax* to treat an amount paid as a grant under the CRSP scheme as tax for the purposes of various administrative rules, including those on care and management and the recovery of tax.

*Clause 5* inserts *new sections 7AAB and 7AAC* to provide for the establishment of a grants scheme for businesses that would come into operation in the case of a COVID-19 resurgence and an escalation in alert levels. The scheme would be activated by Order in Council.

*Clause 6* amends section 157(10), in the definition of *income tax* that applies for the purposes of the section, to include in that term the amount of a grant under the CRSP scheme. Section 157 provides that the Commissioner may require a person to deduct an amount from amounts payable to a taxpayer who is in default.

*Clause 7* amends the disclosure rules in schedule 7, part A, to allow for the publication of the names of those persons to whom a grant under the CRSP scheme has been made.

## Part 2

### Amendments to Income Tax Act 2007

*Clause 8* provides that *clauses 9 to 11* amend the Income Tax Act 2007.

*Clause 9* amends section MB 13 to exclude the amount of a grant made under the CRSP scheme from the calculation of family scheme income.

*Clause 10* amends section ME 1 to increase the prescribed amount used in the calculation of the minimum family tax credit.

*Clause 11* amends the definition of *exempt interest* in section YA 1 to include a reference to interest payable on the repayment of a grant made under the CRSP scheme to ensure that the person paying the interest is not required to withhold resident withholding tax.



*Hon David Parker*

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

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Taxation (COVID-19 Resurgence Support Payments and Other Matters) Act **2021**.

**2 Commencement** 5

- (1) This Act comes into force on the date on which it receives the Royal assent, except as provided in this section.
- (2) **Section 10** comes into force on 1 April 2021.

**Part 1****Amendments to Tax Administration Act 1994** 10**3 Amendments to Tax Administration Act 1994**

**Sections 4 to 7** amend the Tax Administration Act 1994.

**4 Section 3 amended (Interpretation)**

- (1) This section amends section 3(1).
- (2) Insert, in appropriate alphabetical order: 15
- COVID-19 resurgence support payments scheme** means the COVID-19 Resurgence Support Payments Scheme established and administered by the Crown to provide support to businesses in the circumstances of a resurgence in New Zealand of COVID-19
- (3) In the definition of **disputable decision**, paragraph (b),— 20
- (a) in subparagraph (vi), replace “section 7AA” with “section 7AA; or”;
- (b) after subparagraph (vi), insert:
- (vii) to make, or to decline to make, a grant under the COVID-19 resurgence support payments scheme under **section 7AAB**
- (4) In the definition of **tax**, after paragraph (cc), insert: 25
- (cd) for the purposes of sections 6 to 6B, 156 to 165, 173L, 173M, 173S, 173T, 174AA, and 176 to 177CA, includes an amount payable in relation to a grant made under the COVID-19 resurgence support payments scheme:

**5 New sections 7AAB and 7AAC inserted** 30

After section 7AA, insert:

**7AAB Authorisation to make COVID-19 resurgence support payments**

- (1) The purpose of this section is to provide authorisation for payments to be made under the COVID-19 resurgence support payments scheme (the **CRSP**

- scheme**) if a resurgence in New Zealand of COVID-19 should arise. It is intended that the scheme will provide for grants to be made to support eligible persons in New Zealand when—
- (a) an escalation in COVID-19 alert levels occurs; and
  - (b) the person suffers a reduction in revenue as a result. 5
- (2) The Commissioner, on behalf of the Crown, may make a grant under the CRSP scheme (a **grant**) to a person when—
- (a) the CRSP scheme is declared active by an Order in Council made under **section 7AAC** on a resurgence in New Zealand of COVID-19; and
  - (b) for the period of activation of the CRSP scheme,— 10
    - (i) the person meets the eligibility requirements referred to in **subsection (3)(b)(i)** for a grant; and
    - (ii) the person, or another person on their behalf, applies to the Commissioner for the grant.
- (3) For the purposes of **subsection (2)** and an activation period, the Commissioner— 15
- (a) must set out the procedure required for a person to make an application for a grant:
  - (b) must determine— 20
    - (i) the eligibility requirements that a person must meet to qualify for a grant:
    - (ii) the terms and conditions that apply to a grant:
  - (c) must publish, on an internet site administered by the Commissioner, the eligibility requirements referred to in **paragraph (b)(i)**.
- (4) If a person applies for a grant on behalf of another person, both the person and the person in whose name the application is made must provide information as required by the Commissioner. 25
- (5) The person in whose name an application is made is bound by the CRSP terms of the grant.
- (6) The total amount of a grant paid to the person, together with any amount payable under the CRSP terms, must be repaid to the Commissioner if the CRSP terms require repayment. 30
- (7) If a person who receives a grant from the Commissioner does not meet the eligibility requirements referred to in **subsection (3)(b)(i)**, the person must immediately repay to the Commissioner the total amount of the grant together with any amount payable under the CRSP terms. 35
- (8) The persons referred to in **subsection (4)** must keep records referred to in section 22 to demonstrate that the eligibility requirements are met and the CRSP terms have not been breached.

- (9) For the purposes of this section and **section 7AAC**, the **CRSP terms** of a grant for an activation period mean—
- (a) the terms and conditions applying in relation to a person’s eligibility for the grant at the time the grant is made, and any other terms and conditions determined by the Commissioner under **subsection (3)(b)(ii)**: 5
  - (b) the terms set out in an application for the grant that is made by or on behalf of a person, including the contents of a declaration, consent, or other representation made by or on behalf of the person:
  - (c) the terms and conditions set out in an agreement between the Commissioner and the person receiving the grant. 10
- (10) This section applies whether or not the resurgence in New Zealand of COVID-19 arises before this section comes into force.

**7AAC Orders in Council related to COVID-19 resurgence support payments scheme**

- (1) For the purposes of **section 7AAB**, the Governor-General may by Order in Council— 15
- (a) declare the activation of the COVID-19 resurgence support payments scheme (the **CRSP scheme**) in the circumstances of a resurgence in New Zealand of COVID-19:
  - (b) specify the period for which, or the circumstances in which, the CRSP scheme is to operate: 20
  - (c) describe a class or classes of persons who may apply for support under the CRSP scheme and the amount of the grant to which they may be entitled:
  - (d) specify amendments to the CRSP scheme, the CRSP terms of a grant, or the matters referred to in **section 7AAB(3)(a) and (b)**: 25
  - (e) extend, renew, or replace a time limit referred to in **schedule 7, part A, clause 13B(2)(b)**.
- (2) For an order made under the power given in **subsection (1)(e)**, the order— 30
- (a) expires if not renewed or replaced under **paragraph (b)**, after—
    - (i) the period set out in the order, if applicable; or
    - (ii) if no period is set out, 6 months after the order comes into force:
  - (b) may be renewed or replaced by an Order in Council made on the recommendation of the Minister of Revenue before the date on which the order would otherwise expire. 35
- (3) An Order in Council made under **subsection (1) or (2)(b)** is a legislative instrument and a disallowable instrument for the purposes of the Legislation Act 2012, and must be presented to the House of Representatives under section 41 of that Act.

- 6 Section 157 amended (Deduction of tax from payments due to defaulters)**  
In section 157(10), in the definition of **income tax**, after paragraph (j), insert:  
(k) an amount payable in relation to a grant made under the COVID-19 resurgence support payments scheme
- 7 Schedule 7 amended (Disclosure rules)** 5  
In schedule 7, part A, after clause 13, insert:
- 13B Publication of details related to COVID-19 resurgence support payments scheme**
- (1) Section 18 does not prevent the Commissioner publishing information related to the COVID-19 resurgence support payments scheme (the **CRSP scheme**), including the names of persons to whom the Commissioner has made a grant under the scheme and other details related to the grant. 10
- (2) Despite **subclause (1)**, the Commissioner may publish the information only if— 15
- (a) the Commissioner considers that—
- (i) the information is readily available; and
- (ii) it is reasonable and practicable to disclose the information; and
- (iii) it is not undesirable to disclose the information; and
- (iv) the disclosure of the information is reasonably necessary for the purposes of the administration of the CRSP scheme; and 20
- (b) no more than 24 months have passed since the date on which this clause comes into force.
- (3) The time limit imposed by **subclause (2)(b)** may be extended by an Order in Council made under **section 7AAC**.

**Part 2** 25

**Amendments to Income Tax Act 2007**

- 8 Amendments to Income Tax Act 2007**  
**Sections 9 to 11** amend the Income Tax Act 2007.
- 9 Section MB 13 amended (Family scheme income from other payments)**  
After section MB 13(2)(jb), insert: 30
- (jc) a payment made under the COVID-19 resurgence support payments scheme, as defined in section 3(1) of the Tax Administration Act 1994:
- 10 Section ME 1 amended (Minimum family tax credit)**
- (1) In section ME 1(3)(a), replace “\$29,432” with “\$30,576”.

(2) **Subsection (1)** applies for the 2021–22 and later tax years.

**11 Section YA 1 amended (Definitions)**

In section YA 1, in the definition of **exempt interest**, after paragraph (db), insert:

(dc) payable in relation to the repayment of a grant under the COVID-19 resurgence support payments scheme, as defined in section 3(1) of the Tax Administration Act 1994; or