

Departmental Disclosure Statement

COVID-19 Response (Taxation and Social Assistance Urgent Measures) Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Inland Revenue Department and the Ministry of Social Development.

The Inland Revenue Department and the Ministry of Social Development certifies that, to the best of their knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

24 March 2020

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Part One: General Policy Statement

This omnibus Bill introduces amendments to the following legislation:

- Income Tax Act 2007
- Tax Administration Act 1994
- Goods and Services Tax Act 1985
- Social Security Act 2018
- Taxation (KiwiSaver, Student Loans, and Remedial Matters) Act 2020
- Commissioner's Table of Depreciation Rates

The policy proposals in this Bill are all aimed at assisting the Government's response to the economic impacts of the COVID-19 outbreak. The Bill includes targeted measures aimed at providing relief to those that have been economically affected by the COVID-19 outbreak. The Bill also includes measures aimed at addressing the broader economic impacts of the outbreak.

Owing to the short timeframe available for developing a policy response to COVID-19 no public consultation has been undertaken on the proposals in the Bill. As such, the tax policy measures within this Bill have not been developed in accordance with the Generic Tax Policy Process.

The following is a brief summary of the policy measures contained in this Bill. A fuller explanation of the policy items is provided in a commentary on the Bill that is available at <https://taxpolicy.ird.govt.nz/publications/2020-commentary-covid-19-bill/overview>.

Depreciation on non-residential buildings

The Bill proposes to reintroduce depreciation deductions for non-residential buildings. This is intended to support businesses' cash flow in the near-term and assist with the broader economic recovery by stimulating business investment in new and existing buildings.

Provisional tax threshold

The Bill proposes to increase the threshold for having to pay provisional tax from \$2,500 to \$5,000. This would allow more taxpayers to delay paying their taxes as they would no longer need to pay in instalments throughout the year.

Low value asset threshold

Taxpayers are currently able to deduct in the year the asset was purchased the full purchase price of assets that cost less than \$500. However, for assets over \$500 deductions for the purchase price are spread over the life of the asset. The Bill proposes to temporarily increase this \$500 threshold to \$5,000 for assets purchased in the 12 months from 17 March 2020. This temporary increase is intended to incentivise taxpayers to bring forward investments to encourage spending.

The Bill further proposes to permanently increase the \$500 threshold to \$1,000 for assets purchased from 17 March 2021. This would reduce compliance costs for businesses and encourage businesses to continue investing.

Research and development tax credits

The Bill proposes an amendment to bring the application date of broader refundability for the R&D tax credit forward by one year, to the 2019–20 income year, to help

businesses retain their R&D capability during the COVID-19 outbreak. The R&D tax credit currently only has limited refundability rules, which may not provide sufficient support to loss-making businesses or businesses who do not pay enough income tax to fully utilise their R&D tax credits. Broader refundability rules have been developed and will apply from year 2 of the regime (the 2020–21 income year); however, these rules will not apply in time to benefit R&D performers struggling with the effects of COVID-19. Bringing the application date of the year 2 refundability rules forward to year 1 (2019–20 income year) would provide more businesses with access to R&D tax credit refunds sooner.

Use of money interest remission

The Bill proposes to allow Inland Revenue to remit interest on a late tax payment if the taxpayer's ability to make the tax payment on time was significantly adversely affected by the COVID-19 outbreak. The ability to remit interest would apply only to tax payments that were due on or after 14 February 2020.

Information sharing

The Bill proposes an amendment to the rules governing Inland Revenue's ability to share information with other government departments. The Bill would allow Inland Revenue to share information with other government departments to assist those agencies in their response to the COVID-19 outbreak. This would allow information to be supplied to assist the efficient and effective delivery of the Government's COVID-19 response.

Removal of hours test from the in-work tax credit

The in-work tax credit (IWTC) is an income-tested cash payment of \$72.50 per week (\$3,770 per year) to working families with children. To be eligible families must be normally working at least 20 hours a week (sole parents) or 30 hours a week (couples). The Bill proposes to remove the work hours eligibility requirement from the IWTC. This would mean that working families who have a reduction in working hours as a result of COVID-19 do not lose their eligibility for the IWTC.

Working for Families tax credit entitlement for emergency benefit recipients

Currently, emergency benefit recipients with dependent children and who are on a temporary visa do not qualify for Working for Families (WFF) tax credits. This is because they do not meet the residence criteria for WFF. The result is a difference in the financial support that these families can access compared with other main benefit recipients with children. The Bill proposes to allow people on a temporary visa, who would not otherwise meet the WFF residence criteria, to qualify for WFF if they receive an emergency benefit from the Ministry of Social Development. This would ensure that families on a temporary visa who receive an emergency benefit because of COVID-19 are able to access a comparable level of financial support to other recipients of main benefits.

GST on COVID-19 related payments

The Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 added the COVID-19 wage subsidy and the COVID-19 leave payment to the schedule of non-taxable grants and subsidies in the Goods and Services Tax (Grants and Subsidies) Order 1992 from 24 March 2020. However, the wage subsidy and leave payments have been paid out from 17 March 2020. The Bill proposes that GST not apply to payments of

the COVID-19 wage subsidy and leave payments from 17 March 2020 until the date the 2020 amendment Order came into force. This would ensure consistent GST treatment of these payments regardless of when they were made.

Winter energy payment

The winter energy payment (WEP) is assistance paid to help eligible people meet their household heating costs during the winter months. The rates for the WEP have been doubled by Order in Council to \$900 per year for single people with no dependent children and \$1,400 per year for couples and people with dependent children. However, this increase in the WEP rates is intended to be temporary and apply for 2020 only. The Bill therefore proposes to restore the WEP rates from 2021 onwards to their current rates of \$450 per year for single people with no dependent children and \$700 per year for couples and people with dependent children.

Departmental disclosure statement

The Inland Revenue Department and the Ministry of Social Development are 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://disclosure.legislation.govt.nz/bill/government/2020/>.

Regulatory impact assessment

No regulatory impact assessments have been produced for this Bill due to the very short timeframe for developing a policy response to the COVID-19 outbreak.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
A commentary on the Bill is available at https://taxpolicy.ird.govt.nz/publications/2020-commentary-covid-19-bill/overview .	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	N/A
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	NO
Owing to the very short timeframe available for developing a policy response to the COVID-19 outbreak no regulatory impact assessments have been prepared on the proposals in this Bill.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	N/A
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2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	N/A
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
No significant further impact analysis has become available for any aspects of the policies in the Bill. However, the commentary on the Bill, available at https://taxpolicy.ird.govt.nz/publications/2020-commentary-covid-19-bill/overview , contains analysis of the proposals included in the Bill.	

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	NO
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>Because of the very short timeframe available for developing a response to COVID-19 there is no publicly available analysis on the potential costs and benefits or potential for any group of persons to suffer a substantial unavoidable loss of income or wealth. It is expected the Cabinet papers containing these proposals will be proactively released shortly. These Cabinet papers would contain analysis on the policy to be given effect by the Bill.</p> <p>This omnibus Bill contains amendments to the tax legislation which, by its nature and to varying degrees, will have an impact on resident and non-resident individuals, businesses and organisations. However, the proposals in this Bill are taxpayer favourable and are therefore not expected to cause a substantial unavoidable loss of income or wealth for any group of persons.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The effectiveness of taxation legislation is, by its nature, reliant on effective and voluntary compliance. The level of effective compliance or non-compliance with specific applicable obligations or standards, and the nature of regulator effort, may have an impact on the potential costs or benefits for some policy items to be given effect by the Bill.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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There have been no formal steps to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

No formal steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi.
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	TBC
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Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports, will be available on the Ministry's website at https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/ .
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Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	YES
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The Bill contains a proposal that would allow Inland Revenue to share taxpayer information with Government departments, New Zealand Police, ACC and Kāinga Ora, to assist these agencies in relation to the COVID-19 outbreak.
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3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
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The Office of the Privacy Commissioner has been informed of the information sharing proposal contained in the Bill. However, because of the short timeframes for developing a policy response to the COVID-19 outbreak, the Commissioner has not been consulted on the proposal.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?

NO

Because of the short timeframes available for developing a policy response to the COVID-19 outbreak, there has been no external consultation on the policies to be given effect by this Bill.

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?

YES

The proposals in the Bill have been reviewed by internal operational subject matter experts under Inland Revenue's standard process for assessing the administrative impacts of any new policy initiatives and ensuring they are workable and complete. This involves assessing whether systems need to be changed and, if so, whether formal testing needs to be carried out.

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
Given this Bill is amending tax legislation, it does contain provisions that create or amend a power to impose a charge that is a tax. However, for the purposes of this statement, the answer is “No” as per the scope of this question explained in pages 53 and 54 of the Disclosure Statements for Government Legislation: Technical Guide for Departments (June 2013).	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
The proposal to allow Inland Revenue to remit use-of-money interest in response to COVID-19 would apply to interest that has accrued on tax payments due on or after 14 February 2020. The proposals regarding information sharing and the low-value asset threshold would both apply from 17 March 2020 being the date they were announced by the Government. The proposal to not apply GST to the COVID-19 wage subsidy and leave payment applies from 17 March 2020. This is to ensure consistent GST treatment of these payments regardless whether they were made before or after the Goods and Services Tax (Grants and Subsidies) Amendment Order 2020 came into force.	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
The proposals regarding information sharing and remitting use of money interest will apply only for a period of two years. However, the Bill allows for these time limits to be extended by Order in Council, if necessary, to respond to the impacts of COVID-19.	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO
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Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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