

Taxation (Annual Rates and Budget Measures) Bill

Government Bill

Explanatory note

General policy statement

The bill gives effect to tax reforms announced in Budget 2011 to reduce the fiscal costs of the KiwiSaver and Working for Families (WFF) tax credits programmes.

This bill amends the Income Tax Act 2007 to reduce the maximum amount of the member tax credit paid to members of KiwiSaver and complying superannuation funds by half, to \$521.43, and also to reduce the Crown contribution rate to 50 cents for each \$1 contributed by the member. The employer superannuation contribution tax (ESCT) exemption for compulsory employer contributions to KiwiSaver and complying superannuation funds is removed. In addition, employers will be required to calculate ESCT at a rate equivalent to an employee's marginal tax rate.

The WFF abatement rate will increase, over time, from 20% to 25% and the WFF abatement threshold will reduce over the same period from \$36,827 to \$35,000. The current Family Tax Credit amounts for eldest and subsequent children aged 16 and over will also be aligned, over time, with the family tax credit amounts for the eldest child under 16 or for subsequent children aged 13 to 15 respectively.

This bill also sets the annual rates of income tax for the 2011–12 tax year.

Regulatory impact statement

The Treasury and Inland Revenue Department produced 2 regulatory impact statements on 4 April 2011 and 6 April 2011 to help inform the main policy decisions taken by the Government relating to the contents of this bill.

A copy of these regulatory impact statements can be found at—

- <http://taxpolicy.ird.govt.nz/publications/2011-ris-arbm-bill/overview>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Annual rates of income tax

This bill sets the annual rates of income tax for the 2011–12 tax year.

Working for Families

The objective of the amendments to the WFF tax credits is to reduce the fiscal costs of the scheme while protecting amounts of tax credits for lower income earners, and minimising the effects on work incentives.

The end result is for WFF tax credits to abate at a rate of 25% from a threshold of \$35,000 with 1 amount of Family Tax Credit for the eldest child and 2 amounts of Family Tax Credit for subsequent children, for 0–12 years and 13 and over. This result will be achieved by staggering the increase in the abatement rate, the decrease in the threshold and the alignment of amounts of Family Tax Credit over time so the impact on families is gradual, while still generating fiscal savings.

There are 3 parts to the amendments to the WFF tax credits:

- The rate at which WFF tax credits are abated will increase by 1.25 percentage points every time the Family Tax Credit amounts are increased for inflation, until the abatement rate reaches 25%. The first abatement rate increase will occur on 1 April 2012 when the first inflation increase under section MF 7(2) of the Income Tax Act 2007 applies; and
- The threshold at which WFF tax credits begin to abate will decrease from \$36,827 to \$36,350, also on 1 April 2012. The threshold will continue to decrease by \$450 each subsequent

time the Family Tax Credit amounts are increased for inflation, until the threshold reaches \$35,000; and

- The Family Tax Credit amounts for children aged 16 and over will no longer be increased for inflation until the Family Tax Credit amounts for the eldest child under 16 or for subsequent children aged 13 to 15, equals the respective 16 and over amounts. At this point the amounts will be aligned and subsequent increases for inflation will apply.

KiwiSaver

The maximum amount of the member tax credit is reduced to \$521.43 per year. The rate at which the member tax credit is paid by the Government is also reduced to 50c for each \$1 contributed by individual KiwiSaver members (or members of complying superannuation funds), up to the new maximum amount. The lower maximum amount and member tax credit rate will apply for member tax credits paid for the year ending 30 June 2012 and later years.

The current exemption from ESCT for an employer's superannuation cash contributions (up to 2% of salary and wages) to employees' KiwiSaver and complying superannuation fund accounts will be removed from 1 April 2012.

Also, from 1 April 2012, ESCT deducted from an employer's superannuation cash contributions to any superannuation fund (not just KiwiSaver funds) must be calculated at a rate equivalent to an employee's marginal tax rate. The current default deduction rate (a flat-rate of 0.33) is removed from 1 April 2012.

These changes are intended to alter the balance of contributions to KiwiSaver accounts away from public funding and towards private saving. They will generate fiscal savings by reducing the public cost of Government contributions to individual accounts, while improving the targeting of the remaining Government incentives to encourage higher personal saving, particularly for those on lower incomes.

Clause by clause analysis

Clause 1 gives the title of the Act.

Clause 2 gives the dates on which clauses come into effect.

Part 1

Annual rates of income tax

Clause 3 sets the annual rates of income tax for the 2011–12 tax year.

Part 2

Working for Families and KiwiSaver

Amendments to Income Tax Act 2007

Clause 4 gives the numbers of the clauses that affect the *Income Tax Act 2007*.

Clause 5 amends *section MD 13* to incrementally decrease the threshold at which Working for Families tax credits start to abate, and at the same time incrementally increase the rate at which those credits abate.

Clause 6 amends *section MF 7* to remove the increase for inflation in the Family Tax Credit amounts for 16, 17, and 18 year old dependent children, until the Family Tax Credit amounts for other dependent children (which continue to increase) are at the same level. When the amounts are at the same level, the increase for inflation for 16, 17, and 18 year old dependent children resumes.

Clause 7 amends *section MK 4* to set the member tax credit at 50c for each \$1 contributed by a KiwiSaver member or a member of a complying superannuation fund, up to a new maximum amount of \$512.43.

Clause 8 amends *section RD 5* as part of removing the current exemption from employer superannuation contribution tax for employer contributions to KiwiSaver schemes and complying superannuation funds.

Clause 9 amends *section RD 65* to remove the current exemption from employer superannuation contribution tax for employer contributions to KiwiSaver schemes and complying superannuation funds.

Clause 10 repeals *section RD 66* as part of removing the current exemption from employer superannuation contribution tax for employer contributions to KiwiSaver schemes and complying superannuation funds.

Clause 11 replaces *section RD 67* to require employer superannuation contribution tax to be calculated at a rate equivalent to an employee's marginal tax rate.

Clause 12 repeals *section RD 69* to require employer superannuation contribution tax to be calculated at a rate equivalent to an employee's marginal tax rate.

Clause 13 amends *section YA 1*. *Subclause (2)* replaces the definition of *complying fund rules*, as part of removing the current exemption from employer superannuation contribution tax for employer contributions to KiwiSaver schemes and complying superannuation funds. *Subclause (3)* amends the definition of *salary or wages*, as part of removing the current exemption from employer superannuation contribution tax for employer contributions to KiwiSaver schemes and complying superannuation funds.

Clause 14 amends *schedule 1, part D* to require employer superannuation contribution tax to be calculated at a rate equivalent to an employee's marginal tax rate.

Amendment to KiwiSaver Act 2006

Clause 15 adds *section 237* to protect against non-compliance with securities law as a result of KiwiSaver-related amendments in this bill.

Hon Bill English

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Amendment to KiwiSaver Act 2006

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the **Taxation (Annual Rates and Budget Measures) Act 2011**.

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(1)** comes into force on the 1 April that is the day of application required by section MF 7(3) of the Income Tax Act 2007 for the first Order in Council under section MF 7(1)(a) and (2). 10
- (3) **Section 5(2)** comes into force on the 1 April that is the day of application required by section MF 7(3) for the second Order in Council under section MF 7(1)(a) and (2).
- (4) **Section 5(3)** comes into force on the 1 April that is the day of application required by section MF 7(3) for the third Order in Council under section MF 7(1)(a) and (2). 15
- (5) **Section 5(4)** comes into force on the 1 April that is the day of application required by section MF 7(3) for the fourth Order in Council under section MF 7(1)(a) and (2).
- (6) **Section 7** comes into force on 1 July 2011. 20
- (7) **Sections 8, 9, 10, 11, 12, 13, and 14** come into force on 1 April 2012.

Part 1

Annual rates of income tax

- 3 Annual rates of income tax for 2011–12 tax year**
Income tax imposed by section BB 1 of the Income Tax Act 2007 must, for the 2011–12 tax year, be paid at the basic rates specified in schedule 1 of that Act. 5

Part 2

Working for Families and KiwiSaver

Amendments to Income Tax Act 2007

- 4 Income Tax Act 2007** 10
Sections 5 to 14 amend the Income Tax Act 2007.
- 5 Calculation of family credit abatement**
- (1) In section MD 13(3)(a),—
- (a) in subparagraph (i), “\$36,827, 20 cents” is replaced by “\$36,350, 21.25 cents”: 15
 - (b) in subparagraph (ii), “\$36,827, 20 cents” is replaced by “\$36,350, 21.25 cents”.
- (2) In section MD 13(3)(a),—
- (a) in subparagraph (i), “\$36,350, 21.25 cents” is replaced by “\$35,900, 22.5 cents”: 20
 - (b) in subparagraph (ii), “\$36,350, 21.25 cents” is replaced by “\$35,900, 22.5 cents”.
- (3) In section MD 13(3)(a),—
- (a) in subparagraph (i), “\$35,900, 22.5 cents” is replaced by “\$35,450, 23.75 cents”: 25
 - (b) in subparagraph (ii), “\$35,900, 22.5 cents” is replaced by “\$35,450, 23.75 cents”.
- (4) In section MD 13(3)(a),—
- (a) in subparagraph (i), “\$35,450, 23.75 cents” is replaced by “\$35,000, 25 cents”: 30
 - (b) in subparagraph (ii), “\$35,450, 23.75 cents” is replaced by “\$35,000, 25 cents”.

6 Orders in Council

- (1) In section MF 7(1)(a), the words before the subparagraphs are replaced by “increase the amounts in section MD 3(4)(a)(i) and (b)(i) and (ii) (Calculation of family tax credit) by amounts that—”. 5
- (2) After section MF 7(1)(a), the following is inserted:
 “(ab) increase the amount in—
 “(i) section MD 3(4)(a)(ii) to equal the corresponding amount in section MD 3(4)(a)(i), if the amount in section MD 3(4)(a)(i) would otherwise be the greater: 10
 “(ii) section MD 3(4)(b)(iii) to equal the corresponding amount in section MD 3(4)(b)(ii), if the amount in section MD 3(4)(b)(ii) would otherwise be the greater.”. 15
- (3) After section MF 7(2B), the following is inserted:
 “*Order in Council under subsection (1)(ab)*
 “(2C) An Order in Council must be made under **subsection (1)(ab)** if an Order in Council under subsection (1)(a) would otherwise result in— 20
 “(a) the amount in section MD 3(4)(a)(i) exceeding the amount in section MD 3(4)(a)(ii);
 “(b) the amount in section MD 3(4)(b)(ii) exceeding the amount in section MD 3(4)(b)(iii).”

7 Amount of tax credit 25

- (1) In section MK 4(2),—
 (a) “a person’s” is replaced by “half of a person’s”; and
 (b) “\$1042.86” is replaced by “\$521.43”.
- (2) Section MK 4(3)(a) and (b) are replaced by the following:
 “(a) equal to half of their total member credit contributions for the year, if that amount is equal to or less than the part-year maximum amount calculated under subsection (4); or 30
 “(b) equal to the part-year maximum amount calculated under subsection (4), if half of their total member credit contributions for the year is greater than the part-year maximum amount calculated under subsection (4).” 35

- (3) In section MK 4(4), in the formula, “\$1042.86” is replaced by “\$521.43”.
- (4) **Subsections (1), (2), and (3)** apply for calculating a tax credit for the year starting on 1 July 2011 and later years.
- 8 Salary or wages** 5
- (1) In section RD 5(1)(c)(vi), “Act; and” is replaced by “Act.”
- (2) Section RD 5(1)(d) is repealed.
- 9 Employer’s superannuation cash contributions**
- (1) Section RD 65(4) is repealed.
- (2) Section RD 65(13) is repealed. 10
- (3) In section RD 65, in the list of defined terms, “complying fund calculation period”, “complying fund rules”, “complying superannuation fund”, “compulsory employer contribution”, “KiwiSaver calculation period”, “KiwiSaver contribution”, “KiwiSaver scheme”, and “salary or wages” are omitted. 15
- 10 Section RD 66 repealed**
Section RD 66 is repealed.
- 11 Section RD 67 replaced** 20
Section RD 67 is replaced by the following:
“RD 67 Calculating amounts of tax for employer’s superannuation cash contributions
The amount of tax for an employer’s superannuation cash contribution is the amount determined under schedule 1, part D, clause 1 (Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits). 25
“Defined in this Act: amount, amount of tax, employer, employer’s superannuation cash contribution”.
- 12 Section RD 69 repealed** 30
Section RD 69 is repealed.
- 13 Definitions**
- (1) This section amends section YA 1.

- (2) The definition of **complying fund rules** is replaced by the following:
 “**complying fund rules** means, for a superannuation fund and an employee’s superannuation accumulation, rules that—
 “(a) meet all the requirements set out in schedule 28 (Requirements for complying fund rules); and 5
 “(b) do not detract from those requirements”.
- (3) In the definition of **salary or wages**, paragraph (b) is replaced by the following:
 “(b) is further defined in schedule 28, clause 7 (Requirements for complying fund rules) for the purposes of that schedule” 10
- 14 Schedule 1—Basic tax rates: income tax, ESCT, RSCT, RWT, and attributed fringe benefits**
 In schedule 1, part D,— 15
 (a) in the heading to clause 1 “(a)” is omitted; and
 (b) in clause 1, “If section RD 67(a) applies” is replaced by “For the purposes of section RD 67”; and
 (c) in table 1, in the instructions to use that table, “the amount of salary or wages under section RD 69(1)” is replaced by “the ESCT rate threshold amount”; and 20
 (d) clause 2 is repealed.

Amendment to KiwiSaver Act 2006

- 15 New section 237 of KiwiSaver Act 2006**
 After section 236 of the KiwiSaver Act 2006, the following is added: 25
- “**237 Protection from non-compliance: Taxation (Annual Rates and Budget Measures) Act 2011**
 If, as a result of amendments in **sections 7 to 14** of the **Taxation (Annual Rates and Budget Measures) Act 2011**, there is non-compliance with an enactment related to securities, the non-compliance is ignored, if it starts before 31 July 2011 and does not continue on or after 31 July 2011, or if it relates to— 30
 “(a) a prospectus that is registered under the Securities Act 1978 on or before 27 May 2011: 35

“(b) an investment statement under the Securities Act 1978
that is dated on or before 27 May 2011.”
