Tax Working Group Public Submissions Information Release

Release Document

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Submission to IRD

Regarding

Improving the administration and efficacy of Social Policy Payments

David Marra

Christchurch budget Service

12 September 2017

Introduction:

Thank you for the opportunity to suggest ways to improve the administration and delivery of IRD Social Policy Payments.

Christchurch Budget Service Incorporated (CBS) is among the oldest budget services in New Zealand having been established in 1967. CBS has consistently provided budget and debt management services and community education for 50 years. CBS is Christchurch's only independent confidential specialist Budget Service that is not aligned to any political party, religious organisation or Government Agency. CBS specialises in providing services for individuals and families whose main income is derived from employment, superannuitants and students and accordingly I expect that our perspective on social policy payments may differ from the old Federation services and newly contracted Building Financial Capability Services which were and are mainly focussed on MSD (WINZ) Beneficiaries.

This submission addresses issues relating ***Child Support payments and receipts and Working for Families and Independent Tax Credits but also add Accommodation Supplements*** as they impact on working people who are in precarious, and casualised employment relationships and are often underemployed and do not have reliable regular incomes so are difficult to administer under current policy and procedure settings. At this point it is worth noting that New Zealand does not consistently collect national and or regional data on underemployment though Statistics New Zealand does have a definition of underemployment published in The New Zealand Labour Force at December 2012 (Survey of Working life) Statistics NZ. See also ***www.stats.govt.nz/browse_for_stats/income-and-work/employment/household-labour-force-survey-info-releases.aspx***

While the so called ***GIG Economy*** is increasingly becoming the norm, Government agencies and their staff struggle to understand that many thousands of vulnerable working people and their families do not enjoy the privilege of a standard Monday to Friday job that provides regular working hours, incomes, statutory leave days, holidays, sick leave and other employment benefits. As a result the administration of Social Policy Payments and policy development assumes standard jobs and regular incomes no longer fits the reality experienced by our most vulnerable working families.

Executive Summary

This submission addresses issues relating ***Child Support payments and receipts and Working for Families and Independent Tax Credits*** *but also addresses* ***Accommodation Supplements*** as they impact on working people who are in precarious, and casualised employment relationships and are often underemployed and do not have reliable regular incomes so are difficult to administer under current policy and procedure settings.

CBS believes that the WFF and ITC in their current administrative format are no longer workable due to the changing nature of employment in the deregulated labour market. CBS therefore suggests the following radical rethink of IRD's administrative process.

With regard to **wage and salary workers** including agency workers CBS recommends that the IRD calculates **ITC and WFF** eligibility based on the family makeup being the number and ages of the children and issues a Special Tax Code to their employer. Their ITC and WFF entitlements are then based on their gross wage in the current pay period and are paid directly by the employer to the employee with their net wages. ITC and WFF payments are documented in the Employers PAYE return.

With regard to **Independent Contractors and Self-Employed** CBS recommends that IRD assess their WFF and ITC on the basis of 2 monthly GST returns which would be required to claim ITC and WFF through IRD. Payments could either be paid as a single payment or in fortnightly instalments.
With regards to **Non-GST Registered independent contractors and self-employed** who do not have a partner/ spouse who is in employment and comply with the 30 hour per week (20 hour per week for single parents) threshold CBS recommends that the maximum ITC and WFF entitlement is paid directly into their bank accounts as it is unlikely that any abatements will apply.

CBS believes that **Liable Parent Child Support Payments** remain problematic despite the recently amended process to calculate parental liability. It is acknowledged that a number of the anomies are outside IRD's jurisdiction, and beyond the limitations of Generally Applied Accounting Principles but none-the-less impact heavily on liable parent assessments and fairness and disadvantage children.

CBS recommends that IRD assess **liable parents' employed on fixed and or variable salary or wages** liability as a percentage of their previous year's net salary or wages rather than a fixed amount. A special tax code is issued and, like Working for Families (above), the deduction should be made by the employer each pay period and managed through the PAYE System.

CBS recommends that IRD assess **liable parents who are engaged as Independent Contractors and Self-Employed** on the basis a percentage of their a percentage of their previous year's net profit before tax and then calculate their liability based in their 2 monthly GST returns. By doing this liability is never assessed on data that is older than 3 months so the accuracy and likelihood of compliance is increased.

CBS recommends that IRD assess **liable parents who are Non GST registered Independent Contractors and Self-Employed** as being liable for minimum child support payments given that are likely to have a low-net income before tax.

CBS recommends that IRD assess **liable parents engaged on mixed wage, self-employed incomes and commission** payed outside the PAYE system on all income over the past financial year and calculated on the basis of a two monthly income declaration with the deductions only taken from wages where PAYE is being deducted.

CBS recommends that Child Support payments to custodial parents who are not on a MSD Benefit are made more regularly. Making more regular payments to Custodial parents benefits the children and children and assists families to manage their weekly budgets and meet expenses as and when they arise.

CBS also takes this opportunity to recommend that Accommodation Supplements are administered by IRD.

CBS recommends that accommodation supplements available to **people with children who are in employment including Self-Employed and Independent Contractors** are best paid directly to the landlord or mortgagor by the IRD on the basis of the claimant's ITC and WFF payments calculated as recommended above.

CBS recommends that accommodation supplements available to **employed low-income working people, including Self-Employed and Independent Contractors, who do not have dependent children** but are entitled to an accommodation supplement are best paid directly to the landlord or mortgagor by the IRD on the basis of the claimant's PAYE payments and or GST Returns calculated as recommended above.

WWF and Independent Tax Credits.

The suggested shift from an annual cycle to shorter pay periods sounds, on the surface, like a good idea that would benefit our clients, however the individual worker, employer and departmental compliance costs and administrative obstacles are likely to be huge. As a result this critical income is likely to become so administratively burdensome that uptake is restricted to those who are able to navigate the system. Furthermore it is likely that risk adverse employers, who already struggle to comply with employment law and administrative compliance, are likely to consider the employment of parents, particularly single parents, as a financial hazard.

CBS budget advisers regularly meet people with fluctuating incomes who, due to their uncertain and irregular employment, struggle to access legitimate Independent Tax Credits and Working for Families entitlements when they need them most. Their and IRD's fear of debt arising from over payments drives them to claiming a lump sum when and if they file an end of year income tax return. If they do incur a liability due to a WWF and or an ITC overpayment that debt becomes a burden in the following year and may well attract penalties and interest all of which negatively impacts on vulnerable working people and their children. In that instance the states priority shifts from the primacy of the child to recovering the debt. This problem is further exacerbated by the temporary nature of some jobs where working people migrate from work to MSD benefits and then back to work over very short periods. Typical examples are the building industry where it is common that workers are laid off in December and are re-employed by the same or a different employer after the summer shut-down and seasonal workers in the meat processing, viticulture and orchard industries.

CBS believes that the WFF and ITC in their current administrative format are no longer workable due to the changing nature of employment in the deregulated labour market. CBS therefore suggests the following radical rethink of IRD's administrative process.

Recommendations

Wage and salary workers including agency workers.

The IRD calculates ITC and WFF eligibility based on the family makeup being the number and ages of the children and issues a Special Tax Code.

As the vast majority of employers now either use computerised payroll systems or contract out to payroll services. The employer or payroll service loads the special tax code into the payroll system which will calculate ITC and WFF based on the employee's taxable wage during the pay period in much the same way as PAYE, ESCT and Student Loan payments are already calculated. The employee will benefit by receiving the correct WFF and ITC every week which will assist them by evening out fluctuating incomes making it easier to manage their budgets.

Additional Employer Compliance Costs.

This approach could result in significant savings for the IRD as there will not be the need to employ the same level of human and technological resources and office space as is required by the current system. Some of these savings could be redirected to contributing to employers' additional compliance costs either as a set fee per employee (not recommended), or as a percentage of their total payroll (recommended).

Employer Cash flow.

This becomes a problem when an employee's ITC and WFF tax credit are greater than their total PAYE, ESCT and Student loan deductions.

For the majority of medium to large employers it is unlikely that this arrangement would have a significant impact on cashflow given that other staff who either have no dependent children and, or are on higher incomes will not have ITC and WFF tax credits added to their regular net pay, so during the payroll period one will effectively fund the other.

Some small employers will however potentially run into a cashflow problem. In that case we suggest that the IRD create a mechanism to ensure that the funds are pre-paid directly to the employer through the PAYE system in much the same way as MSD already treats employment subsidies.

2 Income families.

In the case of 2 income families CBS suggests that only one of the two linked incomes is designated by the family as the primary income earner. This does not need to be the highest income earner. That income earner would then be granted the special Tax code. Ideally this would be the income earner with the most regular wage over a full-tax year and would work most effectively when that income earner is a full-time employee rather that an agency worker, an independent contractor, a seasonal worker or is self-employed.

Independent Contractors.

ITC and WFF becomes a significant problem in the current system when working with independent contractors and self-employed traders, many of whom CBS finds actually meet the legal definition of being an employee. Some are not even aware that they are being treated as independent contractors by their employers. In the case of independent contractors the proposed system could be applied to their employer deducted withholding tax; however this is fraught with additional complexity and risk for both the IRD and the individual. A second option would be to assess their

WFF and ITC on the basis of 2 monthly GST returns. This would have the additional advantage of encouraging them to adopt a 2 monthly GST cycle which is a useful means of them avoiding significant GST debt. While this option would be inexact, the risk is that they will be underpaid WFF and ITC rather than overpaid which is an improvement on the higher risk status-quo in which no payment of ITC and WFF or overpayments and subsequent debt, interest and penalties are common.

Self-Employed

The most viable way to ensure that they receive correct ITC and WFF tax credits that are updated and paid regularly are to base them on their 2 Monthly GST returns as outlined for independent contractors above.

Non- Registered independent contractors and self-employed who do not have a partner/ spouse who is in employment and comply with the 30 hour per week (20 hour per week for single parents) threshold.

Given that these people are, or should be , below the GST threshold they are likely to have a low-net income before tax so are likely to be on or near the maximum ITC and WFF tax credits so there is little risk of overpayment. The most viable option would be to pay weekly ITC and WFF directly into their bank account.

Liable Parent Child Support Payments.

The first principle must be to do no further harm.

The primacy of the child is the paramount concern.

While the recently amended process to calculate parental liability is much fairer there are still a number of anomies, some of which are outside IRD's jurisdiction but impact heavily on liable parent assessments and fairness and disadvantage children.

1) Paternity testing. Currently the child's mother is able to veto a paternity test. While the rationale behind this is understandable it is also archaic. By denying paternity testing the mother also denies child the right to know his or her ancestry and also denies the father's right to be certain the child is his while potentially allowing the biological father to avoid liability.
2) Child as the pawn. It is common to find that a liable parent is willing and able to actively parent the child but is denied access or even the knowledge of where his or her children even are, by the custodial parent (primary care giver), when no protection order is in place and there is no history of violence. This has a double impact in that the liable parent's child care liability assessment is increased under the current (and past) formula and his/her ability to afford suitable housing to safely accommodate and care for the child is diminished. This generates a self-fulfilling prophecy that the liable parent is likely to fail as a parent.
   Note: The way in which MSD Sole Parent benefits are structured and administered is a major contributor to the above situation. If the Liable Parent increases the time they spend parenting their child the primary caregiver's benefit and financial situation is eroded. Ultimately the child suffers. This is counterintuitive to policy and practice commitments to ensuring the ***primacy of the child*** and New Zealand's Commitment as a signatory of the ***UN Convention on the Rights of the Child (CRC)*** and, arguably, to ***Section 4 of the Care of Children Act 2004.***

3) Custodial Parents receiving "under the table" income. While this is in CBS Experience relatively rare it is not unknown. Several cases have emerged over the past year where the custodial parent is receiving informal non-cash income, such as free accommodation and food and support in kind while working in the family business. Under IRD's current assessment process this income is not a practical consideration so the balance between parental liabilities favours the custodial parent over the non-custodial parent. This problem also arises when one parent (often the non-custodial liable parent) is able to hide income from the other by using trusts and or other mechanisms or owns and operates a business.

4) Significant Wealth Gaps. A further dilemma arises when there is a significant wealth gap between parents. There is a bias in the IRD child care liability assessments that favour asset rich but cash poor parents especially when they are not the primary care giver.

5) Custodial parent being given the family home, furniture, fittings and car. CBS has experienced situations where, mainly men, have left the relationship and the children in the care of their mother and have transferred ownership of the family home, furniture, fillings and the car over and above their legal matrimonial settlement obligations to their ex-partner and the mother of the child as a settlement in lieu of ongoing child support. This arrangement can work well for the custodial parent and the children until the custodial parent goes on a MSD benefit at which time the non-custodial parent is billed for child support irrespective of any prior arrangements.

6) Employers deducting Child support deductions and then failing to complete PAYE Returns or make PAYE payments to the IRD. CBS has come across several cases where clients have been impacted by employers who have failed to make PAYE Payments and or have gone bankrupt owing PAYE to the IRD. In these instances it is feasible that the liable parent will be assessed by the IRD as having child support arrears and as a result will incur penalties and interest charges. This becomes an extremely difficult problem to resolve, especially when the employee (the liable parent) may not have been issued accurate pay slips or any other documentation to verify their case to the IRD. CBS budget advisers frequently find that in this situation the Liable parent is likely to bury their head in the sand and just give up and struggle to pay the arrears, penalties and interest to their own and their children's detriment.

CBS acknowledges there are no easy solution to the above problems and understands that there are a myriad of variants on similar themes. It is understood that the presented challenges cannot be easily defined in financial terms, so while they impact heavily on the fairness or otherwise of Child Support Liability assessments they also fall outside generally applied accounting principles.

Current Practical Problems

The assessment of liable parent being based on an annual assessment based on both parents previous year's taxable income is problematic for both the custodial and non-custodial parent.

As previously discussed this blunt tool is inadequate in the contemporary deregulated labour market and Gig Economy. Nor does it cope well with contemporary Family / Whanau Structures.

IRD is faced with a dilemma. On one hand where a liable parent's income fluctuates or fall it is highly likely that the Child Support payments are likely to leave the liable parent in a position where they are unable to meet their own basic needs: food, accommodation, clothing and the ability to get to and from work. In this instance it is highly likely that payments will be missed and penalties and interest charges incurred and the custodial parent and children, if not on a WINZ Benefit, will also be left out-of-pocket.   While there is a process to review and reassess Child Support contributions it is often difficult for the Liable parent to access and presents a number of bureaucratic hurdles that appear insurmountable especially when there is little or no opportunity for face to face communication.   On the other hand when a liable parent's income increases the state and or the family, when the custodial parent is not on a benefit, misses out on much needed funds until the liable parents liability is reassessed at the end of a financial year.

These problems are amplified when the liable parent in particular is self-employed and, or is an independent contractor and or is paid commission.

Recommendation:

For employed staff on fixed and or variable salary or wages

Assessments are calculated as a percentage of their previous year's net salary or wages rather than a fixed amount. A special tax code is issued and, like Working for Families (above), the deduction should made by the employer each pay period and managed through the PAYE System. This arrangement is either well within the capability of most modern Electronic Payroll Systems or would not require a significant development for most systems.

The benefits are that the liable parent would not be left in a situation where they are not able to live on the balance of their net income after family support is deducted and by achieving this compliance is more likely.

For Independent Contractors and Self-Employed

CBS suggests, similarly to WFF above, Child Support calculations are calculated on the basis a percentage of their 2 monthly GST returns. By doing this liability is never assessed on data that is older than 3 months so the accuracy and likelihood of compliance is increased.   These Liable parents would be given the choice of furnishing their liable parent return with their GST return or as a weekly fixed weekly or fortnightly payment over the following 8 weeks.

For Non GST registered Independent Contractors and Self-Employed

Given that these liable parents are, or should be, below the GST threshold they are likely to have a low-net income before tax so are likely to be on or near the minimum child support payments. In this case the status quo should remain.

For mixed wage, self-employed incomes and commission payed outside the PAYE system.

CBS recommends that the percentage deducted from wages is based on all income over the past financial year and assessed on the basis of a two monthly income declaration with the deductions only taken from wages where PAYE is being deducted.

Child Support payments to custodial parents who are not on a MSD Benefit.

CBS recommends that these payments be made more regularly. In the modern era it should not take two months for payments to be made. Making more regular payments to Custodial parents benefits the children and children and assists families to manage their weekly budgets and meet expenses as and when they arise.

Accommodation Supplements

While acknowledging that Accommodation Supplements are not a IRD responsibility CBS is concerned that they are both difficult for MSD to administer and for low-wage working people, independent contractors and self-employed who do not have a regular incomes to access. CBS acknowledges that MSD is making efforts to develop an ***APP available on Smart Phones*** that will make their system more user friendly and accessible however it is unlikely to resolve all the major issues, particularly for people who are not IT literate and or who do not receive regular pay or payslips and for those who are contracted as independent contractors or are self-employed. Furthermore many working people do not want to engage with MSD due to the complexity of the registration process, the real and or perceived social stigma, and the demand for personal information that is not related to their accommodation costs. There is also an unnecessary duplication of administrative process and expense when people must register with two government agencies to access their correct Social Policy entitlements. Furthermore the existence of multiple agencies providing Social Policy payments to the same families increases the opportunity for, and the risk of fraudulent behaviour.

Recommendation

Accommodation Supplements legitimately available to people with children who are in employment including Self-Employed and Independent Contractors are best paid directly to the landlord or mortgagor by the IRD on the basis of the claimant's ITC and WFF payments calculated as recommended above.

For employed low-income working people who do not have dependent children but are entitled to an accommodation supplement the supplement are best paid directly to the landlord or mortgagor by the IRD on the basis of the claimant's PAYE payments calculated as recommended above.

The entitled taxpayer would be required to submit verifiable documented evidence of their accommodation costs such as rents or home loan, rates and Insurance details or a letter from the landlord in the case of board. The added benefit of this process is that IRD would also be able to cross tabulate the evidence provided by landlords with landlords and or property manager's tax returns and New Zealand Tenancy Services.

The advantage of this recommendation to CBS clients is that the administrative and compliance costs and time commitments are minimised, the accommodation supplement is not captured by creditors, including NZ Work and Income and the accommodation accurately reflects their real income.