

INCOME TAX ACT 2004
SUBPART KD—Tax credits for family support and family plus
(as at 14 February 2004, includes amendments arising from the Taxation (Savings
Investment and Miscellaneous Provisions) Act 2006)

SECT KD A1 CALCULATION OF TAX CREDITS UNDER THIS SUBPART

Despite section 92 of the Tax Administration Act 1994, a rebate of income tax under this subpart is calculated by the Commissioner.

SECT KD 1 DETERMINATION OF NET INCOME

- (1) Notwithstanding any other provision of this Act, for the purposes of this subpart, in calculating under this Act the net income or net loss of any person in any income year, -
- (a) amounts referred to in sections CW 23(1)(e) and CW 26, derived by the person in the income year, are deemed not to be exempt income; and
 - (b) the person is allowed a deduction for -
 - (i) the amount of any payment, made by the person during the tax year, of the kind referred to in section CW 26; and
 - (ii) the amount of any payment made by the person during the tax year under section 27K of the Social Security Act 1964; and
 - (e) there is not included -
 - (i) any amount of main deposit made in relation to the 2002-03 or an earlier income year (not being interest payable under section EH 6) that is refunded to the person in the 2003-04 income year or a later income year under any of sections EH 10, EH 13, EH 15, EH 17, and EH 23; and
 - (ii) any amount of assessable income that, under any of sections CB 26, CF 2, EE 37 to EE 44, [EI 1, EI 3, and EI 7], is deemed to be, or to have been, derived by the person in the 2002-03 or an earlier income year and that, were it not so deemed, would not be or have been assessable income derived by the person in the 2002-03 or an earlier income year; and
 - (v) any amount derived from the sale of a building that, under sections EE 37 to EE 44, is assessable income of the person in the income year, excluding a deduction allowed by way of a depreciation loss in the 2003-04 or a later income year; and
 - (vi) any amount of adverse event deposit made under section EH 39 in relation to the 2002-03 or an earlier income year (not being interest payable under section EH 41) that is refunded to the person in the 2003-04 or a later income year under any of sections EH 46, EH 48, and EH 54; and

- (vii) any amount of a net loss of a qualifying company that is attributed to the person as a shareholder of that company under section HG 16; and
 - (viii) any amount of portfolio investor allocated income that is not excluded income of the person and would be excluded income of the person in the absence of section CX 44D(1)(b); and
- (f) where, in the income year, a business or more than 1 business is carried on by the person, there must, in relation to that business, or each such business, be calculated under this Act, including this subpart (that calculation being referred to in this paragraph and in subsection (2) as the specified calculation), the amount that would be the net income or the net loss of the person for that income year if the person derived assessable income only from carrying on the business and, where that amount so calculated is a net loss, that business is deemed, for the purposes of this subpart (except for the purpose of making the specified calculation), not to have been carried on by the person during the income year; and
- (g) where, on the day that, in relation to a company that is a close company, is the last day of the year or other period ending with the date of the annual balance of the accounts of the company for the purpose of furnishing its return of income under this Act for the tax year (that period being referred to in this paragraph as the accounting year of the company), the person is, or would be if that day was the last day of any quarter, in relation to that company, a major shareholder, there is included, -
- (i) for the purposes of this Act, other than the definition of net specified income, an amount equal to the amount (if any) by which the amount of any dividend, or the aggregate of the amounts of all dividends, paid by the company to the person in the tax year is less than an amount equal to so much of the net income of the company for the tax year to which, under and for the purposes of this Act, the accounting year of the company corresponds, as bears to that amount the same proportion as the total of the issued shares of the company (other than shares which bear a fixed rate of dividend only) so held by the person bears to the total of the issued shares of the company (other than shares which bear a fixed rate of dividend only) on the last day of that accounting year of the company:
 - (ii) for the purposes of the definition of net specified income, an amount equal to the amount (if any) by which the amount of any dividend, or the aggregate of the amounts of all dividends, paid by the company to the person in the tax year is less than the amount calculated in accordance with the following formula:

$$(a / b) \times c$$

where -

a is the number of issued shares of the company (other than shares

which bear a fixed rate of dividend only) held by the person on the last day of the accounting year of the company

- b** is the number of issued shares of the company (other than shares which bear a fixed rate of dividend only) on the last day of the accounting year of the company
 - c** is the net income of the company for the tax year to which, under and for the purposes of this Act, the accounting year of the company corresponds; and
- (h) where any person receives any distribution from a superannuation scheme, and an employer of that person (being an employer by whom the person continues to be employed 1 month after the date of receipt of the distribution) has made contributions to that superannuation scheme in the income year in which the distribution was received or in the immediately preceding 2 income years, that distribution is, unless the Commissioner in the Commissioner's discretion determines otherwise, assessable income of the person and is deemed to be derived in the income year or years determined by the Commissioner as being the income year or years for which the contributions were appropriate, less an amount that the Commissioner determines is attributable to the member's contributions for any such year: provided that this paragraph does not apply to any person who receives any distribution from a superannuation scheme as a result of and on or after the person's retirement from employment with an employer who was a contributor to the scheme; and
- (i) the Commissioner must have regard to the gross amounts of all income sources known to the Commissioner and, if the person has been issued an income statement under Part 3A of the Tax Administration Act 1994, the sum of all amounts of assessable income included in an income statement issued to the person.
- (2) For the purposes of subsection (1)(f), -
- (a) where, in the income year, any asset of the person is used in the carrying on by the person of a business and another business or other businesses, there is allowed, in the making, in relation to that first-mentioned business, of the specified calculation, a deduction of such part (and no other part) of the expenditure incurred and of an amount (if any) of depreciation loss (being the expenditure and being the amount of depreciation loss that, apart from subsection (1)(f), would for the purposes of this subpart, in the income year, be allowed as a deduction in respect of or in relation to the asset), as the Commissioner thinks fit; and
 - (b) where, the Commissioner is satisfied, 2 or more businesses that are carried on by the person in the income year are businesses of the kind that are normally carried on in association with each other or, as the case may be, one another, the Commissioner may determine that the carrying on of those businesses is deemed to constitute the carrying on by the person of a single business in the income year.
- (3) For the purpose of determining the amount that is equal to so much of the net income of any person for any income year as, for the purposes of this subpart, is deemed to be the net income for any period contained in the income year, that is, in relation to the person, a specified period, -

- (a) the assessable income derived by the person in the income year is, to the extent that it was derived by the person from employment during the whole or any part of the income year, deemed to have been derived at a uniform daily rate throughout the period of that employment:
 - (b) the assessable income derived by the person in the income year is, to the extent that it was derived by the person by way of a benefit that was an income-tested benefit, deemed to have been derived at a uniform daily rate throughout the period, in the income year, in respect of which the benefit was paid to the person:
 - (c) notwithstanding section 38(1) of the Tax Administration Act 1994, -
 - (i) the assessable income derived by the person in the income year is, to the extent that it was derived by the person otherwise than from employment, and otherwise than by way of a benefit that was an income-tested benefit, deemed to have been derived at a uniform daily rate throughout the income year; and
 - (ii) any expenditure incurred in deriving the [assessable income] to which subparagraph (i) applies that is allowed as a deduction is deemed to have been incurred at a uniform daily rate throughout the income year.
- (4) For the purposes of this subpart, the specified income in relation to a person and to any specified period is an amount calculated in accordance with the following formula:

$$a \times (365 / b)$$

where -

A is so much of the net income of the person for the income year that contains the specified period as, in the opinion of the Commissioner, is attributable to the specified period

B is the number of days in the specified period.

- (5) Where the net income calculated under this Act (except this subpart) in relation to any person and to any income year is calculated in respect of a period (referred to in this subsection as the greater period) that is greater than a period of 12 consecutive months, the net income (referred to in this subsection as the adjusted net income) of the person calculated under this Act (including this subpart), for the purposes of this subpart, in relation to that income year, must, subject to such adjustments (if any) as the Commissioner considers fair and equitable, be reduced (for the purposes of this subpart) to an amount equal to such amount as bears to the adjusted net income the proportion that 365 bears to the number of days in the greater period.
- (6) Where, by reason of an alteration to the date of the annual balance of the accounts of any person for the purpose of the furnishing by the person of returns of income under the Tax Administration Act 1994, the net income (referred to in this subsection as the adjusted income) calculated under this Act (except this subpart) in relation to the person and to an income year is calculated in respect of a period (referred to in this subsection as the lesser period) that is less than a period of 12 consecutive months, the net income of the person calculated under this Act (including this subpart), for the purposes of this subpart, in relation to that income year, must, subject to such adjustments

(if any) as the Commissioner considers fair and equitable, be increased (for the purposes of this subpart) to an amount equal to such amount as bears to the adjusted income the proportion that 365 bears to the number of days in the lesser period.

SECT KD 1A FAMILY SUPPORT AND FAMILY PLUS

- (1) Under this subpart, a person and their [spouse, civil union partner, or de facto partner] (if any) may be entitled to family support and family plus.
- [(2) Family plus consists of the in-work payment, or the child tax credit continued under section KD 2AAAB, the parental tax credit and the family tax credit.]

SECT KD 2 CALCULATION OF SUBPART KD CREDIT

- (1) A person is allowed a credit of tax (known as the subpart KD credit) for a tax year containing an eligible period of an amount calculated under the formula in subsection (2), subject to section KD 7A.
- (2) The formula is -

[FSC + IWP or CTC + PTC - FCA]

where -

FSC is the amount of the family support credit for the eligible period calculated under subsection (3)

[**IWP** or **CTC** is the amount of -

- (a) the in-work payment for the eligible period calculated under section KD 2AAA, if the person is entitled to the in-work payment for the eligible period[; or]
- (b) the child tax credit for the eligible period calculated under subsection (4), if the person -
- (i) is not entitled to the in-work payment for the eligible period; and
- (ii) is entitled to the child tax credit for the eligible period under section KD 2AAAB]

PTC is the amount of the parental tax credit for the eligible period calculated under subsection (5)

FCA is the amount of the family credit abatement for the eligible period calculated under subsection (6).

- [(3) The amount of the family support credit for an eligible period is given by the following formula:

amount \times (days / 365)

where -

amount is the sum of, -

- (a) for the eldest dependent child for whom the person is a principal

caregiver during the period, 1 of the following:

- (i) \$3,744 [or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C], if the child is under 16 years of age:
 - (ii) \$4,420 [or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C], if the child is 16 years of age or older:
 - (iii) a weighted average of the amounts in subparagraphs (i) and (ii) that reflects the proportion of the period for which those subparagraphs apply to the child, if the child turns 16 years of age during the period; and
- (b) for each dependent child for whom the person is a principal caregiver during the period, other than the eldest dependent child, 1 of the following:
- (i) \$2,444 [or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C], if the child is under 13 years of age:
 - (ii) \$2,860, if the child is 13, 14, or 15 years of age:
 - (iii) \$3,900 [or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C], if the child is 16 years of age or older:
 - (iv) a weighted average of the amounts in subparagraphs (i) and (ii) that reflects the proportion of the period for which those subparagraphs apply to the child, if the child turns 13 years of age during the period:
 - (v) a weighted average of the amounts in subparagraphs (ii) and (iii) that reflects the proportion of the period for which those subparagraphs apply to the child, if the child turns 16 years of age during the period

days is the number of days in the eligible period.]

- (4) The amount of the child tax credit for an eligible period is calculated using the formula -

$$\$780 \times \text{dependent children} \times (\text{eligible period} / 365)$$

where -

dependent is the number of dependent children for children whom the person is a principal caregiver during the eligible period

eligible period is the number of days in the eligible period for which the person and their [spouse, civil union partner, or de facto partner] do not receive a specified payment and do not have a suspended entitlement to an income-tested benefit.

- (5) For each dependent child born on or after 1 October 1999, the amount of the parental tax credit for an eligible period is calculated using the formula -

$$\text{amount} \times (\text{days} / 56)$$

where -

amount is \$1200 [or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C] per dependent child

days is the number of days in the eligible period, up to a maximum of 56 days, for which the person and their [spouse, civil union partner, or de facto partner] do not receive a specified payment and do not have a suspended entitlement to an income-tested benefit.

- [(6) The amount of the family credit abatement for an eligible period is calculated by the following formula:

$$\text{full-year abatement} \times (\text{NRFFS} / 365)$$

where -

full-year abatement is, -

- [(a) if the person has no [spouse, civil union partner, or de facto partner] during the eligible period and the person's specified income for a specified period containing the eligible period is more than [\$35,000] or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C, [20 cents] for each complete dollar of the excess:
- (b) if the person has a [spouse, civil union partner, or de facto partner] during the eligible period and the person's specified income, [the specified income of the person's spouse, civil union partner, or de facto partner], or the sum of those specified incomes, as the case may be, for a specified period containing the eligible period is more than [\$35,000] or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C, [20 cents] for each complete dollar of the excess:]

NRFFS is the number of days in the eligible period, not including calendar months in which the person is a ringfenced family support recipient.

- (6B) For the purpose of subsection (6), a **ring-fenced family support recipient** for a calendar month in an eligible period is a person who, in the calendar month, -
- (a) has no [spouse, civil union partner, or de facto partner], receives an income-tested benefit and derives annualised specified income that is less than the amount specified in [section KD 2(6)(a)]:
- (b) has a [spouse, civil union partner, or de facto partner], receives an income-tested benefit and derives annualised specified income that together with the annualised specified income of the person's [spouse, civil union partner, or de facto partner] is less in total than the amount specified in [section KD 2(6)(b)].
- (6C) In calculating the annualised specified income under subsection (6B), -
- (a) section KD 1(3)(a) and (b) does not apply; and
- (b) no regard may be had to income from employment that is derived in the calendar month as a result of an extra pay period that occurs in that month; and
- (c) for a person who derives, for part of an income year, income to which section

OB 2(2) applies, or income from a business, the assessable income and any expenditure incurred in deriving that income that is allowed as a deduction are to be treated as derived and incurred, respectively, at a uniform daily rate throughout that part of the income year.]

- (7) If a qualifying person receives interim fortnightly instalments of the parental tax credit in an 8 week period that includes 31 March, the family credit abatement formula in subsection (6) is to be applied so that –
- (a) instalments of the parental tax credit received in the first tax year are abated against the person's specified income, [the specified income of their spouse, civil union partner, or de facto partner], or the sum of those specified incomes for that tax year; and
 - (b) instalments of the parental tax credit received in the second tax year are abated against the person's specified income, [the specified income of their spouse, civil union partner, or de facto partner], or the sum of those specified incomes for that tax year.

SECT KD 2AAA IN-WORK PAYMENT

- (1) A principal caregiver is entitled to the in-work payment for an eligible period in relation to a child if, for the eligible period, -
- (a) the principal caregiver is aged 16 years or over; and
 - (b) the principal caregiver cares for the child -
 - (i) whose care is primarily the responsibility of the principal caregiver; and
 - (ii) who is being maintained as a member of the principal caregiver's family; and
 - (iii) who is financially dependent on the principal caregiver and includes a child for whom payments are made under section 363 of the Children, Young Persons, and Their Families Act 1989 or a child for whom a benefit is paid under section 28 or 29 of the Social Security Act 1964; and
 - (c) either the principal caregiver satisfies the residence requirements of subsection (3) or the child satisfies the residence requirements of subsection (4); and
 - (d) either or both of the principal caregiver and the principal caregiver's spouse is a person to whom [subsection (8)] refers, or -
 - (i) has, from an activity, income that satisfies the requirements of subsection (5) for 1 or more periods of a week in the eligible period, subject to subsection (6) or (7) or paragraphs (c), (d), (e), (f), or (g) of the definition full - time earner; and
 - (ii) is a full - time earner, or would normally be a fulltime earner, engaged in employment if the income referred to in subparagraph (i) were treated as satisfying the requirements of paragraph (d) of the definition of employment; and
 - (e) neither the principal caregiver nor the principal caregiver's spouse receives an income - tested benefit, or a payment of the kind described in paragraph (xi) of the definition of salary or wages, or a parent's allowance under

section 32(2) of the War Pensions Act 1954.

- (2) The amount of the in-work payment for a principal caregiver for an eligible period is calculated using the formula:

$$(\text{amount A} + (\text{amount B} \times (\text{children} - 3))) \times (\text{weeks} / 52)$$

where -

amount A is \$3,120 or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C

amount B is \$780 or such greater amount as may be prescribed by the Governor - General by Order in Council under section KD 5C

[**weeks**, -

- (a) for 2 or more eligible periods forming 1 continuous period, is the number of whole 1-week periods in the continuous period for which the principal caregiver or the principal caregiver's spouse, civil union partner, or de facto partner has, from the activity, income to which subsection (1)(d)(i) and (ii) refer:
- (b) for an eligible period to which paragraph (a) does not apply, is the number of whole 1-week periods in the eligible period for which the principal caregiver or the principal caregiver's spouse, civil union partner, or de facto partner has, from the activity, income to which subsection (1)(d)(i) and (ii) refer]

children is the greater of -

- (a) 3:
- (b) the number of children in relation to whom the principal caregiver is entitled to the in-work payment.

- (3) A principal caregiver satisfies subsection (1)(c) if -
- (a) the principal caregiver has been both resident and present in New Zealand for a continuous period of 12 months at any time; and
 - (b) on the date on which a credit of tax is claimed under section KD 2, the principal caregiver is a tax resident and resident in New Zealand.
- (4) A child satisfies subsection (1)(c) if the child is both resident and present in New Zealand for the eligible period.
- (5) Income from an activity satisfies this subsection if the income is -
- (a) a source deduction payment that is not -
 - (i) described in paragraph (b)(v), (viii), (ix), [(xi), (xii), (xiii), (xiv), and (xv)] of the definition of salary or wages:
 - (ii) a withholding payment of the kind specified in Part E [of the Schedule] of the Income Tax (Withholding Payments) Regulations 1979:
 - [(iii) paid as a result of an incapacity, suffered before 1 January 2006, due to personal injury by accident within the meaning of section 26 of the Injury Prevention, Rehabilitation, and Compensation Act 2001:]
 - (b) income to which section OB 2(2) applies:

- (c) income from a business carried on for profit.
- (6) A person who satisfies the requirements of subsection (1)(d)(ii) but who in a 1 week period is not engaged in an activity related to their employment and who is on leave from that employment because of the birth of a child and who is eligible to receive the parental tax credit in respect of the child is treated for the purpose of subsection (1)(d)(ii), and for the period for which the parental tax credit is paid to the person, as being engaged in the week in the activity for the number of hours in respect of which the Commissioner is satisfied that the person would have been engaged but for the birth of the child.
- (7) A person who satisfies the requirements of subsection (1)(d)(ii) but who in a 1 week period is engaged in employment for less than the number of hours required to satisfy subsection (1)(d)(ii) because of the birth of a child and who is eligible to receive the parental tax credit in respect of the child is treated for the purpose of subsection (1)(d)(ii), and for the period for which the parental tax credit is paid to the person, as being engaged in the week in the activity for the number of hours in respect of which the Commissioner is satisfied that the person would have been engaged but for the birth of the child.
- (8) A person is treated as satisfying subsection (1)(d) if -
 - (a) the person is receiving a child tax credit for an eligible period ending on 31 March 2006; and
 - (b) the person or the person's spouse, on or after 1 January 2006, suffered an incapacity due to personal injury by accident within the meaning of section 26 of the Injury Prevention, Rehabilitation, and Compensation Act 2001; and
 - (c) weekly compensation within the meaning of section 6 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, is being paid in respect of the incapacity or will be paid in respect of the incapacity; and
 - (d) the person or their spouse would have satisfied the requirements of subsection (1)(d)(i) and (ii) and been eligible for the credit of tax calculated under this section at the time of the incapacity if this section had come into force before the date of the incapacity.]

[SECT KD 2AAAB CONTINUATION OF CHILD TAX CREDIT PAYMENTS

A person is entitled to continue to receive a child tax credit calculated under section KD 2 (4) for an eligible period if -

- (a) the person is eligible for a child tax credit in relation to a child for an eligible period ending on 31 March 2006; and
- (b) the person is not eligible for an in-work payment under section KD 2AAA; and
- (c) the person continues to be eligible for a child tax credit in relation to a child at all times after 31 March 2006.]

SECT KD 2AA RULES FOR SUBPART KD CREDIT

[(1) This section applies for the purposes of sections KD 2, KD 2AAA, and KD 2AAAB.]

[Principal caregiver

- (2) A person (person A) is a principal caregiver of a child if person A lives apart from another qualifying person for that dependent child, and person A has the dependent child in their exclusive care for periods totalling at least one-third of -
- (a) a 4-month period:
 - (b) the tax year:
 - (c) the entitlement period, in the case of the parental tax credit.]

[[Principal caregiver for eligible period for purposes of inwork payment

- (2B) A person (person A) is a principal caregiver of a child for an eligible period under section KD 2AAA(1) if person A lives apart from another qualifying person for that dependent child, and person A has the dependent child in their exclusive care for periods totalling at least one-third of a 4-month period or the tax year, whether or not those periods coincide with the eligible period.]
- (2C) When subsection (2B) applies, section KD 2AAA (1)(b) is to be read as applying to the periods during which the principal caregiver has exclusive care of the child.
- (2D) A person who is a principal caregiver under subsection (2) or (2B) must inform the Commissioner forthwith upon the occurrence of a change in the arrangements for the care of the child which has, or will have, the effect of ending the person's status as a principal caregiver.]
- (3) [A family support credit or a parental tax credit] must be reduced in proportion to the amount of time a dependent child spends in the exclusive care of another qualifying person during the eligible period.
- [(3A) If 2 persons are eligible for a child tax credit or an in-work payment in relation to a child for an eligible period, the amount of the credit of tax to which each is entitled is not affected by the eligibility of the other person for a credit of tax.]
- (4) Subsection (5) applies if a person has a [spouse, civil union partner, or de facto partner] throughout an eligible period and during the eligible period -
- (a) the person is a qualifying person for a dependent child or more than 1 dependent child; and
 - (b) the spouse is a qualifying person for a dependent child or more than 1 dependent child; and
 - (c) the dependent child, or at least 1 of the dependent children, referred to in paragraph (b) is not a dependent child referred to in paragraph (a).
- (5) Section KD 2 and this section, apart from this subsection and subsection (6), apply as if either the person or the [spouse, civil union partner, or de facto partner] were the qualifying person for all those children and the other person were not a qualifying person for any of the children.
- (6) The Commissioner must determine which of the persons referred to in subsection (5) is the qualifying person under that subsection.
- (7) A credit of tax is allowed under section KD 2 to a qualifying person for a person aged 18 years who -

- (a) is not financially independent; and
 - (b) is attending school or a tertiary educational establishment, -
- as if the person had not attained the age of 18 years.
- (8) The Commissioner must determine the period for which a credit is allowed to a qualifying person for a person aged 18 years.
 - (9) The period determined by the Commissioner under subsection (8) expires on or before the first day fixed by the Commissioner for payments of interim instalments of credits of tax under section KD 7 in the calendar year following the calendar year in which the person turns 18.
 - (10) If a day is part of more than 1 eligible period, for the purposes of this section, the day is part only of the particular eligible period that the Commissioner thinks just, having regard to the tenor of this section and section KD 2.
 - (11) If a day is part of more than 1 specified period, for the purposes of this section, the day is part only of the particular specified period that the Commissioner thinks just, having regard to the tenor of this section and section KD 2.

SECT KD 2AB PARENTAL TAX CREDIT

- (1) The qualifying person for a dependent child that is born on or after 1 October 1999 is allowed a credit of tax, called the parental tax credit, for up to the first 56 days after the date of the dependent child's birth if -
 - (a) neither the person nor his or her [spouse, civil union partner, or de facto partner] receives a specified payment or has a suspended entitlement to an income-tested benefit at any time during that period (in this subpart called the entitlement period):
 - (b) neither the person nor his or her [spouse or civil union partner] (within the meaning of the Parental Leave and Employment Protection Act 1987) receives a parental leave payment under Part 7A of that Act at any time in respect of the child.
- (1A) Section 2B of the Parental Leave and Employment Protection Act 1987 applies for the purposes of subsection (1)(b) if a person gives birth to 2 or more children as a result of 1 pregnancy or assumes the care of 2 or more children with a view to adoption.
- (2) A qualifying person continues to be entitled to the parental tax credit if the dependent child dies during the entitlement period and the person and their [spouse, civil union partner, or de facto partner] (if any) would otherwise meet the requirements of subsection (1).
- (3) The parental tax credit is to be paid to a qualifying person either -
 - (a) in accordance with section KD 4; or
 - (b) in the 56 days after the date an application is made if the person applies to receive the credit by way of ... interim instalments and at any time during that period (in this subpart called the payment period) the person and their [spouse, civil union partner, or de facto partner] do not receive a specified payment and do not have a suspended entitlement to an income-tested benefit.

SECT KD 2A CALCULATING NET CONTRIBUTIONS TO FAMILY SUPPORT CREDIT, [IN-WORK PAYMENT,] CHILD TAX CREDIT, AND PARENTAL TAX CREDIT

When the Commissioner calculates the amounts making up the family support credit, [in-work payment,] the child tax credit, and the parental tax credit corresponding to a period under this subpart, the Commissioner must -

- (a) treat the family support credit, [in-work payment,] the child tax credit, and the parental tax credit as credits corresponding to the period; and
- (b) treat as a debit the amount of family credit abatement corresponding to the period; and
- (c) Apply the amount of the family credit abatement corresponding to the period, -
 - (i) first, to reduce the amount of the family support credit corresponding to the period; and
 - [(ii) secondly, to reduce the amount of the in-work payment or, as the case may be, the child tax credit corresponding to the period; and]
 - (iii) thirdly, to reduce the amount of the parental tax credit corresponding to the period.

SECT KD 3 CALCULATION OF FAMILY TAX CREDIT

- (1) [In this section and section KD 3A], -

employment means the activity a person performs that gives rise, or will give rise, to an entitlement to a source deduction payment other than -

- (a) a payment of any of the kinds referred to in paragraph (b)(iii), (ix), and (xi) of the definition of salary or wages:
- (b) a withholding payment of the kind specified in part E of the schedule of the Income Tax (Withholding Payments) Regulations 1979:
- (c) a payment made by a close company to a person who is a major shareholder of the close company:
- (d) a payment made by a person to their [spouse, civil union partner, or de facto partner]:
- (e) a payment made by a business carried on by 2 or more persons jointly, whether in partnership or otherwise, to a [spouse, civil union partner, or de facto partner] of 1 of the persons in business

qualifying person, for a specified period, means a person, if throughout the specified period -

- (a) the person is 16 years or older; and
- (b) the person is the principal caregiver in respect of 1 or more dependent children; and
- [[(bb) the person is not a spouse, civil union partner, or de facto partner of a person who is eligible to be a transitional resident and who has not made an election under section FC 24(3) (Transitional resident); and]
- (bc) ...]

(c) Either -

- (i) the person has been both resident and present in New Zealand for a continuous period of 12 months at any time and is tax resident, being resident in New Zealand, on the date on which a credit of tax is claimed under this section; or
- (ii) each of the dependent children referred to in paragraph (b) is both resident and present in New Zealand; -

but does not include a person who, during the specified period, receives an income-tested benefit, a veteran's pension, or a war widows mother's allowance.

- (2) A person who does not have a [spouse, civil union partner, or de facto partner] during an eligible period is allowed a credit of tax for the tax year containing the eligible period of an amount calculated using the formula in subsection (3), subject to section KD 7A.
- (3) The formula is -

$$(\text{amount} - \text{NSI}) \times (1\text{WPs} / 52)$$

where -

[**amount** is [\$17,680] or a greater amount prescribed by the Governor-General by Order in Council under section KD 5C]

NSI is the person's net specified income for the specified period containing the eligible period; and

1wps is the number of 1-week periods in the eligible period for which the person is a full-time earner.

- (4) If a person has a [spouse, civil union partner, or de facto partner] and is the principal caregiver during an eligible period, that person is allowed a credit of tax for the tax year containing the eligible period of an amount calculated using the formula in subsection (5).
- (5) The formula is -

$$(\text{amount} - \text{NSI}) \times (1\text{WPs} / 52)$$

where -

[**amount** is [\$17,680] or a greater amount prescribed by the Governor-General by Order in Council under section KD 5C]

[**NSI** is the net specified income, for a specified period containing the eligible period, of the person, or of the person's spouse, civil union partner, or de facto partner, or of the person and the person's spouse, civil union partner, or de facto partner]

1wps is the number of 1-week periods in the eligible period for which the person is a full-time earner.

SECT KD 3A RULES FOR FAMILY TAX CREDIT

- (1) This section applies for the purposes of section KD 3.
- (2) Subsection (3) applies if a person has a [spouse, civil union partner, or de facto partner] throughout an eligible period and during the eligible period -
 - (a) the person is a qualifying person for a dependent child or more than 1 dependent child; and
 - (b) the [spouse, civil union partner, or de facto partner] is a qualifying person for a dependent child or more than 1 dependent child; and
 - (c) the dependent child, or at least 1 of the dependent children, referred to in paragraph (b) is not a dependent child referred to in paragraph (a).
- (3) Section KD3 and this section, apart from this subsection and subsection (4), apply as if either the person or the [spouse, civil union partner, or de facto partner] were the qualifying person for all those children and the other person was not a qualifying person for any of the children.
- (4) The Commissioner must determine which of the persons referred to in subsection (3) is the qualifying person under that subsection.
- (5) A credit of tax is allowed under section KD 3 to a qualifying person for a person aged 18 years who -
 - (a) is not financially independent; and
 - (b) is attending school or a tertiary educational establishment, -
 as if the person had not attained the age of 18 years.
- (6) The Commissioner must determine the period for which a credit is allowed to a qualifying person who is a person aged 18 years.
- (7) The period determined by the Commissioner under subsection (6) expires on or before the first day fixed by the Commissioner for payments of interim instalments of credits of tax under section KD 7 in the calendar year following the calendar year in which the person turns 18.
- (8) If a day is part of more than 1 eligible period, for the purposes of this section, the day is part only of the particular eligible period that the Commissioner thinks just, having regard to the tenor of this section and section KD 3.
- (9) If a day is part of more than 1 specified period, for the purposes of this section, the day is part only of the particular specified period that the Commissioner thinks just, having regard to the tenor of this section and section KD 3.
- (10) For the purposes of this section, if a person receives a source deduction payment and on the date of receipt does not perform any employment or performs an activity to an extent less than would give rise to an entitlement to the source deduction payment, the person is treated as having performed such employment as the Commissioner determines, having regard to the date of receipt, to the pay period in which it occurs, to the circumstances giving rise to the source deduction payment, and to any other circumstances that the Commissioner considers relevant.

SECT KD 3B APPLICATIONS FOR GUARANTEED MINIMUM FAMILY TAX CREDIT

A person who wishes to apply for a credit of tax, known as the guaranteed minimum

family tax credit, under section KD 3 as it was before or after its enactment by section 21 of the Income Tax Act 1994 Amendment Act 1996, must apply either section KD 3 as if the definition of qualifying person read -

qualifying person, in relation to any specified period, means any person where, throughout the specified period, -

- (a) the person is aged 16 years or over; and
- (b) the person is the principal caregiver in respect of 1 or more dependent children; and
- (c) either -
 - (i) the person has been both resident and present in New Zealand for a continuous period of 12 months at any time and is tax resident, being resident in New Zealand, on the date on which a credit of tax is claimed under this section; or
 - (ii) each of the dependent children referred to in paragraph (b) is both resident and present in New Zealand; -

but does not include any person who, during the specified period, receives an income-tested benefit, a veteran's pension, or a war widows mother's allowance.

SECT KD 4 ALLOWANCE OF CREDIT OF TAX IN END OF YEAR ASSESSMENT

- (2) Where, in relation to any tax year, a credit of tax is allowed under section KD 2 or KD 3, the Commissioner -
 - (a) issues a person with a certificate of entitlement for the tax year because an interim instalment of estimated entitlement to a credit of tax was paid to the person during the tax year; or
 - (b) finds out, otherwise than by way of a certificate of entitlement, that an interim instalment of estimated entitlement to a credit of tax has been paid to, or for the benefit of, or dealt with in the interest of, the person for the tax year, -
 then, -
 - (c) where any such instalment of estimated entitlement to a credit of tax, or the aggregate of all such instalments of estimated entitlement to a credit of tax, exceeds any credit of tax, or the aggregate of all credits of tax, to which, under this subpart, the person is entitled for the tax year, an amount equal to that excess is added to the tax payable by the person for the tax year; or
 - (d) where any credit of tax, or the aggregate of all credits of tax, to which, under this subpart, the person is entitled for the tax year exceeds the credit first mentioned or, as the case may be, the aggregate first mentioned in paragraph (c), an amount equal to that excess is credited in payment of any tax payable by the person for the tax year, so far as that tax extends, -
 and, -
 - (e) in any case where paragraph (c) applies, the amount added under that paragraph is recoverable by the Commissioner in the same manner, with any necessary modifications, as if it were tax payable by the person for the tax year:

- (f) in any case where paragraph (d) applies, and where, after the crediting in payment of any tax payable under that paragraph, there remains a balance of the excess referred to in that paragraph, that balance is deemed to be tax paid by the person in respect of the tax year and is refundable by the Commissioner to the person as if it were tax paid in excess.
- (2A) A credit of tax in respect of a child is not allowed under subsection (2)(c) or (d) if the person does not provide the Commissioner with -
- (a) the tax file number of the child for whom the credit is claimed; or
 - (b) the birth certificate or other evidence acceptable to the Commissioner verifying the birth or existence of the child for whom the credit is claimed.
- (4) Where the Commissioner is satisfied that the amount of any credit of tax under section KD 2 or KD 3 set off or refunded to the person in relation to any tax year is in excess of the proper amount, the Commissioner may recover the excess in the same manner, with any necessary modifications, as if it were income tax payable by the person in that tax year:
- provided that, where any person is a qualifying person in relation to whom, throughout the tax year, any other person is a [spouse, civil union partner, or de facto partner], that person and that [spouse, civil union partner, or de facto partner] are jointly and severally liable for payment of the excess and the Commissioner may recover the excess in the same manner, with any necessary modifications, as if it were income tax payable by the person or, as the case may be, the [spouse, civil union partner, or de facto partner] in that tax year.
- [(4B) A person is not liable for a shortfall penalty under Part 9 of the Tax Administration Act 1994 in relation to an amount that the Commissioner is entitled to recover under this section if the setoff or refund was in excess of the proper amount because -
- (a) the person applied under section of the Tax Administration Act 1994 and before 1 April 2007 for a credit of tax; and
 - (b) at the time of the application, the person was eligible to be a transitional resident; and
 - (c) before 1 June 2007, the person gave notice to the Commissioner that they did not wish the application to be treated under section FC 24(4) (Transitional resident) as an election under section FC 24(3).]
- (5) Every person to whom the Commissioner has issued a certificate of entitlement in relation to any tax year must, within the time within which the person is required to furnish a return of his or her income for the tax year, furnish to the Commissioner a statement in the prescribed form setting forth a complete statement of the net income of the person together with a complete statement of the net income for the tax year of every other person who at any time during that tax year was a [spouse, civil union partner, or de facto partner] in relation to that person, signed by that person, that statement setting forth such other particulars as may be required in the statement.

SECT KD 5 CREDIT OF TAX BY INSTALMENTS

- (1) Any person who, before the commencement of any specified period that, for the purposes of this section, is elected by the person (that specified period being referred to in this subpart as the elected period), expects to be entitled, in relation to and

throughout the elected period, to a credit of tax under section KD 2 or, as the case may be, sections KD 2 and KD 3, may, subject to this section, by application made in accordance with subsection (2), require that, in advance of the expiry of the tax year that contains the elected period, payment to the person, or to the [spouse, civil union partner, or de facto partner] of the person on behalf of the person, be made of that credit of tax by way of interim instalments.

- (1A) If a person is entitled to receive the parental tax credit for up to the first 56 days of a dependent child's life (referred to in this subpart as the elected period), the person may apply, in accordance with subsection (2), to receive the parental tax credit under section KD 2 by way of interim instalments in advance of the end of the tax year containing the elected period.
- (1B) The application must be made no later than 3 months after the date of the dependent child's birth.
- (1BA) If the 3 month period in which a person may apply to receive the parental tax credit spans 2 tax years and all of the elected period falls in the first tax year, for the purposes of this subpart, the elected period is treated as falling in the second tax year if all interim instalments are paid to the person in the second tax year.
- (1C) If a person applies more than 3 months after the date of the dependent child's birth, the person may receive the parental tax credit only in accordance with section KD 4 in the tax year in which the birth occurs.
- [(2) An application under subsection (1) or (1A) must -
 - (a) be in the prescribed form; and
 - (b) be signed by the person and any other person who, at the time at which the application is made, expects to be, in the elected period, a [spouse, civil union partner, or de facto partner] in relation to the person; and
 - (c) give, for each signatory to the application, a complete statement of -
 - (i) the net income that is expected to be attributable to the tax year referred to in subsection (1) or (1A); and
 - (ii) the net income that is expected to be attributable to the elected period; and
 - (d) elect whether the interim instalments should be paid weekly or fortnightly; and
 - (e) contain such other information as the Commissioner may require; and
 - (f) be accompanied by the information required by subsection (2AAA).
- (2AAA) An application under subsection (1) or (1A) must be accompanied by the following:
 - (a) for a signatory who expects to derive income from employment, evidence of the amount of income from employment (if any) derived by the signatory in the period of one month immediately preceding the date on which the application is made;
 - (b) for a signatory who expects to derive income from a business, -
 - (i) a copy of the annual accounts of the business for the tax year (or the accounting year that, under this Act, corresponds with the tax year) immediately preceding the tax year that contains the elected period; or

- (ii) if the Commissioner is satisfied that the annual accounts referred to in subparagraph (i) have not been completed, a copy of the annual accounts for the business for the tax year (or the accounting year that, under this Act, corresponds with the tax year) that precedes the year immediately preceding the tax year that contains the elected period; or
 - (iii) a set of budgeted accounts of the business for the tax year (or the accounting year that, under this Act, corresponds with the tax year) that contains the elected period; or
 - (iv) other evidence that is acceptable to the Commissioner in relation to the business for the tax year (or the accounting year that, under this Act, corresponds with the tax year) that contains the elected period:
- (c) unless paragraph (d) applies, the tax file number of each child in relation to whom a credit of tax is claimed:
 - (d) in the case of a child that has died or is given up for adoption, a birth certificate or other evidence acceptable to the Commissioner verifying the birth or existence of the child for whom a credit of tax is claimed.]
- (2AA) [Subsection (2AAA)(a)] does not apply if the Commissioner considers that the Commissioner has sufficient evidence of a signatory's income from employment.
- (2AB) [Subsection (2AAA)(d)] does not apply to an application made by a person who is an adoptive parent, as that term is defined in the Adoption Act 1955.
- (2A) A person continues to be entitled to a credit of tax under section KD 2 or KD 2 and KD 3 for specified periods after the specified period for which an application was made until the Commissioner withdraws the certificate of entitlement under either subsection (10) or (12).
- (3) If an application is not accompanied by the tax file number of each child for whom a credit of tax is claimed and if the Commissioner is otherwise satisfied of the person's entitlement, the Commissioner must -
- (a) issue the person with a certificate of entitlement; and
 - (b) pay to the person interim instalments of a credit of tax under section KD 2 or KD 2 and KD 3 for a period of 8 weeks.
- (3A) If the person or their [spouse, civil union partner, or de facto partner] does not provide the tax file number of a child for whom a credit of tax is claimed within the 8 week period, the Commissioner must stop paying the credit of tax for the child until the tax file number is provided.
- (4) On receipt by the Commissioner of an application made by any person in accordance with subsection (2), the Commissioner must, subject to this section, -
- (a) determine under this subpart the amount (if any) of the estimated entitlement to a credit of tax (calculated on the basis of that application and the statement and the other information furnished with the application and any other information available to the Commissioner) to which the person would be entitled in relation to the elected period; and
 - (b) calculate the amount that, if the Commissioner issued to the person a certificate of entitlement in relation to the whole of the elected period, would be the ... interim instalment by way of credit of tax that would be specified in the certificate of entitlement; and

- (c) in relation to the whole or such part (if any) of the elected period as the Commissioner sees fit, issue to the person a certificate specifying -
- (i) the amount of the ... interim instalment by way of credits of tax (as calculated under paragraph (b)) to which the person is entitled:
 - (ii) the amount (if any) after abatement contributed by the family support credit to the ... interim instalment:
 - [(iib) the amount of credit (if any) after abatement contributed by the in-work payment to the interim instalment:]
 - (iii) the amount (if any) after abatement contributed by the child tax credit to the ... interim instalment:
 - (iiia) the amount (if any) after abatement contributed by the parental tax credit to the ... instalment:
 - (iv) the amount (if any) contributed by the family tax credit to the ... interim instalment.
- (5) Where a certificate of entitlement has been issued to a person under this section, -
- (a) the Commissioner must retain a copy of the certificate; and
 - (b) the Commissioner must make payments to the person of interim instalments by way of credit of tax in accordance with section KD 7.
- (6) In determining [for the purpose of subsection (4)] the amount of the subpart KD credit relating to the whole or any part of an elected period, the Commissioner must -
- (a) calculate an amount (referred to in paragraph (b) and in schedule 12 as the annual amount) in accordance with the following formula:
- $$x \times (365 / y)$$
- where -
- x** is equal to such amount of the net income referred to in subsection (2) expected to be attributable to the part of the tax year that is the part (referred to in this subsection as the calculation period) in relation to which the Commissioner determines that a credit of tax is allowable to the person
 - y** is the number of days in the calculation period; and
- (b) ascertain the amount that, in schedule 12, second column, is deemed to be the equivalent of the annual amount, as that annual amount is represented in schedule 12, first column; and
 - (c) calculate the subpart KD credit that would be allowed to the person, for the tax year of which the calculation period is part, if the specified income of the person in relation to the calculation period were equal to the amount first mentioned in paragraph (b).
- (6A) The amount of an interim instalment by way of credit of tax under section KD 2 or, as the case may be, sections KD 2 and KD 3, must be calculated by the Commissioner -
- (a) as if the calculation period were a specified period; and

- (b) using -
 - (i) a value for specified income as directed by subsection (6)(c); and
 - (ii) the [amounts of family support credit, in-work payment], child tax credit, parental tax credit, family credit abatement, and family tax credit given by [sections [KD 2, KD 2AAA,] and KD 3].
- (7) The amount of any interim instalment by way of credit of tax under section KD 2 or, as the case may be, sections KD 2 and KD 3, in relation to any part of any elected period, that is shown in any certificate of entitlement issued to any person under subsection (4) is the amount that, but for this subsection, would be shown in that certificate of entitlement as the whole dollars comprised in that last-mentioned amount.
- (8) Where -
 - (a) a person -
 - (i) expects that in any specified period the person will be entitled to receive an income-tested benefit; or
 - (ii) has applied to the chief executive of the department currently responsible for administering the Social Security Act 1964 under section KD 6(1B) for a credit of tax to be paid for a period after an income-tested benefit has ceased; and
 - (b) the chief executive of that department -
 - (i) is authorised, by section (1), to make payments of a subpart KD credit to the person; and
 - (ii) does not request the Commissioner, under section KD 6(1C), to accept from the person an application for a certificate of entitlement, -

the person is not entitled to make an application under subsection (2) in relation to that period and section KD 6 applies in relation to the person and the period.
- (9) Any person to whom a certificate of entitlement has been issued under this section must notify the Commissioner immediately upon the occurrence (within the period commencing with the issuing of that certificate of entitlement and ending with the last day of the part, of the elected period, to which that certificate of entitlement relates) of any of the following:
 - (a) the cessation, by the person or by another person who in relation to the person is a [spouse, civil union partner, or de facto partner], of the role of being principal caregiver of any child, where the person expects that he or she will not resume the role of principal caregiver for a period of more than 56 consecutive days:
 - (b) the commencing or the ceasing of the person to be a [spouse, civil union partner, or de facto partner] in relation to another person:
 - (c) any other event of a kind specified, by the Commissioner, in the certificate of entitlement, for the purposes of this subsection, -

and may so notify the Commissioner upon the person, or another person who in relation to the person is a [spouse, civil union partner, or de facto partner], becoming the principal caregiver of any child, or upon the occurrence of any other event that, the person considers, may affect his or her entitlement to the credit of tax specified in that certificate of entitlement, or upon the loss or destruction of that certificate of

entitlement.

(10) Where the Commissioner -

- (a) receives any notification given by any person in accordance with subsection (9) that affects any certificate of entitlement; or
- (b) is otherwise satisfied that a certificate of entitlement issued to any person is incorrect; or
- [(c) is advised by the chief executive of the department currently responsible for administering the Social Security Act 1964, under sections 84 or of the Tax Administration Act 1994, that the person is also receiving a credit of tax from the chief executive or will receive a credit of tax from the chief executive, -]

the Commissioner may require the return of the certificate of entitlement and, whether or not the Commissioner requires the certificate to be returned, may -

- (d) withdraw the certificate of entitlement; or
 - (e) withdraw the certificate of entitlement and issue to the person, in its place, such other certificate of entitlement, in relation to the specified period to which that withdrawn certificate of entitlement related or in relation to such other specified period as the Commissioner considers appropriate, as, having regard to any information in the Commissioner's possession, the Commissioner considers should be issued to the person for the purpose of giving effect to this subpart; or
 - (f) in relation to the certificate of entitlement, issue to the person such supplement as, in the circumstances of the case, the Commissioner considers appropriate; and, for the purposes of this Act, that supplement so issued is deemed to constitute part of, and to amend accordingly, that certificate of entitlement.
- (11) A certificate of entitlement issued to any person under this section (that person being referred to in this subsection and in subsection (12) as the claimant) is -
- (a) not transferable (whether or not for valuable consideration) by the claimant to any other person:
 - (b) on alteration, in any manner by any person, invalid:
 - (c) subject to all terms and conditions stipulated in the certificate by the Commissioner.
- (12) The Commissioner may, by notice to the claimant, withdraw the certificate of entitlement where, in the opinion of the Commissioner, the certificate of entitlement should cease to have effect and the claimant must, within the period of 7 days immediately succeeding the giving of that notice, return the certificate of entitlement to the Commissioner for cancellation by the Commissioner.

SECT KD 5B ...

[SECT KD 5C ADJUSTMENT OF FAMILY SUPPORT AMOUNTS, ABATEMENT THRESHOLD AMOUNTS, AMOUNTS OF IN-WORK PAYMENT AND PARENTAL TAX CREDIT, AND AMOUNT OF FAMILY TAX CREDIT

(1) The Governor-General may from time to time, by Order in Council, -

- (a) increase the amount of the family support credits specified in section KD 2(3)

and the specified income threshold in section KD 2(6) by amounts that -

- (i) correspond to the movement in the quarterly all groups index number of the New Zealand Consumers Price Index:
 - (ii) are rounded up to the nearest whole dollar, without affecting the calculation of later increases made under this paragraph:
 - (b) increase the amount of the parental tax credit specified in section KD 2(5):
 - (c) increase the amount of the in-work payment specified in section KD 2AAA:
 - (d) increase [the figure in the definition of the item amount] in sections KD 3(3) and KD 3(5):
 - (e) replace Schedule 12.
- (2) An Order in Council under subsection (1)(a), -
- (a) in the case of the first Order in Council made under subsection (1)(a), must be made when the total percentage increase in the movements in the quarterly all groups index number of the New Zealand Consumers Price Index measured from that applying on 1 April 2007 is 5% or more:
 - (b) in the case of a subsequent Order in Council under subsection (1)(a), must be made when the total percentage increase in the movements in the quarterly all groups index number of the New Zealand Consumers Price Index measured from that applying on the date when the requirement to make the immediately preceding adjustment arose is 5% or more.
- (3) An Order in Council made under this section must be made no later than 1 December in each year and must apply from 1 April following that date.
- (4) The Minister responsible for the Inland Revenue Department, in consultation with the Minister responsible for the department currently responsible for administering the Social Security Act 1964, must cause a review to be undertaken of the amounts of the in-work payment and the parental tax credit allowable under this subpart.
- (5) A review undertaken under subsection (4) must occur, -
- (a) in the case of the first review, not later than 30 June 2008; and
 - (b) in the case of subsequent reviews, not later than 30 June in the third year after each preceding review.]

SECT KD 6 CHIEF EXECUTIVE TO DELIVER CREDIT OF TAX

- (1) Where in any tax year the chief executive of the department currently responsible for administering the Social Security Act 1964 pays to any person an income-tested benefit, and the chief executive is satisfied that -
- (a) the person is entitled to receive a subpart KD credit for which the amount of the family credit abatement is nil; or
 - (b) the chief executive is authorised by an Order in Council made under section 225A of the Tax Administration Act 1994 to pay the person under this section an amount of subpart KD credit for which the amount of family credit abatement is greater than nil, -
- the chief executive must, when paying the income-tested benefit, in addition pay to

the person so much of the amount of the subpart KD credit as, in the opinion of the chief executive, the person is entitled to at the time of the payment.

- (1A) In determining under subsection (1) the amount of any subpart KD credit to be paid to a person for a period, the chief executive of the department currently responsible for administering the Social Security Act 1964 must -
- (a) use the method set out in section KD 5(6), if required to calculate the amount of the family credit abatement; and
 - (b) take into account the rates of family support credit and family credit abatement given by [section KD 2].
- (1B) Where the chief executive of the department currently responsible for administering the Social Security Act 1964 ceases to pay to any person an income-tested benefit, the chief executive must, if the person applies, continue to pay to the person, for a period determined by the chief executive in consultation with the Commissioner, an amount of subpart KD credit determined as if the person were still being paid an income-tested benefit during the period.
- (1C) The chief executive of the department currently responsible for administering the Social Security Act 1964 may request the Commissioner to accept from a person an application for a certificate of entitlement if the chief executive is satisfied that the person is entitled to a subpart KD credit under section KD 2 but is not satisfied that the chief executive is authorised by subsection (1) to pay the person an amount of subpart KD credit.
- (1D) The chief executive of the department currently responsible for administering the Social Security Act 1964 may, any time after making a request under subsection (1C) in relation to a person, request the Commissioner to cease making payments to the person under a certificate of entitlement if the chief executive is satisfied that subsection (1) authorises the chief executive to pay the person an amount of subpart KD credit.
- (2) Notwithstanding subsection (1) or (1B), any person entitled to payment of a credit of tax under either of those subsections may notify the chief executive of the department currently responsible for administering the Social Security Act 1964 not to pay the credit of tax to that person and the chief executive must as soon as practicable cease to pay the credit of tax accordingly.
- (3) Any notification given under subsection (2) by any person may be cancelled by that person at any time and the chief executive must then recommence payment of the credit of tax as soon as practicable.
- (4) If, in relation to a tax year, the chief executive of the department currently responsible for administering the Social Security Act 1964 makes a payment under this section to a person or to the [spouse, civil union partner, or de facto partner] of a person on behalf of the person, the chief executive must for each month in which a payment is made deliver to the Commissioner particulars of the payment in an employer monthly schedule and, -
- (a) not later than the 20 April next succeeding the last day of the tax year in which any such payment is so made, deliver to that person a certificate, signed by the chief executive, in a form authorised by the Commissioner and showing the total of all of the amounts of the credits of tax paid under any certificate of entitlement, together with such other information as the Commissioner may prescribe:

- (b) not later than 31 May in the tax year next succeeding the tax year in which any such payment is so made, deliver to the Commissioner a copy of every certificate delivered by the chief executive in accordance with paragraph (a), together with such other information as the Commissioner may prescribe.

**SECT KD 7 COMMISSIONER TO DELIVER CREDIT OF TAX BY
INSTALMENTS**

- (1) Where a certificate of entitlement has been issued to any person under section KD 5, the Commissioner must, in such period as -
 - (a) commences on the day specified in the certificate of entitlement; and
 - (b) ends with the earlier of -
 - (i) the day on which the certificate of entitlement is withdrawn by the Commissioner; or
 - (ii) the termination date specified in the certificate of entitlement, -

pay to the person, on such days as the Commissioner may fix, the ... interim instalments of the credit of tax shown in the certificate of entitlement.
- (2) If the Commissioner makes a payment in accordance with this section to a person or to their [spouse, civil union partner, or de facto partner] on their behalf during a tax year, the Commissioner must deliver to the person a certificate in the prescribed form showing the total of all the credits of tax paid by instalments under a certificate of entitlement for that tax year, together with such other information the Commissioner may prescribe.
- (2A) The Commissioner must deliver the certificate -
 - (a) on or before 20 May next following the last day of the tax year in which the payment is made for persons to whom section 33A(5) of the Tax Administration Act 1994 does not apply; and
 - (b) on the same date that the Commissioner issues the person with an income statement for the tax year in which the payment is made for persons to whom section 33A(5) of the Tax Administration Act 1994 applies.
- [(2B) If the Commissioner considers, on the basis of information provided under section 85G of the Tax Administration Act 1994 by the chief executive of the department currently responsible for administering the Social Security Act 1964, that a person is entitled to a family support credit, the Commissioner must make payments by way of interim instalments without abatement of the credit to the person for the period that -
 - (a) commences on the day following the day that the chief executive specifies as being the last day for which the person is entitled to the specified benefit, or as the case may be, a subpart KD credit paid under section KD 6(1); and
 - (b) ends on the earlier of -
 - (i) the day preceding the first day specified in a certificate of entitlement subsequently issued under section KD 5:

- (ii) a period of not more than 8 weeks, commencing on the first day referred to in paragraph (a).
- (2C) If under section KD 6(1B) a credit payable under subsection (2B) is paid for part of the 8 week period referred to in subsection (2B)(b)(ii) by the chief executive of the department currently responsible for administering the Social Security Act 1964, the 8 week period is reduced by the period in respect of which payments were made by the chief executive of that department.]
- (3) Where, following receipt by the Commissioner of an application for a certificate of entitlement under section KD 5(2), the issue of a certificate of entitlement has in the opinion of the Commissioner been unduly delayed, the Commissioner may pay such amounts by way of interim instalments of credit of tax as, having regard to the circumstances of the case, the Commissioner determines should be so paid.
- (3A) Where in any tax year the chief executive of the department currently responsible for administering the Social Security Act 1964 ceases to pay to [any person a credit of tax with an income-tested benefit], the Commissioner may, on application by the person, pay to the person the amount of the credit of tax that the Commissioner determines the person would be entitled to under section KD 2(2) for the period that -
 - (a) commences on the later of -
 - (i) the first day of the tax year; and
 - (ii) the day following that on which the chief executive ceases payment of any credit of tax to the person; and
 - (b) ends on the day preceding the first day specified in a certificate of entitlement subsequently issued to the person under section KD 5.
- (3B) Where in any tax year the chief executive of the department currently responsible for administering the Social Security Act 1964 ceases to pay to any person an income-tested benefit, the Commissioner may, on application by the person, pay to the person the amount of the credit of tax that the Commissioner determines the person would be entitled to under section KD 3 for the period that -
 - (a) commences on the later of -
 - (i) the first day of the tax year; and
 - (ii) the day following that on which the chief executive ceases payment of the income-tested benefit to the person; and
 - (b) ends on the day preceding the first day specified in a certificate of entitlement subsequently issued to the person under section KD 5.
- (3C) ...
- (4) Unless the Commissioner in any particular case otherwise determines, it is a condition of the receipt of credits of tax paid by instalments under this section that the qualifying person, or the qualifying person and his or her [spouse, civil union partner, or de facto partner], supply the Commissioner with particulars of an existing account held by the person (whether alone or jointly with the person's [spouse, civil union partner, or de facto partner]), or open such an account if one is not held, and supply the Commissioner with particulars of the account, being an account held with -
 - (a) any registered bank within the meaning of that term in section 2 of the Reserve

Bank of New Zealand Act 1989; or

- (b) any private savings bank carried on under the Private Savings Banks Act 1983; or
 - (c) any building society, in respect of any deposits with the building society; or
 - (d) the Public Service Investment Society Limited; or
 - (e) any person that is a bank within the meaning of the Banking Act 1982, -
- and every credit of tax by interim instalment must be paid by the Commissioner into such an account.

SECT KD 7A EFFECT OF EXTRA INTERIM INSTALMENT ON ENTITLEMENT TO TAX CREDIT

- (1) This section applies to a person who -
 - (a) is entitled to a subpart KD credit or family tax credit for the whole or part of a tax year; and
 - (b) receives in the tax year -
 - (i) a payment under section KD 7 of an interim instalment of the credit for each period of a fortnight in the tax year; or
 - (ii) payments under section KD 6 of interim instalments of the credit for periods of a week in the tax year and no payment under section KD 7 in the tax year; and
 - (c) as a consequence of the year not being divided into an exact number of fortnights or weeks, -
 - (i) receives in the tax year 27 interim instalments corresponding to a period of a fortnight; or
 - (ii) may have received in the tax year 53 interim instalments corresponding to a period of a week.
- (2) For the purposes of section KD 4(2)(c), a person who has received payments under section KD 7 for the whole of a tax year is entitled to a credit of tax for the tax year of the amount given by the following formula:

$$a + ((b - c) \times 13 / 14)$$

where -

- a** is the amount of the credit of tax for the tax year calculated for the person under -
 - (a) section KD 2, if the person is entitled to a subpart KD credit of tax;
 - (b) Section KD 3, if the person is entitled to the family tax credit
 - b** is the amount of the final interim instalment received by the person in the tax year
 - c** is the amount of any parental tax credit that is included in the final interim instalment received by the person in the tax year.
- (3) For the purposes of section KD 4(2)(c), a person who has received payments under section KD 6 for the whole of a tax year and no payment under section KD 7 for the

tax year is entitled to a credit of tax for the tax year of the amount given by the following formula:

$$a + (b / 53)$$

where -

- a** is the amount of the credit of tax for the tax year calculated for the person under -
- (a) section KD 2, if the person is entitled to a subpart KD credit of tax:
 - (b) Section KD 3, if the person is entitled to the family tax credit
- b** is the total amount of the interim instalments received by the person in the tax year.

SECT KD 8 CREDIT OF TAX DEEMED TO BE EXCLUDED INCOME

Every credit of tax allowed to any person under this subpart is, for the purposes of this Act, deemed to be excluded income derived by the person to whom the credit of tax is allowed.

SECT KD 9 ADVICE

In determining the entitlement of a person to any credit of tax under this subpart, the Commissioner may, if the Commissioner considers it necessary, obtain the advice of the chief executive of the department currently responsible for administering the Social Security Act 1964 or, as the case may be, the Secretary for War Pensions.

SOME RELEVANT DEFINITIONS

Definitions from s OB 1:

dependent child , for a child and for a person, means a child—

- (a) whose care is primarily the responsibility of the person; and
- (b) who is being maintained as a member of the person's family; and
- (c) who is financially dependent on the person; and
- (d) who is not a child for whom payments are being made under section 363 of the Children, Young Persons, and Their Families Act 1989; and
- (e) who is not a child for whom a benefit is being paid under section 28 or 29 of the Social Security Act 1964

eligible period, for a person, means a period forming a part or the whole of a specified period, during which—

- (a) the person is a qualifying person for each day; and
- [(b) another person does not on any day start or cease to be—
 - (i) a spouse or civil union partner of the person:
 - (ii) in a de facto relationship, between a man and a woman, with the person]
- (c) the person does not start or cease to be the principal caregiver of a dependent child other than on the first or, as applicable, the last day; and
- (d) a child for whom the person is the principal caregiver does not cease to be a dependent child other than on the first or, as applicable, the last [day; and]
- [(e) the composition of a subpart KD credit does not change, other than on the first, or as applicable, the last day]

employment ,—

- (a) includes the activities associated with the office of a member of Parliament that, when the member performs them, give rise to an entitlement to receive a source deduction payment for the office:
- (b) includes the activities associated with the office of a judicial officer that, when the judicial officer performs them, give rise to an entitlement to receive a source deduction payment for the office:
- (c) in the FBT rules, means the activity that entitled, entitles, or will entitle a person performing it to receive a source deduction payment, but this reference to a source deduction payment does not include—
 - (i) a payment described in the definition of salary or wages in any of paragraph (b)(iii) or (ix) to (xvi); or
 - (ii) a withholding payment specified in Part E of the Income Tax (Withholding Payments) Regulations 1979:
- (d) in subpart KD (Tax credits for family support and family plus), and in the definitions of full employment, full-time earner, and fully employed person,—
 - (i) means the activity that entitles or will entitle a person performing it to receive a source deduction payment, but this reference to a source deduction payment does not include a payment described in the definition of salary or wages in any of paragraph (b)(iii), (ix), and (xi) or a withholding payment specified in Part E of the Income Tax (Withholding Payments) Regulations 1979; and
 - (ii) includes non-activity on a day by a person who receives a source deduction payment for the day because the person is treated as having performed the activity on the day to an extent determined by the Commissioner, having regard to the day, the pay period in which it occurs, the circumstances giving rise to the source deduction payment, and any other circumstances that the Commissioner considers relevant; and
 - (iii) includes activity on a day by a person who receives a source deduction payment for the day, even though their activity is less than the activity that would normally give rise to the source deduction payment, because the person is treated as having performed the activity on the day to an extent determined by the Commissioner, having regard to the day, the pay

period in which it occurs, the circumstances giving rise to the source deduction payment, and any other circumstances that the Commissioner considers relevant:

- (e) is defined in section KD 3(1) (Calculation of family tax credit) for the purposes of that section

full-time earner —

- (a) means a person who, for any week,—
 - (i) is engaged in employment for not less than 20 hours in the week and does not have a spouse, civil union partner, or de facto partner at any time in the week; or
 - (ii) is engaged in employment for not less than 30 hours in the week and has a spouse, civil union partner, or de facto partner at any time in the week; or
 - (iii) is a spouse, civil union partner, or de facto partner at any time in the week of another person who in the week is engaged in employment for not less than 30 hours; or
 - (iv) is engaged in employment in the week and is a spouse, civil union partner, or de facto partner at any time in the week of another person who in the week is engaged in employment, if the total employment in the week of the spouses, civil union partners, or de facto partners is not less than 30 hours:
- (b) for the purposes of paragraph (a), if a person performs employment in a pay period of longer than 1 week, the person is treated as performing the employment to a uniform daily extent throughout the period:
- (c) if a person described in paragraph (a) as being engaged in employment suffers an incapacity as described in paragraph (d), which has the consequence described in paragraph (e), paragraph (f) applies:
- (d) for the purposes of paragraph (c), the incapacity is an incapacity due to personal injury by accident as defined in section 2 of the Accident Compensation Act 1982 or section 3 of the Accident Rehabilitation and Compensation Insurance Act 1992 or section 29 of the Accident Insurance Act 1998 or section 26 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 for which 1 of the following has been, is being, or will be paid:
 - (i) earnings related compensation as defined in section 2 of the Accident Compensation Act 1982:
 - (ii) vocational rehabilitation allowance payable under section 25 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (iii) compensation for loss of earnings payable under any of sections 38, 39, and 43 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (iv) compensation for loss of potential earning capacity payable under section 45 or 46 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (v) weekly compensation payable under any of sections 58, 59, and 60 of the Accident Rehabilitation and Compensation Insurance Act 1992:

- (vi) continued compensation payable under section 138 of the Accident Rehabilitation and Compensation Insurance Act 1992:
 - (vii) weekly compensation as defined in section 13 of the Accident Insurance Act 1998:
 - (viii) weekly compensation as defined in section 6 of the Injury Prevention, Rehabilitation, and Compensation Act 2001:
- (e) for the purposes of paragraph (c), the consequence is that the person is unable to be engaged in any week in the employment or employments in which, but for the incapacity, they would, the Commissioner is satisfied, have been engaged in in the week for the number of hours specified in paragraph (a)(i) or (ii) or (iii) or to the extent of the engagement specified in paragraph (a)(iv):
 - (f) for the purposes of paragraph (c), the person is treated as having been engaged in the week in the employment or employments for the number of hours specified in paragraph (a)(i) or (ii) or (iii) or to the extent of the engagement specified in paragraph (a)(iv):
 - (g) if a person described in paragraph (a) as being engaged in employment is unable to be engaged in employment in the week because they are on a period of parental leave under the Parental Leave and Employment Protection Act 1987 for which a parental leave payment under Part 7A of the Act is payable, they are treated as having been engaged in the week in the employment for the number of hours in which, the Commissioner is satisfied, they would have been engaged but for the period of parental leave:
 - (h) is defined in section KC 3(3) (Transitional tax allowance) for the purposes of that section

income-tested benefit —

- (a) means any of the following benefits paid or payable under the Social Security Act 1964:
 - (i) domestic purposes benefit:
 - (ii) emergency benefit:
 - (iii) independent youth benefit:
 - (iv) invalids' benefit:
 - (v) sickness benefit:
 - (vi) unemployment benefit:
 - (vii) widows' benefit; and
- (b) (omitted)
- (b) (omitted)

principal caregiver , for a dependent child,—

- (a) means the person, whether or not a parent of the child, who, in the opinion of the Commissioner, has the primary responsibility for the day to day care of the child, other than on a temporary basis; and

- (ab) does not include a transitional resident or the spouse, civil union partner, or de facto partner of a transitional resident; and
- (b) does not include a body of persons, whether incorporated or unincorporated; and
- (c) does not include a person who is the proprietor of, or employed in,—
 - (i) a residence established under the Children, Young Persons, and Their Families Act 1989; or
 - (ii) a residential disability care institution as defined in section 58(4) of the Health and Disability Services (Safety) Act 2001; or
 - (iii) any other institution in which the child is being cared for

salary or wages —

- (a) means salary, wages, or allowances relating to the employment of a person, including all sums received or receivable by way of bonus, commission, extra salary, gratuity, overtime pay, or other remuneration of any kind; and
- (b) includes—
 - (i) the market value of the benefits that a person receives in a tax year, because of their office or position, by way of the provision of board or lodging or the use of a house or quarters, or the payment of an allowance instead of being provided with board or lodgings or the use of a house or quarters, with the market value determined by the Commissioner if there is a dispute; and
 - (ii) payments that are expenditure on account of an employee; and
 - (iii) payments under section DC 4 (Payments to working partners); and
 - (iv) specified superannuation contributions for which an employee makes an election under section NE 2A (Employee election that specified superannuation contributions be treated as salary or wages); and
 - (v) periodic payments by way of pension, retiring allowance, superannuation, or other allowance or annuity relating to the past employment of a person or of another person of whom the person is or has been the wife, husband, civil union partner or child or dependant; and
 - (vi) payments of salary or allowances made to a member of Parliament under a determination of the Remuneration Authority; and
 - (vii) payments of salary and principal allowances made to a judicial officer under a determination of the Remuneration Authority; and
 - (viii) payments that are income under section CF 1 (Benefits, pensions, compensation, and government grants); and
 - (ix) payments of income-tested benefits, veterans' pensions, New Zealand superannuation, and living alone payments; and
 - (x) parental leave payments paid under Part 7A of the Parental Leave and Employment Protection Act 1987; and
 - (xi) basic grants and independent circumstances grants, made under regulations made under section 193 of the Education Act 1964, section 303 of the Education Act 1989, or an enactment substituted for those sections; and
 - (xii) under the Accident Compensation Act 1982, payments of earnings related compensation, as defined in section 2, and of compensation under section

- 80(4), that are not payments on account made under section 88 in circumstances in which, at the time the payments on account are made, the nature of the compensation on account of which they are made has not been determined; and
- (xiii) under the Accident Rehabilitation and Compensation Insurance Act 1992, a vocational rehabilitation allowance payable under section 25, payments of compensation for loss of earnings payable under any of sections 38, 39, and 43, compensation for loss of potential earning capacity payable under section 45 or 46, weekly compensation payable under any of sections 58, 59, and 60, and continued compensation payable under section 138; and
 - (xiv) under the Accident Insurance Act 1998, payments made under it by an insurer, as defined in the Act, of weekly compensation, as defined in the Act; and
 - (xv) under the Accident Insurance Act 1998, any other payments of compensation for loss of earnings or loss of potential earning capacity in so far as they relate to a work-related personal injury, as defined in the Act, made by an insurer under a policy of personal accident or sickness insurance to which section 188(1)(a) (as it read immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000) applies; and
 - (xvi) under the Injury Prevention, Rehabilitation, and Compensation Act 2001, payments made under it by the Corporation, as defined in the Act, of weekly compensation, as defined in the Act; and
- (c) does not include—
- (i) payments of exempt income, or extra pays, or withholding payments; or
 - (ii) salary, wages, or other income to which section OB 2(2) (Meaning of source deduction payment: shareholder-employees of close companies) applies; or
 - (iii) employer's superannuation contributions; or
 - (iv) payments that are declared by regulations under this Act not to be salary or wages

specified payment means—

- (a) an income-tested benefit; or
- (b) a veteran's pension; or
- (c) New Zealand superannuation; or
- (d) a basic grant or an independent circumstances grant, made under regulations made under section 193 of the Education Act 1964, section 303 of the Education Act 1989, or an enactment substituted for those sections; or
- (e) compensation described in any of paragraph (b)(xii) to (xvi) of the definition of salary or wages, if the compensation relates to a day forming part of a continuous period of eligibility for such compensation and the day falls after the earlier of—

- (i) the day having the same date as the first day of the continuous period of eligibility for compensation and occurring in the third calendar month after that first day; and
- (ii) the last day of the third calendar month after the first day of the continuous period of eligibility for compensation

CF 1 Benefits, pensions, compensation, and government grants

Income

- (1) The following amounts are income:
 - (a) an accident compensation payment:
 - (b) an education grant:
 - (c) an income-tested benefit:
 - (d) a living alone payment:
 - (e) a New Zealand superannuation payment:
 - (f) a parental leave payment paid under Part 7A of the Parental Leave and Employment Protection Act 1987:
 - (g) a pension:
 - (h) a veteran's pension.

Some definitions

- (2) In this section,—

accident compensation payment means—

- (a) a payment under the Accident Compensation Act 1982 of earnings-related compensation that is not recovered or recoverable by, or refunded to, to the chief executive of the department currently responsible for administering the Social Security Act 1964:
- (b) a payment under section 80(4) of the Accident Compensation Act 1982 that is not recovered or recoverable by, or refunded to, to the chief executive of the department currently responsible for administering the Social Security Act 1964:
- (c) a payment of any of the following kinds under the Accident Rehabilitation and Compensation Insurance Act 1992, none of which is recovered or recoverable:
 - (i) a vocational rehabilitation allowance under section 25; or
 - (ii) compensation for loss of earnings under any of sections 38, 39, and 43; or
 - (iii) compensation for loss of potential earning capacity under section 45 or 46; or
 - (iv) weekly compensation under any of sections 58, 59, and 60; or
 - (v) continued compensation under section 138; or
- (d) a payment under the Accident Insurance Act 1998 of weekly compensation that is not recovered or recoverable:

- (e) a payment under a policy of personal accident or sickness insurance under section 188(1)(a) of the Accident Insurance Act 1998 (as it was immediately before its repeal by section 7 of the Accident Insurance Amendment Act 2000) of compensation for loss of earnings or loss of potential earning capacity as it relates to work-related personal injury;
- (f) a payment under the Injury Prevention, Rehabilitation, and Compensation Act 2001 by the Corporation of weekly compensation that is not recovered or recoverable under section 248 of that Act

education grant means a basic grant or an independent circumstances grant under regulations made under section 303 of the Education Act 1989

pension —

- (a) includes a gratuitous payment made to a person in return for services that the person (or their parent, child, spouse or civil union partner, former spouse or civil union partner, or dependant) provided to the payer when the payment would not have been made if the services had not been provided; and
- (b) does not include a payment made to the person because of, and within 1 year after, the death of that parent, child, spouse or civil union partner, former spouse or civil union partner, or dependant.