Taxation (Income-sharing Tax Credit) Bill

185—1

Report of the Finance and Expenditure Committee

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Taxation (Income-sharing Tax Credit) Bill

Recommendation

The Finance and Expenditure Committee has examined the Taxation (Income-sharing Tax Credit) Bill and recommends that it proceed.

Introduction

This bill seeks to amend the Income Tax Act 2007 and the Tax Administration Act 1994 to introduce a tax credit for couples with dependent children under certain circumstances. Under the bill, couples with dependent children would be assessed for tax according to household income as opposed to individual income as is currently the case. For example, a couple where one individual is employed earning $100,000 would face the same tax burden as a couple who earn $50,000 each.

Recommendation that the bill proceed

We have some reservations about the bill in its current form. However, we support the policy intent of the bill, and on this basis are recommending that it proceed. We consider that there is a need to support families with dependent children, and a need to recognise the interdependence of those within the family unit and acknowledge the important role of caregivers who forgo paid employment to raise their children.

While we are recommending that the bill proceed, we acknowledge that the fiscal cost of the bill, estimated by the Inland Revenue to be $502 million, is significant. We would like to see work undertaken to resolve those issues we have outlined below before the bill progresses to the committee of the whole House. A Supplementary Order Paper could address the issues we have set out in this report.

Tax credit approach

We are not convinced that a tax credit is the best way to achieve the policy intent behind the bill. While we acknowledge that the proposed tax credit would be aligned with other welfare policies which are based on household income rather than individual income—such as the Working for Families tax credit and social welfare benefits—we do not consider this sufficient justification for a tax credit as a rational basis for applying this policy.

We acknowledge that employing a tax credit could affect income distribution adversely; the policy might result in assistance being poorly targeted and not helping those most in need, such as children living in poverty. The Inland Revenue has informed us that, under the proposed tax credit approach, 78 percent of the value of tax credits would go to families with an annual income of more than $70,000.

We consider that whether or not a tax credit is the best option for applying this policy should be investigated further.

Fairness of application

Consistency with the New Zealand Bill of Rights Act 1990

Under section 7 of the New Zealand Bill of Rights Act and Standing Order 260, the Attorney-General had to report on the consistency of the bill with the New Zealand Bill of Rights. The Attorney-General found that the bill in its current form appears to limit the right to be free from discrimination as affirmed by section 19(1) of the New Zealand Bill of Rights Act, and that this limitation cannot be justified under section 5 of that Act.

The bill in its current form excludes sole parents from the benefits of the tax credit, discriminating on the grounds of marital status (as those benefiting from the tax credit must be a couple with dependent children). Sole parents are predominantly women, and the bill therefore also discriminates against a significant proportion of women who are sole parents. The Attorney-General stated that, because alternatives to the tax credit proposed by the bill are available, this discrimination would limit sole parents' and women's rights more than is reasonably necessary. We note the concern expressed by the Attorney-General that these groups of people are often precisely those most in need of more freedom to work fewer hours, or more flexible hours, in order to care for dependent children.

In addition, we acknowledge similar concerns raised by the Human Rights Commission, which argued that the bill is unlikely to do what it sets out to do as it excludes a significant number of families, many of which are particularly vulnerable and in need of support. The commission also emphasised that it considers the bill in its current form to be discriminatory on the grounds of marital status and sex.

We consider that proposals need to be made to address these concerns before the bill advances to the committee of the whole House.

The appropriate age for a dependent child

We are concerned about the rationale behind defining a dependent child under the bill as one up to 18 years old. We were told that the intention of this definition is to align the bill with the Working for Families tax credit. We do not consider this a sufficient basis for determining the age of children for whom the policy should apply. We discussed whether there might be justification for setting the age at six years—the age at which sole parents on the domestic purpose benefit are required to begin work testing and the age that compulsory schooling must begin—or two years.

We note that a change to the age at which a child is considered dependent might reduce the fiscal cost of the policy, and the associated operational costs, significantly. We do have serious concerns about the potentially large fiscal cost of the bill as introduced, estimated at $502 million by the Inland Revenue, and therefore consider it vital that further work be undertaken to investigate whether the age limit of a dependent child should be revised down from 18 years old, to two years old. Again, we would expect this work to occur before the bill is progressed to the committee of the whole House stage.

Possible minor amendments

Because of the major concerns we have about the form of the current bill, we believe a considerable amount of further work should be undertaken, which will inevitably result in proposals for significant change. The extent of the change we consider necessary means that we have not considered it beneficial, in the limited time available to us, to propose specific drafting changes to improve the bill in its current form.

We have identified opportunities for two very minor drafting changes, but have chosen, in accordance with Speaker's Ruling 103(1), not to reprint the bill because these two amendments are too minor to justify it. We set out the two proposed amendments below so that they may also be addressed as the bill progresses through the House.

We acknowledge some minor renumbering is required in clause 13 to take into account a change made by the Taxation (GST and Remedial Matters) Act 2010.

We suggest an amendment to clause 17(4), to redraft the definition of a dependent child to reflect the change made to the definition in the Income Tax Act 2007 by the Taxation (Definitions of Dependent Child) Act 2010.

Appendix

Committee procedure

The Taxation (Income-sharing Tax Credit) Bill was referred to us on 23 September 2010. The closing date for submissions was 10 December 2010. We received and considered 102 submissions from interested groups and individuals. We heard 16 submissions.

We received advice from the Inland Revenue and the Treasury.

Committee membership

Craig Foss (Chairperson)
Amy Adams
David Bennett
Brendon Burns
Hon David Cunliffe
Hon Sir Roger Douglas
Aaron Gilmore
Hon Shane Jones (until 9 February 2011)
Rahui Katene
Peseta Sam Lotu-Iiga
Hon Trevor Mallard (from 9 February 2011)
Stuart Nash
Dr Russel Norman