

## Income tax – Child support

Child support is not family support. It only affects families where a parent is not living with the children, and is a payment made by that parent to help support the children. Family support, on the other hand, is Government income assistance that is available to all families, subject to income limitations.

### Those affected by child support

Child support may apply to:

- ✦ Any parent who lives apart from a child;
- ✦ A sole parent;
- ✦ A parent who cares for a child from a previous relationship;
- ✦ A caregiver (including a relative) bringing up children;
- ✦ A parent sharing custody of children with the other parent;
- ✦ A person with a spousal maintenance order or agreement registered in the Family Court;
- ✦ A person with a child maintenance Court order or Court-registered agreement.

### Child Support Agency

The Child Support Agency of the IRD administers child support. It accepts and processes applications for child support, calculates the amount required to be paid by the liable parent, and collects the amount. It will also collect and pay out:

- ✦ Spousal maintenance (maintenance paid to a spouse where there are no children);
- ✦ Court-ordered child maintenance; and
- ✦ Any maintenance agreed to by a voluntary agreement, even when it is not registered in the Family Court.

### Objections

Objections to a child support assessment should be made within 28 days of receiving the notice of assessment. The grounds for objection are limited to the following:

- ✦ There were no grounds for the application to be made; or
- ✦ The notice of assessment is incorrect.

If the objection is allowed, the child support liability is reassessed. If the objection is not allowed, there is a period of 2 months to appeal to the Family Court.

### Payments of child support

Child support payments are a debt due to the Crown. They are calculated for one month and are to be made by the 20th day of the following month. This can be done in the following ways:

- ✦ By deduction from salary and wages along with PAYE income tax through the employer's PAYE system;
- ✦ By automatic payment from a bank account; or
- ✦ By direct payment to the Child Support Agency of the IRD.

### Penalties

Any payments of child support not made by the due date incur a penalty of 10% of the outstanding amount (with a minimum of \$5), which is increased by 2% for each month that the amount remains overdue.

The IRD may write off penalties in some circumstances. Penalties must be written off when:

- ✦ Liable parents keep to debt repayment arrangements entered into within 3 months of the assessment for their first payment being issued;
- ✦ An initial penalty is greater than the arrears to which it relates and the liable parent has no history of late payments.

## Employer's responsibilities

An employer may be required to deduct child support from the earnings of employees who are liable parents.

In this case, Inland Revenue Child Support will issue the employer with a child support deduction notice (CS503) which authorises and instructs the employer to deduct child support. The notice shows:

- ✦ The employee's name and IRD number;
- ✦ The pay period from which child support deductions should commence;
- ✦ The amount to be deducted from each pay;
- ✦ An employee reference (if applicable).

Child support has priority over all other deductions from an employee's pay, apart from PAYE. Thus child support must be deducted before student loan repayments, superannuation, or union fees.

However, child support deductions may not exceed 40% of an employee's net (after tax) earnings. If an employee would be left with less than 60% of their net pay if the full amount of child support were deducted, the employer must not deduct the full amount of child support. This is only likely to occur when an employee receives less pay than usual (eg due to unpaid absences).

A liable parent with more than one source of income can elect to have the whole child support amount deducted from a single income source, even if this deduction is more than 40% of their income from that source.

The deduction may not exceed 40% of their total after-tax income from all sources. Before 24 July 1999, the amount of child support deducted from any one income source could not exceed 40% of that income source, which meant that deductions from more than one source of income were necessary in some cases.

Child support deductions must be paid to the IRD by the same dates as for PAYE:

- ✦ Small employers: the 20th of each month;
- ✦ Large employers: the 5th and 20th of each month.

Records of child support deductions must be kept by employers for at least 7 years.

## Offences and fines

Fines of up to \$15,000 for each offence may be imposed upon an employer for a first offence, thereafter the fine may be up to a maximum of \$25,000 for each subsequent offence. The offences include:

- ✦ Failure to deduct child support payments;
- ✦ Failure to pay child support deductions to the IRD by the 20th of the following month;
- ✦ Disclosing information about an employee's child support obligations; and
- ✦ Discriminating against employees because of child support liabilities.

The employer and the employees and agents of the employer are prohibited from disclosing information about any employee's child support obligations, except to the Child Support Agency or in the course of running the business (such as providing information to auditors).

A conviction against the employer may result in a fine of up to \$15,000 for the first offence.

## See Us First

To assist you in meeting the necessary legal or financial requirements.

If you consider that any of the issues contained in this fact sheet may affect you.

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## Disclaimer

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