

Mr Robert McKenzie
fyi-request-9140-60aedbc6@requests.fyi.org.nz

Dear Mr McKenzie

Thank you for your request made under the Official Information Act 1982 (OIA) received on 27 November 2018. You requested the following:

Why does the IRD take a partners (sic) income details in terms of its' bizarre hardship applications overseas when onshore a student loan debtors partners income is irrelevant?

ie an onshore stay at home parent with a student loan is exempt from paying even if their partner is earning?

Why is there a different rule for a stay at home parent overseas with a student loan?

Why would, for instance an Australian husband married to a NZ student loan borrower be in debt to the IRD for his stay at home wife's very old NZ student loan?

How would this even stand up in an Australian court if legal action was taken? Considering the loan is over 20 years old?

Section 30(1) of the Student Loan Scheme Act 2011 (the Act) requires that each borrower must repay his or her consolidated loan balance in accordance with the Act and the loan contract. However, section 147 of the Act sets out the Commissioner of Inland Revenue's discretion to grant hardship relief. Section 147 of the Act states:

147 Hardship relief for any tax year

(1) If an application is made under section 145(1)(b) for hardship relief, the Commissioner may, for any period the Commissioner considers equitable, decrease a borrower's repayment obligation if the Commissioner—

- (a) satisfied that payment of that repayment obligation is causing, or would cause, serious hardship to the borrower; or*
- (b) considers that there are other special reasons that make it fair and reasonable to do so.*

While the obligation to repay a student loan lies with the individual borrower, when considering applications for hardship relief your scenario is incorrect. Before the Commissioner can be satisfied that a person is in a position of hardship, she will require verification of a person's current financial situation, including household family income.

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This will determine a person's ability to make repayments. This is regardless of whether the person resides in New Zealand or overseas, or the age of the debt.

For your information, a Standard Practice Statement (SPS) setting out Inland Revenue's practice for providing relief from payment of student loan repayment obligations can be found here: <https://www.ird.govt.nz/technical-tax/standard-practice/returns-debt/sps-11-03-student-loans-relief-from-repayment-obligations.html>

Thank you for your request.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'KMB', with a stylized flourish at the end.

Kaylynne Bell

Group Lead, Customer and Compliance Services, Individuals

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