



14 JUL 2020

Dear

On 17 March 2020, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, the following information:

- *Do periods in which a non-resident New Zealand citizen (who is also a non-resident for tax purposes) pays income tax in New Zealand count towards that citizen's years of residency for the purposes of New Zealand Superannuation? For example, PAYE deductions made while working offshore for a New Zealand-based employer.*
- *If the answer to question 1 is 'yes', then is the entire financial year in which PAYE was deducted counted towards the period of residency, or only those months in which PAYE was deducted?*
- *If the answer to question 1 is 'yes', then do the relevant periods, as identified in the answer to question 2, count towards the 5 years of residency required of a citizen over 50+ years of age?*

On 20 March 2020, you received an email response from the Ministry in regards to question one of your request. On 17 June 2020, you advised the Ministry that the information initially received did not answer question two and three of your request.

A client applying for a benefit, including New Zealand Superannuation, can be considered resident and present in New Zealand during periods where they have been employed overseas and their employer (or other relevant person) deducted PAYE or source deductions from their wages and paid them to the Commissioner of Inland Revenue in New Zealand.

This concession only applies to clients who have worked overseas after 23 June 1987 and returned to New Zealand. A spouse or any dependent child who were with the client while they were working overseas can also be treated as resident and present in New Zealand for the same periods.

If the client has a child born outside of New Zealand during the period they were working overseas the child is deemed to have been born in New Zealand.

The residential concession does not apply to people who are self-employed and working overseas.

Clients should provide evidence of the periods they were employed overseas and that PAYE or source deductions were paid to the New Zealand Inland Revenue during these periods.

I will now address questions two and three in turn.

In regard to question two of your request, where a client has worked overseas and their employer (or other relevant person) deducted PAYE or source deductions from their wages and paid them to Inland Revenue, only the relevant periods where deductions were made count toward the period of residency for New Zealand Superannuation (i.e. only the months where PAYE was deducted).

In regard to question three of your request, the relevant periods identified in the previous paragraph can be aggregated with actual New Zealand residency and presence to meet the 10- and 5-year residency requirements for New Zealand Superannuation.

Please note that this practice is based on section 79 of the former Social Security Act 1964. When that Act was rewritten in 2018, this provision was shifted into regulations. However, the regulation making provision did not allow those regulations to cover New Zealand Superannuation or Veteran's Pension. This omission is to be addressed by the New Zealand Superannuation and Veteran's Pension Legislation Amendment Bill that is currently before Parliament.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter available to the wider public. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response about New Zealand Superannuation residency requirements, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bridget Saunders', with a large, stylized initial 'B'.

Bridget Saunders
Manager, Issue Resolution, Service Delivery