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**Draft Standard Practice Statement ED0183: Child Support and Domestic Maintenance –
Amendments to Assessments**

Introduction

The New Zealand Law Society (Law Society) appreciates the opportunity to comment on draft Standard Practice Statement ED0183: *Child Support and Domestic Maintenance – Amendments to Assessments* (draft SPS). All legislative references are to the Child Support Act 1991 unless otherwise stated.

Comments

Voluntary compliance consideration

The Law Society considers that more detail needs to be provided in relation to how consideration of principle (f) “Voluntary Compliance” will work in practice. The draft SPS currently states that “Where possible, any decision to amend an assessment should not discourage the voluntary compliance of parents and carers with their legal obligations, including their obligations to provide information.” No further detail is given. Without more, this statement could be read, for example, to imply that the Commissioner could be willing to enter into negotiation with either party for the exchange of information at the expense of amending an assessment to give effect to the Act.

Vexatious requests and small amounts of financial support

Under principle (h) “Vexatious requests”, amendments that relate to very small amounts of financial support are grouped together with requests that the Commissioner considers to be vexatious in nature. No examples are given of what constitutes “very small amounts of financial support” in order for it to be classified as a “vexatious request”. What constitutes a small amount to one person may not necessarily be a small amount to another. Accordingly, this factor may be better suited as a consideration under principle (m) “resources”, that is, the Commissioner will be reluctant to make amendments where they would require the use of disproportionate amounts of Inland Revenue’s resources given the small amount of financial support involved. Otherwise more guidance should be provided as to what would constitute “a very small amount of financial support” in order for it to be classified as a vexatious request by the Commissioner.

Agreement between the parties

Under principle (o) “Agreement between the parties”, it is stated that in the case of a voluntary agreement of financial support, an assessment is **likely** to be amended where all parties to the agreement mutually agree on an amendment [emphasis added].” Excepting fraud on the Revenue or coercion, it is difficult to imagine a situation where an amendment would not be made in this situation. It would be instructive for examples to be provided as to when the Commissioner would not amend a voluntary agreement assessment where all parties mutually agreed.

Notifying parties

At paragraph 22 the statement is made that “When a decision is made not to amend an assessment, generally only the party who made the request will be notified”. It would be helpful if the draft SPS could elaborate on when the other party might be notified in this situation, otherwise this statement may discourage some people from requesting an amendment in the first instance.

Conclusion

This submission was prepared with assistance from the Law Society’s Tax Law Committee. If you wish to discuss this further, please do not hesitate to contact the committee’s convenor Neil Russ, through the committee secretary Jo Holland (04 463 2967 / jo.holland@lawsociety.org.nz).

Yours sincerely

A handwritten signature in black ink, consisting of a stylized, cursive 'C' followed by a horizontal line extending to the right.

Chris Moore
President