



Te Manatū Whakahiato Ora

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21 SEP 2009

Mr Robert Newcombe
12 Avon Terrace
Maitai Valley
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Dear Mr Newcombe

Thank you for your letter of 25 August 2009 about the direct deduction policy that applies to some overseas pensions in New Zealand.

I note your decision not to request copies of correspondence at this time.

Article 15 of the Social Security Agreement between New Zealand and the United Kingdom has similar provisions to section 70 of the Social Security Act 1964. It ensures that treatment of UK pensions under the Agreement is consistent with the treatment of overseas pensions from all other countries under section 70. In the following comments, references to "section 70" should be read as also embracing article 15.

The quotation in your letter is from an internal document of the Ministry that does not have official status. Nevertheless, I accept the view expressed in it that "section 70 authorises the direct deduction of second-tier earnings-related pensions". Section 70 sets out its own criteria for the application of the direct deduction policy. Section 70 is silent on whether the overseas pensions to which it applies are first-tier or second-tier. If an overseas pension meets the criteria specified in section 70, it does not matter whether the pension concerned is first-tier or second-tier; section 70 applies to both.

Nor does it matter whether an overseas pension is funded by direct contribution or from taxation, for section 70 is also silent on funding. What does matter is:

1. whether the overseas pension is part of a programme;
2. whether that programme exists for the same contingencies as New Zealand benefits and pensions, e.g. to provide income in retirement and old age; and
3. whether the programme is administered by or on behalf of the government of the country issuing the pension.

If all three questions are answered in the affirmative, section 70 must be applied.

I hope you find this information helpful.

Yours sincerely


Peter Hughes
Chief Executive