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MP for Ohariu Belmont
Minister of Revenue
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Mr James Nicolle
jnicolle@paradise.net.nz

Dear Mr Nicolle

Thank you for your email of 21 May 2007. You have sought clarification about how KiwiSaver contributions will be treated when child support liability is calculated by Inland Revenue.

The introduction of the KiwiSaver scheme from 1 July 2007, and the enhancements to KiwiSaver announced by the Government in Budget 2007, have no impact on the way that child support liability is calculated. This is because the income amount used to calculate child support liability is a before tax amount, and before any other deductions.

I can advise that Inland Revenue is unable to access a KiwiSaver account to recover unpaid child support until such time that the accumulated funds are able to be withdrawn by the KiwiSaver member. This includes when the member reaches either the later of:

- the age of eligibility for New Zealand superannuation (currently 65 years of age); or
- 5 years of membership.

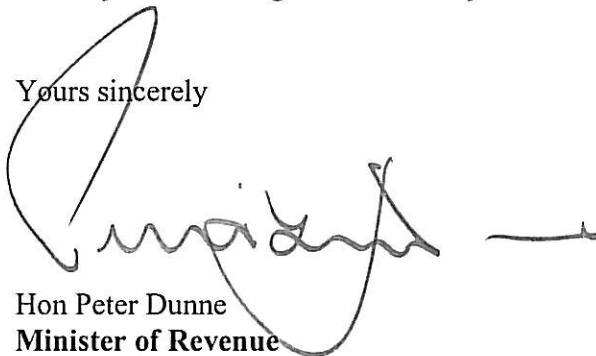
Until that time, the funds cannot be accessed by the member, nor can they be accessed by any third party creditor.

The law does not fetter the Family Court's discretion to take into consideration the government contribution such as the member tax credit or employer contributions made to a KiwiSaver account when making a decision on a departure order. On the contrary, the Court is entitled to take into account all the circumstances of the individual case. That is precisely the purpose of the departure order provisions in the Child Support Act.

Further information about KiwiSaver is available at www.kiwisaver.govt.nz.

Thank you for writing. I trust that my comments are of assistance to you.

Yours sincerely



Hon Peter Dunne
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