



Tax Working Group
Te Awheawhe Tāke

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This paper has been prepared by the independent advisor to the Tax Working Group for consideration by the whole Group.

The advice represents the views of the independent advisor and does not necessarily represent the views of the Group or the Government.

Future of Work tax implications

At the time of writing I had provided comments to officials but they had not seen them. Therefore there may be considerable overlap between this note and the officials document.

Officials set a scene of a trend, for a variety of reasons, from standard employment to one of more short term contracts. The effect is a move from employer withholding, no GST and no claimable deductions to one where compliance is on the individual, GST registration is necessary and work related deductions are possible.

Officials also talk of a world where two people could be sitting next to each other, doing pretty much the same job but have completely different compliance obligations.

This world rings true to me as it is my current situation as a contractor to the working group paid by Treasury engaging with Treasury officials who are employees paid by the Treasury.¹

The solutions proposed by officials are an extension of the changes made by the last government to widen the scope of the withholding provisions. While this approach is a definite improvement on the status quo; in my view do not go far enough.

Looking at the issue from a *Structure, fairness, balance* lens, my view is that all providers of labour income should be treated the same. They should all be subject to GST, allowed deductions and required to file or they all should not. My preference is the latter.

Analysis

When PAYE came in; I would argue that all providers of labour without either a capital component - like farming or a subcontracting component – like professional firms were employees². It was also at a time of compulsory unionism so the *gig economy* involving contractors would not have been allowed by the unions.

Short term arrangements would still have involved an employment rather than a contractual relationship and remuneration would have been paid according to the occupational *award* which had been negotiated between business and the unions.

As outlined by officials, on inception PAYE was only about withholding. Filing was still required, expenses were allowed and there was no GST. This remained the case for almost 30 years.

- In 1985 expenses were disallowed.
- In 1986 there was an exclusion from GST.
- In 2000 there was an exclusion from filing.

In all cases these were pragmatic decisions to improve the administration of the tax system. Even if they added boundaries and a degree of complexity in terms of the system as a whole. And in first

¹ And quite happily so. This is not a moan.

² There were still Barristers Sole in those days but even that would have involved at least one clerk to do research etc.

two cases they were made in an environment of significant union membership where full time labour being provided outside an employment relationship was unknown.

These were, I would argue, decisions that were meant to apply to *labour* generally. Because all or predominately all labour was in an employment relationship; the decisions were made in relation to *employees* rather than *labour*.

This is clearly no longer the case and as a result there is now a disconnect between the providers of labour and *employees*.

From a *structure, fairness, balance* lens I cannot see any reason to treat providers of labour differently. My view is that the pragmatic decisions made to treat employees/labour differently were correct and this should be the basis for all labour providers.

I fully accept there are definitional issues but would argue a lot of the difference comes from hiring practices rather than any substantive difference. For example why are yoga teachers contractors while university tutors employees?

My view is that all providers of labour – for longer than say a week - that do not have capital components or a subcontracting arrangement should be treated for tax the same way employees currently are.

I would suggest that officials provide the Group with advice on what that could look like and how it could work.

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