Tax Working Group
Te Awheawhe Tāke

Tax Working Group Information Release

Release Document

September 2018

taxworkinggroup.govt.nz/key-documents

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.***

Companion note – Extending the taxation of capital income and Environmental issues

Extending the taxation of capital income

Officials have completed an extensive overview of this subject and given their views on a number of specifics. While the officials cover note asks whether the group wishes to make any decisions ahead of the subgroup doing its work; I would suggest that such constraints are kept to a minimum or are treated as indicative or guidelines so the subgroup is able to produce the best possible design. I will also be feeding into the subgroup's work.

Capital losses

Since I worked on the HWI report in 2016 I have become very curious as to how many of non-deductible capital losses also are reflected as revenue losses. The HWI report showed the individuals with approximately $60 million in losses with the groups they control having losses of approximately $3 billion.

On one level all losses are losses of capital. This is because capital is required to fund the gap when expenses exceed revenue. A failing business which loses its capital; to the extent its capital has been spent on deductible expenses will have revenue losses which are already in the tax base.

This may mean that whether capital losses from entrepreneurial businesses are ring fenced or not is not a particularly big issue. Alternatively there may be an issue of both revenue and capital losses being possible from one loss of capital.[1]

Tax and the environment

The officials paper sets out a potential framework for when taxes are useful compared to specific regulation. It also sets out the topics that are under active consideration elsewhere in government.

Tax v regulation

On the first point it may be that the choice is not binary: taxes or regulation. It may be, depending on the scale of the environmental damage, that both are necessary. For example with smoking and cigarettes; the last government took the view that the harm caused by smoking was such that excise taxes were increased alongside regulation such as the display of cigarettes and labelling.

Also like smoking and tobacco there may be political economy reasons and/or issues of transition why a harmful product or practice is not simply banned. In those cases a mixture of taxes and regulation may be appropriate.

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[1] For example if $100 capitalises a business, is spent on deductible expense and nothing more. This would represent a loss of capital of $100. However the $100 spent of the deductible expense also represents a revenue loss. The journal entries would be Dr Cash $100 Cr Capital $100 to capitalise the company and Dr deductible expense $100 Cr Cash $100 when spent. I will work this issue through with the subgroup.

Other reviews

With the second point, officials have also drawn the group's attention to the many environmental issues that are currently under active consideration in the rest of government.

I note, however, that in meetings I have attended with the Ministry for the Environment and the Ministry of Transport; MfE and MoT officials have indicated both their agencies and their Ministers support for the TWG process.

So while liaison and discussion with these groups will be necessary; the TWG should still be able to make recommendations that are consistent with its ToR. As indicated in the secretariat's paper both Crown Law and MfE are being consulted on the best way forward to incorporate Māori rights and interests.

It will be good to discuss with MfE who, I understand, are attending this meeting.

Andrea Black
30 April 2018