



Tax Working Group
Te Awheawhe Tāke

Tax Working Group Information Release

Release Document

September 2018

taxworkinggroup.govt.nz/key-documents

This paper contains advice that has been prepared by the Tax Working Group Secretariat for consideration by the Tax Working Group.

The advice represents the preliminary views of the Secretariat and does not necessarily represent the views of the Group or the Government.

Submissions from organisations and academics

Summary prepared by the Secretariat for the Tax Working Group

June 2018

CONTENTS

Overview of submissions from organisations and academics	10
Frameworks	11
Frameworks: Overview	13
Frameworks for assessment	14
Issue: Tax policy principles	14
Issue: Living Standards Framework	14
Issue: Alternative principles	14
Issue: Broad-base, low-rate framework	15
Future challenges	17
Future challenges: Overview	19
Future challenges	20
Issue: Changing nature of work	20
Issue: Changing technology	20
Issue: Māori demographics	21
Issue: Reliance on small group of individuals	21
Level of taxation	22
Level of taxation	23
Issue: Increasing level of taxation	23
Issue: Not increasing/decreasing level of taxation	23
Issue: Redistribution of revenue to Māori and Pasifika	23
Progressivity	25
Progressivity: Overview	27
Progressivity	28
Issue: Support for a more progressive tax system	28
Issue: Opposition to increased taxes on rich	29
Issue: Inflation index tax brackets	30
Issue: Income splitting	30
Issue: Alignment of tax rates	30
Issue: Tax-transfer interface and social policy	30
Issue: Secondary tax	31
Capital Gains Tax	32
Capital gains tax: Overview	34
Support or opposition to capital gains tax	35
Issue: Support for capital gains tax	35
Issue: Opposition to capital gains tax	36
Issue: Other comments	37
Land and wealth tax	39

Land and wealth tax: Overview	41
land tax	42
Issue: Support for land tax	42
Issue: Opposition to land tax	42
Issue: Land tax design issues	43
Issue: Land tax on Māori land	44
Risk-free rate of return method	45
Issue: Support for the risk-free rate of return method (RFRM)	45
Wealth tax	46
Issue: Support for wealth tax	46
Issue: Opposition to wealth tax	46
Other property taxation issues	48
Other property taxation issues: Overview	50
Depreciation on commercial buildings	51
Issue: Support for allowing deductions for depreciation on buildings	51
Issue: Deductions for seismic strengthening	51
Issue: Incentives for property investors	51
Issue: Ring-fencing losses on residential property	52
Issue: Papakāinga fund	52
International	53
International: Overview	55
Base erosion and profit shifting (BEPS)	56
Issue: Multinationals should pay their fair share of tax	56
Issue: New Zealand's tax settings should not discourage inbound investment	56
Issue: Digital economy	57
Issue: Global tax body	57
Issue: Public reporting of tax paid by companies	57
Issue: Foreign trusts should not be treated as reverse hybrids under the BEPS rules	57
Other international issues	58
Issue: Mutual recognition of imputation credits with Australia	58
Issue: Reviews of employee share schemes	58
Issue: Tax incentives and trade agreements	58
Issue: FIF rules/ Fair Dividend Rate	58
Issue: Active income branch exemption	59
Issue: Other issues	59
Business	60
Business: Overview	62
Company tax rate	63
Issue: Consideration of a lower company tax rate	63
Issue: Other comments on the company tax rate	63
Imputation and integration	65
Issue: Imputation credit system	65
Issue: Integration of personal and company tax bases	65
Closely held companies - integrity	66
Issue: Integrity	66
Issue: Overdrawn current accounts should not be treated as deemed dividends	66

Progressive company tax rate	67
Issue: Support for a progressive company tax rate or tax-free threshold	67
Issue: Opposition to a progressive company tax rate	67
Issue: Other comments on a progressive company tax rate	67
Issue: Other tax relief for SMEs	68
Issue: Simplification measures for small businesses	68
Other business-related policy issues	70
Issue: Loss continuity rules	70
Issue: Black hole expenditure	70
Issue: Restore depreciation for buildings	70
Issue: Interest deductibility	70
Issue: Reviews of PAYE rules for non-residents working in New Zealand	71
Issue: Taxation of sale of patents	71
Issue: Reviews of other tax regimes	71
Issue: Trusts	71
Issue: Technical issues	72
Specific incentives for business	73
Issue: Support for R&D tax credits	73
Issue: Subsidies for businesses	73
Issue: Specific business-related tax incentives	73
Charities	75
Issue: Deregistration tax	81
Issue: GST issues that commonly arise for charities	81
Issue: Charities law issues	81
Issue: Further research required	82
Māori Authorities	83
Issue: Support for retention of Māori authority rules	86
Issue: Opposition to current Māori authority rules	86
Issue: Eligibility of wholly-owned subsidiaries	86
Issue: Refinements to Māori authority rules	87
GST	89
GST: Overview	91
Exceptions from GST	92
Issue: Support for further exceptions from GST	92
Issue: Opposition for exceptions from GST	92
Issue: GST on financial services	93
Issue: GST on residential accommodation	93
GST rate	95
Issue: Support for decreasing GST rate	95
Issue: Oppose decreasing GST rate/support increasing GST rate	95
Savings	96
Savings: Overview	98
Tax incentives for savings	99
Issue: Support for tax incentives for savings	99
Issue: Opposition to tax incentives for savings	100
Issue: Inflation-indexing savings	100

Issue: Exempt-exempt-taxed approach	100
Issue: KiwiSaver	101
Issue: PIEs	101
Issue: Technical issues	102

Environment 103

Environment: Overview	104
Water abstraction taxes	105
Issue: Support for water abstraction taxes	105
Issue: Opposition to water abstraction taxes	105
Issue: Sectoral neutrality of water abstraction taxes	105
Issue: Design considerations for water abstraction taxes	106
Water pollution taxes	107
Issue: Support for water pollution taxes	107
Issue: Opposition to water pollution taxes	107
Issue: Measurement issues with water pollution taxes	107
Greenhouse gas taxes	109
Issue: Support for strengthening carbon pricing	109
Issue: Concerns with strengthening carbon pricing	109
Issue: Carbon tax	109
Waste taxes	111
Issue: Support for strengthening waste taxes	111
Issue: Concerns with strengthening waste taxes	111
Other environmental tax issues	112
Issue: Transport and fuel taxes	112
Issue: Tourism levy	112
Issue: Tax concessions with positive environmental impacts	112
Issue: Tax concessions with negative environmental impacts	113
Issue: Māori perspectives on environmental taxes	113
Issue: Resource taxes	114
Issue: Hypothecation of environmental taxes	114
Issue: Environmental footprint tax	115
Issue: Other considerations	115

Corrective taxes 116

Corrective taxes: Overview	118
Alcohol excise	119
Issue: Support for increasing alcohol excise	119
Issue: Opposition to increasing alcohol excise	119
Tobacco excise	121
Issue: Support for increasing tobacco excise	121
Issue: Opposition to increasing tobacco excise	121
Sugar tax	122
Issue: Support for sugar tax	122
Issue: Opposition to sugar tax	122
Other corrective taxes	124
Issue: Other corrective taxes	124
Corrective tax framework	125
Issue: Corrective tax framework	125

Administration 126

Administration: Overview	128
Administration	129
Issue: Generic tax policy process	129
Issue: Disputes	130
Issue: Independent tax body	130
Issue: Taxpayer Bill of Rights	131
Issue: Commissioner discretion	131
Issue: Non-compliance	131
Issue: Taxpayer education and awareness	132
Issue: Inconsistent treatment of tax and welfare	132
Issue: Director penalty notices	133
Issue: Inland Revenue performance	133
Issue: Data collection	133
Issue: Information disclosure	134
Issue: Filing returns	134
Issue: Other administrative issues	135
Other taxes and issues	136
Other taxes and issues	137
Issue: Transaction tax	137
Issue: Gift and gambling tax	137
Issue: Inheritance taxes	138
Issue: Social security taxes.	138
Issue: Voluntary tax payments	139
Issue: Cost of standing timber	139
Issue: Funding public media	139
Issue: Tax treatment of cryptocurrencies	140
Issue: Deductibility of employment expenses	140
Issue: Statutory deduction for interest for corporates	141
Issue: Tax exemption for New Zealand Super Fund	141
Issue: Opposition to separate taxes for economic rents	141
Issue: Tax changes to support women	141
Appendix 1: Capital gains tax design issues	143
Design	144
Issue: Need to minimise complexity, consider SMEs and innovation	144
Transitioning to a capital gains tax	145
Issue: Support for valuation approach (Canadian transition)	145
Issue: Support for acquisition date approach (Australian transition)	145
Issue: Valuation methods	145
Integration with income tax	147
Issue: Support for integration	147
Capital gains tax rate	148
Issue: Marginal tax rate	148
Issue: Reduced rate	148
Realisation versus accruals	149
Issue: Support for realisation basis	149
Issue: Support for hybrid approach	149
Scope of assets Covered	150
Issue: Comprehensive	150
Issue: Targeted	150
Issue: Family home	150

Issue: Exclusions	151
Issue: Treaty settlement assets and Māori land	151
Issue: Private assets	153
Inflation indexing	154
Issue: Support for inflation indexation	154
Issue: Opposition to inflation indexation	154
Roll-over relief	155
Issue: Roll-over relief	155
Issue: Inheritance	155
Capital losses	157
Issue: Support for ring-fencing losses	157
Issue: Opposition to ring-fencing losses	157
International issues	159
Issue: Support for taxing foreign sourced capital gains by New Zealand residents	159
Issue: Opposition to taxing foreign sourced capital gains by New Zealand residents	159
Issue: Taxing New Zealand sourced capital gains earned by non-residents	159
Issue: Interaction with CFC and FIF rules	160
Deductions	161
Issue: Further deductions should be allowed	161
Issue: Deductions for personal services	161
Double taxation and deductions for companies	162
Issue: Support for addressing double taxation and deductions	162
Issue: Capital gains and dividends	162
Portfolio investment entities	163
Issue: Support for exception for investments held by PIEs	163
Issue: Opposition for exceptions for PIEs	163
<i>De minimis</i>	164
Issue: Support for <i>de minimis</i>	164
Issue: Opposition to <i>de minimis</i>	164
Existing rules	165
Issue: When caught by existing rules	165
Issue: Administration	165
Realisation events	166
Issue: Minimise realisation events	166
Issue: Realisation events to consider	166
Issue: Support for realising gifts	167
Issue: Support for realising on emigration	167
Issue: Treatment of immigration	167
Trusts	169
Issue: Treat trustees same as all other taxpayers	169
Issue: Deferral of capital gains tax through trusts	169
Other issues	170
Issue: Other issues	170

OVERVIEW OF SUBMISSIONS FROM ORGANISATIONS AND ACADEMICS

This paper provides a summary of submissions to the Working Group that were provided by organisations and academics¹. A separate paper is being prepared summarising other personal submissions.

One hundred and ninety-eight submissions were received from organisations and twenty-one submissions were received from academics. Submissions covered a wide range of topics; however, the majority of submissions focused on one of five key themes. These were:

- fairness and progressivity;
- productivity and international competitiveness;
- the natural environment;
- health outcomes; and
- New Zealand's savings rate.

Other areas raised by a number of submitters were the tax treatment of charities, property taxation, and a range of tax administration issues. In all of these areas there were a wide range of views, and there generally was not universal agreement.

Nineteen submissions were received from Māori organisations, making up 15% of the total number of submissions received from organisations (roughly in line with the Māori population in New Zealand). The submissions covered a wide range of topics, including:

- the Māori authority tax regime;
- how a capital gains tax would apply to Māori whenua and Treaty settlement assets;
- environmental taxes;
- charities;
- the importance of fairness in the tax system; and
- how tikanga frameworks could be incorporated into the tax system.

A summary of these submissions can be found under the relevant sections in this paper.

This summary generally focuses on points raised in submissions that are within the scope of the Terms of Reference. However, some areas outside of scope have been included, in particular where there were a significant number of submissions on the matter.

Where issues relate to areas which the Working Group has previously received advice from the Secretariat, or where it is on the forward agenda, this has been noted.

This paper has been prepared relatively quickly. The Secretariat intends to undertake further quality assurance of this paper. As a result, this paper should be considered draft and subject to change.

¹ For the purposes of this report, we have included academics specialising in tax or areas relevant to a tax area (for example public health academics). We have also included some tax specialists who have previously been involved in reviews of the tax system.

Frameworks

FRAMEWORKS: OVERVIEW

The frameworks for evaluating tax reform attracted a fair amount of interest, with sixty-five submitters commenting on the topic. The majority of submitters endorsed the Working Group's approach of evaluating the tax system according to the established principles of tax policy design (efficiency, equity, revenue, integrity, fiscal adequacy, compliance and administration costs, and coherence), while also applying a broader lens under the Living Standards Framework. Submitters considered that the established principles of tax policy design provide a proven method of evaluating tax policy, while the Living Standards Framework provides a broader perspective.

Some submitters proposed alternative principles for the Working Group to use in evaluating tax policies.

Submissions were also received for and against New Zealand's broad-based, low-rate tax policy framework.

Similarly, submissions were received for and against the use of the Living Standards Framework.

FRAMEWORKS FOR ASSESSMENT

Issue: Tax policy principles

Submission

(Business New Zealand, Chartered Accountants Australia and New Zealand, DairyNZ, ExportNZ Central, EY, Federated Farmers, Fertiliser Association, Horticulture New Zealand, Moana New Zealand, New Zealand Taxpayers' Union, PwC, Rural Women New Zealand, Sam Warburton, Venture Taranaki Trust, Wellington Chamber of Commerce, Whanganui District Council)

Sixteen submitters endorsed the use of the established principles of tax policy design (efficiency, equity, revenue integrity, fiscal adequacy, compliance and administration costs, and coherence). Submitters considered they were proven principles that are still relevant, robust and should continue to be applied.

Some submitters believed there should be a high threshold to depart from these principles, while others considered that the Living Standards Framework could be usefully applied in conjunction with these principles.

Issue: Living Standards Framework

Submission

(Association of Salaried Medical Specialists, Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, EY, Federation of Women's Health Councils, Meridian, Ministry of Business, Innovation and Employment, New Zealand Educational Institute, New Zealand Nurses Organisation, Ngāti Whātua Ōrākei Whai Rawa Limited, Public Health Association of New Zealand, PwC, Te Rūnanga o Ngāi Tahu)

Eleven submitters endorsed the use of the Living Standards Framework to assess tax policy. Submitters considered that the Living Standards Framework enables a broader assessment of the impacts of tax on wellbeing, including intergenerational wellbeing.

Two submitters advised caution with the use of the Living Standards Framework for evaluating tax policy. These submitters noted that the Living Standards Framework is still in development and in many cases will not be relevant given the financial focus of tax. These submitters raised the concern that the Living Standards Framework may result in incoherence if it is not seamlessly incorporated into the assessment (*Chartered Accountants Australia and New Zealand, EY*).

Issue: Alternative principles

Submission

(AMP Capital, BNZ, Canterbury District Health Board, Chartered Accountants Australia and New Zealand, Christchurch East Labour Electorate Committee, Corporate Taxpayers Group, Deloitte, Department of Public Health, Dr Simon Chapple, Employers and Manufacturers Association (Northern), Environment and Conservation Organisations of New Zealand, Fertiliser Association, Hāpai Te Hauora Māori Public Health, Horticulture New Zealand, Income Equality Aotearoa New Zealand, Human Rights Commissions, Justice and Peace

Commission, McGuinness Institute, Moana New Zealand, National Community Action on Youth and Drugs Advisory Group, National Council of Women NZ, New Zealand Nurses Organisation, New Zealand Taxpayers' Union, NZ Super Fund, NZ Venture Capital Association, Parliamentary Commissioner for the Environment, NZ Post Primary Teachers' Association, Property Council of New Zealand, Public Health Association of New Zealand, Ravensdown, Salvation Army, Social Policy Evaluation and Research Unit, Te Pūtahitanga o Te Waipounamu, The Manufacturers' Network, University of Otago, Waikato-Tainui, WellSouth, Wise Response)

A number of submitters suggested alternative or additional principles to evaluate tax policy. These principles were either additions to the proposed principles, reformulations of them, or represented different emphases on certain factors.

Suggested additional or alternative principles included:

- economic growth; long-term productivity; international competitiveness;
- eliminating child poverty; reducing global inequalities; facilitating well-being; redistribution; progressivity; equality;
- simplicity; certainty; predictability; low business risk; convenience;
- recognition of Te Ao Māori; Mahitahi and kotahitanga; collaboration; unity; koha;
- kaitiakitanga: custodians for future generations; manaakitanga: looking after people our way; whakapapa: our genealogy; whakatipuranga: prosperity for future generations;
- human rights; non-discrimination; honesty; transparency; all taxpayers being treated equally; user pays;
- a tax system with an explicit revenue target; financial stability;
- health outcomes; environmental outcomes; and
- some submitters considered that the tax system should have an explicit goal of changing behaviour, while others considered there should be an explicit goal for not changing behaviour.

Secretariat's comment

The Working Group has agreed to apply the established principles of tax policy design in conjunction with a broader assessment under the Living Standards Framework. Most submitters appear comfortable with this approach. The additional or alternative considerations raised by some submitters can be accommodated within a broader assessment under the Living Standards Framework. The Secretariat does not recommend a change to the agreed assessment framework in light of the submissions received.

Issue: Broad-base, low-rate framework

Submission

(Andrew Coleman, AMP Capital, Business New Zealand, Chartered Accountants Australia and New Zealand, Chapman Tripp, Corporate Taxpayers Group, Craig Stobo, DairyNZ, David McLay, ExportNZ Central, Diabetes New Zealand, Dr Simon Chapple, Financial Cohorts Forum (Christchurch), Foodstuffs, Goodman, Income Equality Aotearoa New Zealand, Institute of Directors, Investors Association, KPMG, McGuinness Institute, Meridian, New Zealand Wine, NZ Property Investors' Federation, NZ Super Fund, Olivershaw, Property Council of New Zealand, Salvation Army, Serious Fraud Office, Tauranga Property Investors Association, The Manufacturers' Network, Wairarapa Property, Wellington Chamber of Commerce)

Thirty submitters supported New Zealand's broad-base, low-rate framework for taxation. Submitters considered it has served New Zealand well and has helped support the fairness, efficiency, simplicity, certainty, transparency, and stability of New Zealand's tax system.

Some submitters noted that there could be justifications for departures from a broad-base, low-rate framework, for example in having a lower tax rate for capital, or for deliberate behaviour change on an exceptions basis.

One submitter explicitly opposed New Zealand's broad-base, low-rate framework. This was on the basis that New Zealand needs to have a lower tax rate for capital (*Andrew Coleman*). In addition, a number of submitters, although not explicitly disagreeing with the broad-base, low-rate framework, suggested changes that were not in line with the framework (see *Issue: Exceptions from GST*).

One submitter considered that the Working Group should explore using the tax system as a greater macro-economic stabiliser. This submitter considered that in a low-interest environment there was a need for greater tools for stabilisation and there were a number of options that could be explored (*Dr Simon Chapple*).

Future challenges

FUTURE CHALLENGES: OVERVIEW

Submitters had a wide range of views regarding the future challenges for the tax system which the Working Group should consider. Most considerations of future challenges came with specific policy proposals to address these challenges and are summarised in later sections.

The main challenges considered which are considered in later sections are:

- Progressivity (*Progressivity, Level of Taxation*).
- New Zealand's ageing population (*Level of Taxation and Savings*).
- Increasing pressures to New Zealand's health system (*Corrective Taxes, GST*).
- New Zealand's international competitiveness and falling company tax rates internationally (*International tax, Business tax*).
- The fairness and integrity of the system (*Capital, Land and wealth taxes, Property taxation, International taxes*).
- Climate change and degradation of New Zealand's natural environment (*Environment*).
- New Zealand's low savings rates (*Savings*).

Specific challenges that are not covered in these later sections are outlined in the section immediately below. These include:

- The impact on tax collection and our tax bases of the changing nature of work.
- The different business models being created by changing technology and the sharing economy.
- The greater reliance on the Māori and Pasifika population with an ageing population.
- The reliance of the New Zealand tax system on a small group of individuals.

FUTURE CHALLENGES

Issue: Changing nature of work

Submission

(ANZ, Chartered Accountants Australia and New Zealand, Deloitte, EY, Ministry of Business Innovation and Employment)

Five submitters raised issues about the changing nature of work. These included:

- The changing nature of work may make PAYE an eroding tax base and there may be a need to look at increased reliance on consumption and business tax (*Chartered Accountants Australia and New Zealand*).
- New Zealand may need to look at how the tax system can support those needing to upskill and retrain (*Deloitte*).
- New Zealand needs to consider the best manner to tax its workers with new business models, for example whether everyone should be required to file a return (*Deloitte*);
- There is a key role for banks to play, working alongside other innovators and Inland Revenue to collaboratively develop simple solutions to promote greater compliance with tax affairs for this changing work environment. However, system changes take time and should be done in partnership (*ANZ*).
- There is a need to re examine the employee contractor definition and associated rules (*EY*).
- There is a potential for simplification and using technology and smart withholding techniques to ensure that tax is correct. There is a need to look at greater use of indirect tax and better incorporate digital presence factors (*EY*).
- One submitter was doubtful about the impact of policy changes on the hidden economy given those in the hidden economy flout laws (*ANZ*).

Issue: Changing technology

Submission

(*Business New Zealand, CPA Australia, Deloitte, Internet NZ, Ministry of Business Innovation and Employment*)

Five submitters considered that changing technology and business models such as the sharing economy and increasing numbers of offshore businesses were things that tax system needed to be able to accommodate. Specific points raised regarding this included:

- Small businesses are well behind counterparts in social media and measures to support them should be looked at (*CPA Australia*).
- The current tax framework can be difficult to apply in the digital economy (*Ministry for Business Innovation and Employment*).
- The sharing economy does not necessarily require special tax rules but it is important that revenue authorities educate taxpayers about tax obligations in particular for those who have historically had little interaction with the tax system. The opportunities for data collection should be explored (*Deloitte*).
- Different technology may dictate use of different levers to ensure continuing competence of the New Zealand tax system (*Deloitte*).
- There is a risk that the New Zealand company tax base is not sustainable (*KPMG*).
- A sensible short term approach to changing businesses is to make tax as easy as possible to comply and look to use data better (*Internet NZ*).

Issue: Māori demographics**Submission**

(Māori Economic Development Advisory Board, Ministry for Business Innovation and Employment, Ngā Kaitatau Māori o Aotearoa Māori CFO Forum, Te Pūtahitanga o Te Waipounamu, Te Rūnanga o Ngāi Tahu)

Five submitters commented that with an ageing population Māori and Pasifica will make up a greater amount of the working age population. The submitters considered this meant there was a need to support the potential of rangatahi, addressing inequities, and improving outcomes for Māori.

Issue: Reliance on small group of individuals**Submission**

(Chartered Accountants Australia and New Zealand)

One submitter considered that there is a high reliance in our tax base on a small number of individuals. This puts a high reliance on a small group which future challenges could erode.

Level of taxation

LEVEL OF TAXATION

Issue: Increasing level of taxation

Submission

(ActionStation, Association of Salaried Medical Professionals, Christchurch East Labour Electorate Committee, Human Rights Commission, Income Equality Aotearoa, National Community Action Aotearoa, New Zealand Nurses Organisation, NZ Post Primary Teachers' Association, Public Services Association, Wise Response, Chartered Accountants Australia and New Zealand)

Nine submitters considered that the Government should increase tax revenue. This was generally on the grounds that more tax was needed to fund government services, and that more government services were needed to improve wellbeing. Submitters considered that the Working Group should comment on this in its report although they noted the limitations contained in the terms of reference.

One submitter considered that the Working Group should look at whether collecting 30% of GDP in tax revenue was sustainable in the future (*Chartered Accountants Australia and New Zealand*).

Issue: Not increasing/decreasing level of taxation

Submission

(Business NZ, CPA Australia, DairyNZ, New Zealand Sugar Company, New Zealand Taxpayers' Union, NZ Super Fund, Wellington Chamber of Commerce,)

Seven submitters considered that any proposals from the Working Group should be fiscally neutral or considered that overall taxation levels should decrease. These submissions were on the grounds that the burden on taxpayers and distortionary costs of tax shouldn't increase or should decrease. Submitters considered revenue neutrality to be consistent with the Terms of Reference for the Working Group.

Issue: Redistribution of revenue to Māori and Pasifika

Submission

(Ngā Kaitata Māori o Aotearoa Māori CFO Forum, Hāpai Te Hauora Māori Public Health)

One submitter supported a morality- and values-based tax system which accommodates the needs of Māori and Pasifika. The submitter argued that revenue should be redistributed to the support services that Māori and Pasifika actually require. If done correctly, the current Māori and Pasifika health inequities would be reduced (*Hāpai Te Hauora Māori Public Health*).

One submitter considered that, while there is no contesting the benefits that taxation provides, it is difficult to argue that the benefits of taxation have flowed equitably towards Māori. The submitter considered that the key question to ask is: how can the tax system be designed to create a more equitable outcome for Māori? The submitter proposed that the benefits of taxation need to be explored alongside models of how better outcomes for Māori can be achieved. The submitter noted that, while the promise of a Māori economy continues to

grow, disparities persist between Māori and other New Zealanders, and this will need to be considered in any decision on a new tax system (*Te Pūtahitanga o Te Waipounamu*).

Another submitter also considered that, while Māori entities pay tax, it is not always obvious that the tax is redistributed to the Māori communities that need it. The submitter considered that, as Māori entities often operate for the benefit of their communities, the Group should consider whether giving these entities a credit for their actions could encourage even more support for disadvantaged whānau. The submitter further argued that, on the grounds of fairness, the Government's efforts on tax collection should move to the global businesses who pay little or no tax in New Zealand (*Ngā Kaitatau Māori o Aotearoa Māori CFO Forum*).

Progressivity

PROGRESSIVITY: OVERVIEW

Thirty-three submitters considered that New Zealand should have a more progressive tax system and considered that the Working Group should have progressivity, support for low income households, and poverty as a focus. Submitters proposed a range of proposals for achieving this.

Three submitters did not support increasing taxes on the rich, with two considering they were already taxed enough and one proposing a radical overhaul of the tax system which included flat tax rates.

PROGRESSIVITY

Issue: Support for a more progressive tax system

Submission

(ActionStation, Association of Salaried Medical Specialists, Business New Zealand, Child Poverty Action Group, Christchurch East Labour Electorate Committee, Citizens Advice Bureau, Department of Public Health, ECE Services, Environmental and Human Health Aotearoa, Environmental Defence Society, Grey Power, Hāpai Te Hauora Māori Public Health, Human Rights Commission, Income Inequality Aotearoa, Justice and Peace Commission, Ministry of Social Development, National Community Action on Youth and Drugs Advisory Group, National Council of Women of New Zealand, New Zealand College of Midwives, New Zealand Council of Christian Social Services, New Zealand Council of Trade Unions, New Zealand Educational Institute, New Zealand Nurses Organisation, NZ Post Primary Teachers' Association, Oxfam, Palmerston North Women's Health Collective, Poverty Action Waikato, Public Health Association of New Zealand, Public Services Association, RetailNZ, Temperzone, Te Pūtahitanga o Te Waipounamu, Te Rūnanga o Ngāi Tahu, The Alliance Party, University of Otago, Waikato-Tainui, WellSouth)

Thirty-four submitters considered that New Zealand should have a more progressive tax system and recommended that the Working Group should have progressivity, support for low incomes, and poverty as a focus. Reasons for encouraging a more progressive system included:

- There is a need to reverse the rising income and wealth inequality in New Zealand.
- New Zealand has poverty, homelessness and deprivation and many that are not able to support their basic needs.
- Inequality and poverty leads to worse outcomes for education, health, social cohesion, social wellbeing, societal co-operation, trust in society.
- Wealth and resources are shared equitably and the very rich in New Zealand do not contribute enough.
- New Zealand's tax system is poor at reducing inequality relative to other OECD countries.
- Housing costs have made inequality and poverty issues worse.
- Māori are currently disadvantaged and there is a significant gap in outcomes between Māori and non-Māori across income and other outcomes. There is a need for improved income equity and better outcomes.
- An adequate standard of living is required for New Zealand to meet its obligations under the International Covenant on Human Rights.
- The evidence that higher tax rates on high incomes inhibit growth are weak. Research from Piketty-Saez-Stantcheva shows no correlation between the top marginal rate and growth, and cuts in the top rate instead lead to higher pre and post-tax inequality.
- The current burden on wage earners is too high which leads to a significant constraint on household spending and consumer confidence (*Retail NZ*).
- Some submitters considered that more progressivity would help address high effective marginal tax rates. Some submitters noted this was primarily a welfare issue however considered that more progressive tax system could assist nonetheless.

One submitter considered that equality is important for the sustainability of the tax system and that the Working Group should ensure this is addressed to ensure the tax system is sustainable (*PwC*). One submitter considered there was a case for reviewing the current tax thresholds (*Craig Stobo*).

Another submitter noted that the business community's views on progressivity are nuanced and depend on the scenarios given to them. The submitter noted a business survey they commissioned. In this survey, respondents did not support raising the top personal tax rate when asked generally, however when respondents were asked if they support raising the top personal rate with the money being used to fund infrastructure and investment there was more approval (*Business New Zealand*).

A number of proposals were recommended to make the tax system more progressive. These included:

- a higher marginal tax rate for those on high incomes;
- increasing taxes that are disproportionately paid by the rich such as wealth, property, inheritance and capital gains taxes;
- a global wealth tax on billionaires;
- reducing GST rates, or providing exceptions from GST;
- introducing a tax-free threshold;
- introducing income splitting;
- ensuring all income is subject to tax;
- inflation-indexation of tax brackets;
- reviewing tax brackets and thresholds;
- a higher company tax rate for all companies or those with high incomes;
- using tax to improve housing affordability; and
- more use of progressive government expenditure, including welfare transfers as well as health, education and other spending.

Further submissions on some of these issues are summarised in other sections of this report (see *level of taxation, capital gains, land and wealth tax, other property taxation issues, GST, company tax rate, other taxes and specific issues*).

Issue: Opposition to increased taxes on rich

Submission

(Employers and Manufacturers Association (Northern), Professor Robert MacCulloch and Sir Roger Douglas, The New Zealand Initiative)

One submitter considered that the tax system should not be used as a device for further income redistribution. The submitter considered that income inequality is not rising in New Zealand. The submitter considered that those in high incomes already pay much more in taxes, noting that only the top 40% of income taxpayers were net taxpayers and that increasing the tax on top incomes has negative impacts as the top income earners are sensitive to the top tax rate. The submitter considered that the sources of income inequality matter, including educational attainment, workforce participation, hours worked and household formation (*The New Zealand Initiative*).

One submitter considered that the current tax brackets were appropriate (*Employers and Manufacturers Association (Northern)*).

One submitter considered that a radical overhaul of the tax and transfer system was needed to increase the amount of services that individual households pay for through savings accounts and reducing tax, and flattening tax rates (*Professor Robert MacCulloch, Sir Roger Douglas*).

Issue: Inflation index tax brackets**Submission**

(Craig Stobo, National Council of Women of New Zealand, New Zealand Nurses Organisation, New Zealand Sugar Company, New Zealand Taxpayers' Union, RetailNZ, Temperzone)

Six submitters supported inflation indexing tax brackets. For some submitters this was on the grounds that it would help improve the progressivity of the tax system. For some submitters, they considered that it would address bracket creep, which they considered an unprincipled and non-transparent increase in taxes.

Issue: Income splitting**Submission**

(Dr Simon Chapple, Income Equality Aotearoa New Zealand, National Council of Women of New Zealand, Waikato-Tainui)

Four submitters considered that income splitting should be explored further by the Working Group. For three submitters this was to improve the progressivity of the tax system (*Income Equality Aotearoa New Zealand, National Council of Women of New Zealand, Waikato-Tainui*).

One submitter considered that income splitting should not be just for couples but for intergenerational households and extended whānau (*Waikato-Tainui*).

Another submitter supported looking at income splitting as they considered that the household unit is the better measure for looking at tax from a fairness perspective and would align with treatment for welfare (*Dr Simon Chapple*).

Issue: Alignment of tax rates**Submission**

(Craig Stobo, Federated Farmers)

Two submitters considered that the Working Group should look to align the top personal rate, company and trust rate. Submitters considered it would reduce aggressive tax planning.

Issue: Tax-transfer interface and social policy**Submission**

(Chapman Tripp, Citizens Advice Bureau, Dr Simon Chapple, Māori Economic Development Advisory Board, Ministry of Social Development, Ministry for Women, National Council of Women of New Zealand, New Zealand Council of Christian Social Services, Salvation Army, Te Pūtahitanga o Te Waipounamu, University of Otago, Department of Public Health, Western Bay of Plenty District Council)

Thirteen submitters commented on issues regarding the tax-transfer interface or issues with social policy and welfare. These included:

- High effective marginal tax rates are a concern, can create poverty traps and reduce work incentives. Some submitters considered this was primarily a welfare issue, while some considered that a more progressive tax system could play a role.
 - Some submitters proposed specific reforms to social policy such as increased benefit levels or a universal basic income.
 - Concerns that student loan repayments, negatively impacted some households ability to meet living costs.
 - The complexity of the welfare system is a concern.
 - Concerns regarding the inconsistent definition of income between tax and welfare and of individuals being the focus for tax and households being the focus for welfare.
-

Issue: Secondary tax

Submission

(Ministry for Women, New Zealand Council of Christian Social Services, RetailNZ, Te Rōpū Pakihi)

Four submitters commented on secondary tax, noting issues of over-taxation at source for many on lower incomes who work multiple jobs.

Capital Gains Tax

CAPITAL GAINS TAX: OVERVIEW

Submitters were split on whether New Zealand should introduce a capital gains tax with thirty-nine submitters in support and thirty-four opposed to its introduction.

Submitters in favour of a capital gains tax emphasised the vertical and horizontal equity benefits of a capital gains tax, as well as the significant issues of wealth inequality and progressivity that it would help address. These submitters also emphasised the current distortions created by the under-taxation of capital gains.

Submitters opposed to a capital gains tax were generally on the basis that the complexity, compliance costs, and distortions created by a capital gains tax would outweigh the benefits. Submitters considered that the design features likely required to make a capital gains tax feasible would undermine its effectiveness.

Submitters on the design features of a capital gains tax are summarised in Appendix 1.

SUPPORT OR OPPOSITION TO CAPITAL GAINS TAX

Issue: Support for capital gains tax

Submission

(ActionStation, Angel Association New Zealand, Baucher Consulting, Community Housing Aotearoa, CPA Australia, Craigs Investment Partners, Department of Public Health, Dr Simon Chapple, ECE Services, Environmental and Human Health Aotearoa, Forest Owners Association, Goodman, Greenpeace, Income Equality Aotearoa New Zealand, Justice and Peace Commission, Kiwi Property Group, McGuinness Institute, National Community Action on Youth and Drugs Advisory Group, NZ Centre for Sustainable Cities, NZ Council of Christian Social Services, New Zealand Council of Trade Unions, New Zealand Nurses Organisation, NZ Post Primary Teachers' Association, Palmerston North Women's Health Collective, Property Council of New Zealand, Poverty Action Waikato, Public Service Association, Public Health Association of New Zealand, PwC, Rural Women New Zealand, Stewart Group, Stride Property Group, Te Au Rangahau and Te Au Pakihi, The Alliance Party, The Manufacturers' Network, Te Rōpū Pakihi, University of Otago, Wellsouth, Wise Response)

Thirty-nine submitters supported the introduction of a capital gains tax in New Zealand. The reasons stated for this support included that a capital gains tax would:

- improve the fairness and consistency of the tax system as it would treat all income the same;
- help reduce inequality, in particular wealth inequality;
- reduce the current biases that exist in the treatment of speculative investments which make capital gains relative to productive investments;
- generate revenue that could be used to increase government expenditure, or to reduce the tax burden on other taxpayers;
- help improve the integrity of the tax system and reduce loopholes;
- reduce house prices and assist in reducing housing costs; however, other submitters considered that it would not have a strong impact on the housing market, or that the Group should be focusing on the tax policy rationale for introducing one, rather than the housing policy rationale;
- help entrepreneurial activity and businesses with risky investments as allowing capital losses would provide investors some respite from failure; and
- help simplify the capital/revenue boundary.

In addition, some submitters noted the complexity, administration and compliance costs a capital gains tax would create. Some noted that these were manageable and that other countries manage to address these costs.

A number of submitters indicated that their support was conditional on the capital gains tax being limited to certain types of investment or having certain design features. The following submitters supported a capital gains tax, only if it:

- was levied at a low rate (*Te Au Rangahau and Te Au Pakihi, Te Rōpū Pakihi*);
- only applied to gains received from commercial activities (*Te Rōpū Pakihi*);
- exempted the family home (*Community Housing Aotearoa, Environmental and Human Health Aotearoa, New Zealand Council of Trade Unions, Te Au Rangahau and Te Au Pakihi, Alliance Party*);
- allowed for capital losses and allowed for depreciation of commercial property (*Goodman, Kiwi Property Group, Property Council of New Zealand*);

- was inflation adjusted and levied on a realisation basis (*Poverty Action Waikato*);
- applied solely to rental property (*Craigs Investment Partners*);
- applied solely to non-residents (*Rural Women New Zealand*);
- revenue is hypothecated back to region by way of the marae or Māori Councils (*Te Au Rangahau and Te Au Pakihi*); or
- excluded two dwellings per person (*McGuinness Institute*).

Issue: Opposition to capital gains tax

Submission

(AMP Capital, Chartered Accountants Australia and New Zealand, Child Poverty Action Group, CNI Iwi Holdings Limited, Craig Stobo, DairyNZ, Employers and Manufacturers Association (Northern), Federated Farmers, Foodstuffs, Institute of Directors, Kiwi Property Group, Link, New Zealand Initiative, New Zealand Sugar Company, New Zealand Taxpayers' Union, Ngā Kaitata Māori o Aotearoa Māori CFO Forum, Ngāti Whātua Ōrākei Whai Rawa Limited, NZ Centre for Political Research, NZ Property Investors' Federation, NZ Shareholders Association, Olivershaw, PEPANZ, Property Institute, Professor Michael Littlewood, Public Trust, Retail NZ, Retirement Villages Association, Salvation Army, Tauranga Property Investors' Association, Te Rūnanga-Ā-Iwi O Ngāpuhi, Te Rūnanga o Ngāi Tahu, Te Tumu Paeroa, Venture Taranaki Trust, Wairarapa Property Investors Association)

Thirty-four submitters opposed the introduction of a capital gains tax in New Zealand. The reasons for this included:

- The design issues of a capital gains tax significantly reduce effectiveness of a capital gains tax and increase complexity. Many aspects of a comprehensive capital gains tax will be seen as unfair and reduce the fairness argument for a capital gains tax.
- The complexity, administration, and compliance costs of a capital gains tax are significant. New Zealand is a special case as we have a significant number of taxpayers owning capital assets and as a result compliance costs will be relatively higher.
- A capital gains tax would not raise significant revenue and is not a stable source of revenue.
- A capital gains tax will create further distortions; in particular, there will be a “lock-in effect” (the situation where taxpayers avoid or postpone property sales because of the tax liability) which will discourage the efficient use of assets.
- A capital gains tax that excludes the family home will be distortionary and will encourage disproportionate investment into primary residences.
- A capital gains tax would increase the ‘cost of capital’ for New Zealand businesses (i.e. New Zealand businesses will have higher borrowing costs and will have higher costs in raising money for investment). This in the long-run will negatively impact wages in particular as New Zealand needs more capital investment.
- A capital gains tax would negatively impact New Zealand’s savings rate, would discourage entrepreneurial activity and businesses to develop;
- Evidence from Switzerland shows that removing a capital gains tax had a significant positive impact on real income.
- The existing rules are sufficient, or the effectiveness of other property changes should be reviewed before a capital gains tax is introduced.

- A capital gains tax would not improve housing affordability and has not improved housing affordability in other countries. A capital gains tax will increase the cost of renting which will disproportionately affect poor, elderly and vulnerable.
- A capital gains tax would be borne disproportionately by Māori, either as the owners of land or as renters. A capital gains tax was not in contemplation at the time of Treaty settlements and will reduce the value of redress received.
- Capital gains taxes result in double taxation as assets are bought with taxed income and the increase in value is from an increase in taxed returns.
- Specific issues with certain assets should be dealt with on a specific, more targeted basis.
- A capital gains tax would create opportunities for avoidance, for example through valuations.
- Compliance with the bright-line test is low so benefits of a capital gains tax are likely overstated.

Three submitters opposed a capital gains tax on the grounds that a wealth tax or risk-free return method would be a better approach for taxing capital gains (*AMP Capital, Child Poverty Action Group, Salvation Army*).

One submitter opposed a capital gains tax if it was unrealised (*Ngāti Whātua Ōrākei Whai Rawa Limited*).

One submitter considered that the secretariat's analysis on effective marginal tax rates was incorrect and was not a valid basis for recommending increasing taxes on rental property (*New Zealand Property Investors' Federation*).

Issue: Other comments

Submission

(*Chapman Tripp, Corporate Taxpayers Group, EY, Ministry of Business Innovation and Employment, Young IFA Network*)

Some submitters commented on capital gains taxes, without providing support or opposition to them. Points raised by them which are not covered in the bullet points above are:

- If the Government has concerns regarding residential property investment, then consideration should be given to being targeted towards these gains, with methods such as a risk-free rate of return method (RFRM) for taxing investments (*Corporate Taxpayers Group, EY*).
- There is a case for tilting the balance of capital taxation from flows such as interest and dividends towards stocks such as land and other stores of wealth (*EY*).
- Capital taxation needs to be considered holistically across all types of taxation of capital (*EY*).
- The intergenerational impact of a capital gains tax needs to be considered (*Ministry of Business Innovation and Employment, Young IFA Network*).
- Efficiency and consistency with the broad-base, low-rate framework do not justify a realisation-based capital gains tax. If one is recommended, it will need to be done primarily on the grounds of equity, fairness, and alignment with other countries (*Chapman Tripp*).

Submissions regarding the design of a capital gains tax are outlined in Appendix 1.

Secretariat's comment

The submitters raise many of the issues discussed in the Secretariat paper on *Extending the Taxation of Capital Income*. The submitters cover the main sides of the debate for and against a capital gains tax, and confirm that the impact and social acceptability of capital gains taxes depends heavily on detailed design choices. The Working Group will consider capital gains taxes further in future sessions.

Land and wealth tax

LAND AND WEALTH TAX: OVERVIEW

Land tax

The majority of submitters were opposed to a land tax with twenty-seven submitters opposed and eleven in favour of introducing a land tax.

Those in favour of a land tax considered that it would be an efficient and simple means of collecting revenues that could be used to reduce inequality and would address housing issues.

The submitters opposed to a land tax considered that it would be unfair, as it would target a specific type of asset. They also considered that the benefits of a land tax would be undermined by design features, in particular the main home exception, and that cash flow constraints as well as the impact on renters would make a land tax unattractive.

Some submitters strongly opposed the application of a land tax to Māori land on the basis that it would unfairly impact Māori, cut across their Rangatiratanga, and reduce the value of settlement redress.

Wealth tax and risk-free return method

Six submitters were in favour of a wealth tax and two were in favour of the risk-free rate of return method. These submitters considered that they would be a better means of taxing capital gains and addressing inequalities while avoiding some of the pitfalls of capital gains taxation.

Two submitters were opposed to a wealth tax and submitted that the practical issues with a wealth tax make them unattractive and have led to them being used less internationally.

LAND TAX

Issue: Support for land tax

Submission

(Andrew Coleman, Baucher Consulting, Christchurch East Labour Electorate Committee, MBIE, New Zealand Centre for Sustainable Cities, New Zealand Council of Trade Unions, New Zealand Taxpayers' Union, NZ Post Primary Teachers' Association, Professor Michael Littlewood, Public Health Association of New Zealand, The Alliance Party)

Eleven submitters supported the introduction of a land tax. For some submitters this support was conditional on the basis that the tax is:

- Levied at a low rate (*Christchurch East Labour Electorate Committee*).
- Tailored to discourage land banking and the accumulation of land for speculative rather than productive purposes (*The Alliance Party*).
- Levied on the unimproved value of the land (*Baucher Consulting, MBIE, New Zealand Centre for Sustainable Cities*).
- Nationally consistent (*New Zealand Centre for Sustainable Cities*).
- Exempts the land under the family home (*Baucher Consulting*).
- Applied to property with a value above \$1 million (*NZ Post Primary Teachers' Association*).

Reasons for supporting a land tax included:

- Land taxes are simple, efficient taxes which are easy to comply with.
- A land tax could be used to reduce income and wealth inequality.
- The revenue from a broad-based, low-rate land tax could be used to lower other tax rates, which means there will be less distortions; alternatively, the revenue could be used for public expenditure.
- Cash flow issues with a land tax are not insurmountable as evidenced by the financial arrangement and foreign investment fund rules.
- A land tax would create desirable incentives for land to be used more efficiently, preventing urban sprawl, and would help prevent speculative land banking.
- Land taxes would counteract the current tax advantages for property and correct distortions created by this tax treatment, such as artificial increases in price.

Issue: Opposition to land tax

Submission

(Business Central, CNI Iwi Holdings Limited, DairyNZ, ECE Services, ExportNZ Central, Federated Farmers, Financial Services Council, Foodstuffs, Goodman, Horticulture New Zealand, Housing New Zealand, Kiwi Property Group, KPMG, Māori Economic Development Advisory Board, Ngāti Whātua Ōrākei Whai Rawa Limited, NZ Property Investors' Federation, Property Council of New Zealand, Property Institute, Rural Women New Zealand, Stride Property Group, Tauranga Property Investors' Association, Te Pūtahitanga o Te Waipounamu, Te Rūnanga o Ngāi Tahu, Te Tumu Paeroa, Venture Taranaki Trust, Wairarapa Property Investors Association, Wellington Chamber of Commerce)

Twenty-seven submitters opposed introducing a land tax in New Zealand. Reasons included:

- Land taxes would be unfair as they tax a single class of capital asset, and would negatively affect specific industries that are land-intensive.
- The owner-occupied exemption significantly reduces the revenue and efficiency benefits of a land tax.
- Land taxes already exist through local government rates.
- A land tax would increase business and rental costs and the burden would be on consumers and renters, in particular renters who are retired and vulnerable.
- A land tax creates cash flow issues as those who are required to pay may not have cash available to pay the tax.
- Land taxes would disproportionately affect Māori and Iwi. Treaty settlements were negotiated in context of not having a land tax and so would reduce value of redress, requiring reconsideration of settlements.
- A land tax would have a negative impact on the banking system, as the majority of bank lending is to land based industries and residential property.

Issue: Land tax design issues

Submission

(Baucher Consulting, Corporate Taxpayers Group, Federated Farmers, Foodstuffs, The Manufacturers' Network, New Zealand Council of Trade Unions, NZ Post Primary Teachers' Association Whanganui District Council, Young IFA Network)

Nine submitters commented on design considerations for land taxes. These are briefly outlined below:

- A land tax should be broad-based, levied at a low rate *(Baucher Consulting, Young IFA Network)*.
- The rate should be set at a low enough level such that it does not encourage nor discourage any particular activity *(Baucher Consulting)*.
- The rate of the land tax should take into account existing local government rates *(Te Pūtahitanga o Te Waipounamu)*.
- A land tax should be limited to residential rental property to err on the side of non-productive assets *(Corporate Taxpayers Group, Foodstuffs)*.
- The valuation of land is important, council valuations may not represent the actual market value of the land, and are not updated annually. More accuracy will come at greater cost *(Young IFA Network)*.
- Further exceptions may need to be considered for land in public use or conservation land *(Young IFA Network)*.
- If implemented in conjunction with a capital gains tax, a land tax could be paid over the period of ownership and treated as a credit against any capital gains tax on disposal *(Baucher Consulting)*.
- How it should apply to people with low cash flow should be considered *(Federated Farmers, Foodstuffs, The Manufacturers' Network)*.
- A land tax should not apply to family homes, where the family home is below a prescribed value per-hectare *(New Zealand Council of Trade Unions)*.
- Should be able to offset any local government rates against land tax liabilities *(Whanganui District Council)*.
- The exclusion for the family home should apply solely to the land directly under the family home and not adjacent land. Alternatively it could be through a maximum area that is exempt. *(NZ Post Primary Teachers' Association)*

Issue: Land tax on Māori land

Submission

(Baucher Consulting, CNI Iwi Holdings Limited, Ngā Kaitata Māori o Aotearoa Māori CFO Forum, Ngai Tuahuriri, Te Au Rangahau and Te Au Pakihi, Te Pūtahitanga o Te Waipounamu, Te Rōpū Pakihi, Te Rūnanga-Ā-Iwi O Ngāpuhi, Te Rūnanga o Ngāi Tahu, Te Tumu Paeroa, Waikato-Tainui, Young IFA Network)

Nine submitters opposed the application of a land tax on Māori land and considered that if a land tax was introduced that there should be exceptions for land received as a result of a Treaty settlement or all Māori land. The reasons for this opposition included:

- A land tax has the potential to destroy Māori wealth and alienate Māori from their land.
- Land returned as redress from settlement was negotiated in good faith in the context of there being no land tax. A land tax would reduce the level of redress received and potentially require the revisiting of settlements.
- A land tax would increase the cost of holding whenua in trust for future generations.
- A land tax would cut across Māori land-owners' rangatiratanga, mana whakahaere, and stewardship over their assets to benefit their iwi; fail to reflect that they are still in the phase of redressing the economic, political, social and cultural deprivations suffered by their people; and fail to recognise their economic contribution to New Zealand.
- Māori would be disproportionately affected by a land tax, which would negatively impact their ability to support the needs of their people.

Three submitters considered that any revenue from land taxes should be hypothecated so that local rūnanga, District Māori Councils, or local marae receive the revenue for use on development projects *(Ngai Tuahuriri, Te Au Rangahau and Te Au Pakihi, Te Rōpū Pakihi)*.

RISK-FREE RATE OF RETURN METHOD

Issue: Support for the risk-free rate of return method (RFRM)

Submission

(Child Poverty Action Group, EY, Salvation Army)

Two submitters supported the introduction of RFRM for taxing property. These submitters considered that RFRM was a better means of taxing these properties than a capital gains tax and favoured an RFRM because it avoids the “lock-in effect”, taxes accruing gains, will do a better job of addressing housing market imbalances and the 2001 tax review recommended this approach.

One submitter considered that RFRM looked promising, but should be considered further, and encouraged the Working Group to invite further submissions and research on it (*EY*).

Secretariat’s comment

Consideration of land taxes and RFRM are planned for a future Working Group session.

WEALTH TAX

Issue: Support for wealth tax

Submission

(Christchurch East Labour Electorate Committee, Justice and Peace Commission, New Zealand Council of Christian Social Services, New Zealand Council of Trade Unions, Oxfam, Salvation Army)

Six submitters supported introduction of a tax on net wealth. Reasons included:

- A wealth tax would help reduce wealth inequality which is a significant problem in New Zealand and results in poverty and a loss of social cohesion.
- Evidence does not provide a compelling case for a wealth tax resulting in a loss of economic growth or savings rates.
- A capital gains tax is unlikely to properly address issues with wealth inequality, in particular if introduced at the height of the property boom.
- A wealth tax at a low rate on high wealth could deliver significant revenue while not being great enough to encourage avoidance of the tax.

One submitter considered that the introduction of a wealth tax would likely require the introduction of a wealth register. However, this should be made regardless of whether a wealth tax is introduced *(New Zealand Council of Trade Unions)*.

Issue: Opposition to wealth tax

Submission

(EY, Forest Owners Association, KPMG, Waikato-Tainui)

Three submitters opposed the introduction of a tax on net wealth. Reasons included:

- A wealth tax would result in New Zealand being a less attractive place to allocate capital.
- There would be limited revenue from a wealth tax, in particular due to the exclusion of the family home.
- Practical issues make a wealth tax unattractive. These include valuation difficulties, cash flow issues, and the ability for wealth holders to hide assets offshore.
- A wealth tax would not help New Zealand's savings problem.
- A wealth tax is arguable unfair as people who save more pay more tax than those who spend more.
- The history of wealth taxes shows the disadvantages of them. Internationally countries have been moving away from wealth taxes.

One submitter considered that if there is the introduction of a wealth tax, there should be an exception for Māori-owned assets *(Waikato-Tainui)*.

Secretariat's comment

The Secretariat provided information on wealth taxes in our background paper on Taxation of Capital Income and Wealth. Having reviewed submissions, we remain comfortable with the conclusions in that paper.

The Working Group previously agreed not to recommend introducing a wealth tax.

Other property taxation issues

OTHER PROPERTY TAXATION ISSUES: OVERVIEW

A total of twenty submitters commented on other property taxation issues including depreciation on buildings, deductions for seismic strengthening, incentives for housing affordability and ring-fencing rental losses.

Eleven submitters supported reintroducing depreciation on commercial buildings. These submitters considered that the current treatment is unfair and inefficient, as commercial buildings do depreciate, and not allowing a deduction distorts decisions and denies a deduction for a real economic cost.

Four submitters recommended allowing deductions for the seismic strengthening of buildings on the grounds that the Government should support building owners who are funding a public good, and that tax settings should not represent a barrier to strengthening. Two submitters recommended allowing the deductions solely for heritage buildings.

Eight submitters recommended that the tax system provide incentives for rental property investment to assist with housing affordability.

Four submitters provided support for the Government's proposal to ring-fence rental losses. One opposed the proposal and one considered that it should be deferred until after the Working Group has reported back.

One submitter proposed establishing a papakāinga fund to alleviate the current housing crisis and home ownership issues in New Zealand.

DEPRECIATION ON COMMERCIAL BUILDINGS

Issue: Support for allowing deductions for depreciation on buildings

Submission

(Business NZ, Corporate Taxpayers Group, ExportNZ Central, Fisher & Paykel Healthcare, Goodman, Housing New Zealand, Kiwi Property, NZ Council of Shopping Centres, Olivershaw, Property Council of New Zealand, Wellington Chamber of Commerce)

Eleven submitters supported allowing a deduction for depreciation of commercial property. Reasons included:

- Commercial buildings do depreciate. They become obsolete over time and need to be replaced or upgraded. Recent events such as the demolition of obsolete buildings in Wellington demonstrate this. Research from NZIER and KPMG also shows they depreciate.
- The current treatment creates a distortion and discourages improvements and upgrades, and the seismic strengthening of commercial buildings. The current treatment influences choices about where to locate buildings internationally.
- The current treatment creates economic costs, is inefficient, unfair and reduces New Zealand's productivity.

One submission considered that all investment properties, not just commercial property, should be allowed depreciation deductions on the basis that the current treatment creates real economic costs. The submitter considered that when properties depreciate this should be recognised (*Housing New Zealand*).

Issue: Deductions for seismic strengthening

Submission

(Business NZ, Housing New Zealand, Inner-city Wellington, Kiwi Property, Ministry for Culture and Heritage, Whanganui District Council)

Four submitters recommended the allowance of deductions for the seismic strengthening of buildings. The submitters argued that the Government should support those who are funding a public good, the tax system should not represent a barrier to strengthening, the current treatment is unfair and it is untenable that owners can take deduction for a building that collapses as a result of an earthquake but not for the cost of strengthening a building.

Two submitters recommended allowing deductions for building owners to improve, or seismic strengthen heritage buildings (*Ministry for Culture and Heritage, Whanganui District Council*).

Issue: Incentives for property investors

Submission

(CPA Australia, Ministry for Culture and Heritage, Ministry for Women, National Community Action on Youth and Drugs Advisory Group, Ngai Tuahuriri, NZ Property Investors'

Federation, Public Health Association of New Zealand, Wairarapa Property Investors Association)

Eight submitters considered that the tax system should provide for incentives for property investment and housing affordability. This was on the basis that incentives would help improve the housing stock, reduce rental costs, and therefore assist low-income households.

Submitters recommended either retaining the current tax incentives, or exploring new incentives.

Issue: Ring-fencing losses on residential property

Submission

(CPA Australia, KPMG, Tauranga Property Investors' Federation, Young IFA Network)

Two submitters supported the Government's proposal to ring-fence rental losses on the grounds that it addressed the overly generous current rules and the asymmetry where deductions are allowed in full but all the gains are not taxable (*CPA Australia, Young IFA Network*).

One submitter opposed ring-fencing losses on residential property. The submitter stated that the basis for the proposed ring-fencing was on the idea that residential property investors were exploiting a 'loophole'. The submitter disagreed with assessment and considered that all businesses can offset costs against income and targeting property investors will dissuade property investment (*Tauranga Property Investors' Federation*). One submitter considered that ring-fencing should be deferred till after the Working Groups report back (*KPMG*).

Secretariat view

The impact of tax on the housing market was considered in the Secretariat background paper on Tax and Housing. Deductions on depreciation will be considered in a future session. The Secretariat sees no need to discuss ring-fencing losses on residential property as the proposal has gone through a separate process of public consultation.

Issue: Papakāinga fund

Submission

(Ngāti Kahungunu Iwi Incorporated)

The concept of papakāinga (a group of houses built on Māori land) should be acknowledged, addressed, and accelerated to alleviate the current housing crisis and home ownership issues in New Zealand. This could be done by establishing a papakāinga fund (an iwi-Māori housing partnership) that allows 200 houses to be built by each iwi. This would assist the Government in their endeavours to create better housing equality for all. It would also combat the lack of Māori home ownership; combat the lack of proper rental accommodation for the poor; and utilise assets already owned within the Māori economy by using the greater economic resources of the Crown.

International

INTERNATIONAL: OVERVIEW

Seventeen submitters commented that multinational companies should pay their fair share of tax. Some of these submitters commented that they supported the work that is currently being done, but that more should be done to address tax avoidance by multinationals. Some considered that there should be public reporting of tax paid by multinationals and that a diverted profits tax should be considered.

Six submitters commented that the Government should take a careful approach to taxing multinationals to ensure that New Zealand's tax settings do not discourage inbound investment. Four submitters commented on the digital economy (in particular, on the proposed response from some countries, and on the OECD's work in this area) and suggested that New Zealand should work on a multilateral basis rather than unilaterally responding.

Four submitters suggested that mutual recognition of imputation/franking credits with Australia should be considered.

Four submitters commented on the Foreign Investment Fund (FIF) and Fair Dividend Rate (FDR) regimes. There was mixed support for the current rules, and a suggestion that the current rate is too high.

BASE EROSION AND PROFIT SHIFTING (BEPS)

Issue: Multinationals should pay their fair share of tax

Submission

(ActionStation, Alliance Party, Auckland North Community and Development Inc, Justice and Peace Commission of the Catholic Diocese of Auckland, McGuinness Institute, New Zealand Council of Trade Unions, New Zealand Educational Institute, New Zealand Public Service Association, NZ College of Midwives, NZ Shareholders Association, Oxfam, Poverty Action Waikato, Retail NZ, Rural Women New Zealand, Salvation Army, The Manufacturers Network, Wise Response)

Seventeen submitters said that it was important that multinational companies should pay their fair share of tax. Some of these submitters commented that they support the multilateral BEPS work, but considered more should be done to address tax avoidance by multinational companies, including those that do not have a physical presence in New Zealand.

Some submitters considered that a diverted profits tax should be considered, or a flat tax based on GST revenue (*Justice and Peace Commission of the Catholic Diocese of Auckland, New Zealand Council of Trade Unions*).

Three submitters said that the Government should provide a suitable legislative structure and sufficient resources to Inland Revenue to effectively address tax avoidance by multinationals.

The *New Zealand Council of Trade Unions* submitted that the Group should provide clear advice on the position New Zealand should take in negotiations for international treaties and agreements to protect New Zealand's options in taxing the activities of multinationals.

Issue: New Zealand's tax settings should not discourage inbound investment

Submission

(Business NZ, Contact Energy, Forest Owners Association, KPMG, New Zealand Taxpayers' Union, Olivershaw)

Six submitters commented that New Zealand's tax rules should not discourage inbound investment, and that Government should take a careful approach to the taxation of multinationals to ensure that any reforms are measures and justified.

One submitter commented that the corporate tax rate is not as important for foreign investors as other international settings, such as the thin capitalisation regime, transfer pricing, and the certainty of tax settings. In these respects New Zealand is a jurisdiction that is increasing taxes and complexity on non-residents. The current direction is that officials keep changing the existing settings to collect more tax. Other countries are implementing the BEPS reforms but to offset the increased taxation from this, they are significantly reducing their corporate tax rate. New Zealand is simply doing the BEPS changes without any offsetting reduction (*Olivershaw*).

One submitter commented that the thin capitalisation rules should be loosened in order to encourage greater foreign investment into New Zealand (*New Zealand Taxpayers' Union*).

Issue: Digital economy

Submission

(Chartered Accountants Australia and New Zealand, EY, Financial Cohorts Forum, KPMG, Ministry of Foreign Affairs and Trade)

Four submitters commented that New Zealand should be cautious about imposing tax on the digital economy on a unilateral basis, and considered that a multilateral approach would be better.

One submitter commented that reducing corporate taxes could be a reasonable trade-off for entering into a digital services tax in the future (*EY*).

One submitter proposed that income tax could be better imposed depending on the location of the consumer (*Financial Cohorts Forum*).

Issue: Global tax body

Submission

(ActionStation, Auckland North Community and Development Inc, Oxfam)

Three submitters suggested that there should be a new global tax body under the United Nations to respond to cross-border tax avoidance.

Issue: Public reporting of tax paid by companies

Submission

(Actionstation, McGuinness Institute, Oxfam, Wise Response)

Four submitters proposed that there should be public country-by-country reporting of tax paid by multinationals.

Issue: Foreign trusts should not be treated as reverse hybrids under the BEPS rules

Submission

(Asiaciti Trust, Cone Marshall)

Two submitters proposed that New Zealand foreign trusts (that is, trusts with a resident trustee and a foreign settlor) should not be treated as reverse hybrids under the BEPS rules as this would result in double taxation.

OTHER INTERNATIONAL ISSUES

Issue: Mutual recognition of imputation credits with Australia

Submission

(Financial Markets Authority, F&P Healthcare Ministry of Foreign Affairs and Trade, New Zealand Venture Capital Association, Temperzone)

Five submitters suggested that the Group consider the issue of a mutual recognition of imputation credits with Australia.

Issue: Reviews of employee share schemes

Submission

(Angel Association NZ, Xero)

Two submitters suggested reviewing the employee share schemes rules. One submitter considered that the recent reforms to the taxation of employee share schemes have increased complexity, which will discourage their use. *(Xero)*

Issue: Tax incentives and trade agreements

Submission

(Ministry of Foreign Affairs and Trade)

One submitter commented that there are few meaningful multilateral disciplines on countries providing tax incentives designed to attract foreign direct investment to a particular location. This may be something for the Working Group to consider further, including encouraging an intensification of focus on these issues in New Zealand's international trade policy agenda.

Issue: FIF rules/ Fair Dividend Rate

Submission

(Craigs Investment Partners, Forsyth Barr, Mercer, NZ Shareholders Association, NZ Superannuation Fund)

Five submitters commented on the FIF and FDR regimes.

One submitter considered that the FIF and FDR systems should be scrapped and replaced with a system that taxes foreign dividends in the same way domestic dividends are taxed *(NZ Shareholders Association)*.

Two submitters supported the FIF rules.

Three submitters considered that the FDR rate is too high, or should not be higher than it currently is.

One submitter suggested that consideration could be given to allowing investors to opt into an FDR regime for their Australasian share investments. This would promote certainty and remove a potential bias under the current regime towards investment in non-Australasian shares, particularly if a capital gains tax is introduced (*Forsyth Barr*).

One submitter suggested that the FDR and FX hedging rules should be made more flexible (*NZ Super Fund*), and one submitter considered that the FIF regime should be more consistent with other CGT methodologies (*Craigs Investment Partners*).

Issue: Active income branch exemption

Submission

(*F&P Healthcare*)

One submitter proposed that the active income exemption should be extended to foreign branches of New Zealand companies, to mirror the treatment of CFCs.

Issue: Other issues

Submission

(*Financial Cohorts Forum, Financial Markets Authority, Olivershaw*)

Several other issues were raised:

- The Group may wish to consider the issue of differences in tax treatment across countries creating a barrier for involvement in the Asia Region Funds passport regime (*Financial Markets Authority*).
- Tax settings (including double tax agreements and transfer pricing) should not discourage outbound investors (*Financial Cohorts Forum*).
- The Group may wish to consider the approved issuer levy (*Financial Markets Authority*).
- Exempt immigrants from rental income earned overseas, or at least the foreign exchange on loan funding those rental houses (*Olivershaw*).

Secretariat's comment

Many of these issues are considered in the Secretariat paper on Taxing International Business Income. Having reviewed submissions, we remain comfortable with the conclusions in that paper.

The Group will be considering international issues at a future planned meeting on the digital economy.

Business

BUSINESS: OVERVIEW

Twenty-six submitters commented on the company tax rate. Of those, fifteen supported reviewing the rate either now or in the future, and six strongly supported a lower rate. The reason generally given for considering a lower rate was to ensure New Zealand was competitive with other countries. On the other hand, several submitters commented that aligning the corporate and top personal tax rates were important to support integrity. Other submitters considered that some degree of misalignment was not problematic given other factors such as New Zealand's imputation system.

Six submitters supported retaining the imputation credit system, while two considered that it should be reviewed. Five submitters recommended that there be consideration of integration of the personal and company tax bases, where company profits are attributed to the shareholder or taxed at the shareholders' rate.

Six submitters supported, and seventeen opposed, a progressive company tax rate. Those who opposed generally did so on the basis that it would introduce complexity and be a barrier to companies expanding. However, a number of submitters considered that there should be some tax relief or simplification measures for smaller businesses.

Several submitters commented on other business-related policy issues. Five submitters proposed allowing carry forward of losses where a "same or similar business" test has been met. Five submitters commented that black hole expenditure should be deductible, and four proposed the buildings should be depreciable.

Some submitters considered that the headline rate is not the only way for New Zealand to be competitive. Six submitters supported the Government's proposed R&D tax credits. Eight submitters proposed that other tax incentives for particular economic activities could be considered (such as immediate expensing or accelerated depreciation on capital assets).

COMPANY TAX RATE

Issue: Consideration of a lower company tax rate

Submission

(AMP Capital, Business Central, Business NZ, Chapman Tripp, Chartered Accountants Australia and New Zealand, Contact Energy, Corporate Taxpayers' Group, Deloitte, Employers and Manufacturers' Association, ExportNZ Central, EY, Institute of Directors, F&P Healthcare, KPMG, New Zealand Taxpayers' Union, NZ Centre for Political Research, NZ Shareholders Association, Olivershaw, Temperzone, TradeMe, Wellington Chamber of Commerce)

Twenty submitters supported consideration of a lower company tax rate. Of these, six submitters strongly advocated for a lower rate (*BusinessNZ, EMA, F&P Healthcare, New Zealand Taxpayers' Union, NZ Centre for Political Research, NZ Shareholders Association*), while the rest supported a review of the rate, particularly in light of international trends.

One submitter suggested that a significant change downwards to New Zealand's company tax rate would discourage profit shifting out of New Zealand by multinationals (*Employers and Manufacturers' Association*).

One submitter considered that there should not be an immediate cut to the corporate tax rate because the economic case is not sufficiently compelling, and the reservations about the current company tax rate are sufficiently strong. However the issue should be kept under medium term review (*Deloitte*).

Issue: Other comments on the company tax rate

Submission

(Alliance Party, AMP Capital, Baucher Consulting Limited, Chartered Accountants Australia and New Zealand, Corporate Taxpayers' Group, Employers and Manufacturers' Association, Federated Farmers, F&P Healthcare, KPMG, New Zealand, Council of Trade Unions, Serious Fraud Office, TradeMe)

Four submitters noted the importance of aligning the tax rates of the corporate, trust and personal rates as much as possible to support the overall integrity of the tax system (*AMP Capital, Chartered Accountants Australia and New Zealand, Federated Farmers, TradeMe*).

Three submitters did not see a degree of mis-alignment between the company rate and the top personal rates (to an extent) as such an issue because of the existence of imputation or other measures to address avoidance (*Corporate Taxpayers' Group, F&P Healthcare, KPMG*).

One submitter suggested that if New Zealand needs to lower its headline corporate tax rate in order to remain internationally competitive, the lower corporate tax rate should be applied to non-residents only (*Chartered Accountants Australia and New Zealand*).

One submitter suggested that if there is a lower company tax rate, it should be available only on an elective basis to larger organisations. They should fall out of the imputation regime and provide financial statements to the Companies Office (*Baucher Consulting Limited*).

Two submitters proposed that consideration be given to raising the company tax rate (notwithstanding the Terms of Reference of the Group) (*Alliance Party, New Zealand Council of Trade Unions*).

One submitter considered that if New Zealand lowered its tax rate to attract foreign investment, there would need to be significant protections to ensure that New Zealand does not become a target for those who wish to take advantage of a framework that allows sheltering from tax (*Serious Fraud Office*).

IMPUTATION AND INTEGRATION

Issue: Imputation credit system

Submission

(CPA Australia, EY, F&P Healthcare, New Zealand Council of Trade Unions, NZ Shareholders Association, NZ Venture Capital Association, Olivershaw, Retirement Villages Association)

Six submitters supported retaining the imputation credit system.

Two submitters suggested that it be reviewed *(CPA Australia, New Zealand Council of Trade Unions)*.

One submitter suggested a model where dividends in the hands of individuals are taxed at a lower rate than the individual's marginal tax rate *(CPA Australia)*.

One submitter who proposed keeping the system suggested allowing refunds of imputation credits to shareholders (except for shareholders who are charities or non-residents) *(Olivershaw)*.

Issue: Integration of personal and company tax bases

Submission

(BusinessNZ, Corporate Taxpayers' Group, EY, KPMG, NZ Super Fund)

Five submitters considered that integrating of the personal and company tax bases should be further considered, where company profits are attributed to the shareholder or taxed at the shareholder's tax rate. This would also assist investors to co-invest with entities with a different tax profile (such as Māori businesses operating under the Māori authority tax regime, or charities).

CLOSELY HELD COMPANIES - INTEGRITY

Issue: Integrity

Submission

(New Zealand Council of Trade Unions)

One submitter considered that there should be a review of taxation of closely held companies to make it difficult to use them for tax avoidance.

Issue: Overdrawn current accounts should not be treated as deemed dividends

Submission

(Olivershaw)

Overdrawn current accounts of SMEs should not be treated as deemed dividends to the shareholders. This is addressed currently by the FBT rules and/or debt remission rules.

PROGRESSIVE COMPANY TAX RATE

Issue: Support for a progressive company tax rate or tax-free threshold

Submission

(CPA Australia, Horticulture NZ, NZ Post Primary Teachers' Association, Retail NZ, Te Au Rangahau and Te Au Pakihi, Te Hunga Roia Māori o Aotearoa, The Manufacturers' Network)

Seven submitters supported consideration of a progressive tax rate for companies.

Issue: Opposition to a progressive company tax rate

Submission

(Baucher Consulting Limited, BusinessNZ, Business Central, Chartered Accountants Australia and New Zealand, Christchurch East Labour Electorate Committee, Employers' and Manufacturers' Association, ECE Services, ExportNZ Central, EY, Federated Farmers, KPMG, Ministry of Business, Innovation and Employment, New Zealand Centre for Political Research, New Zealand Taxpayers' Union, Temperzone, TradeMe, Wellington Chamber of Commerce).

Seventeen submitters stated that they did not support a progressive company tax rate. This was generally because it would introduce complexity and may be a barrier to companies expanding.

However, many of these submitters considered that some support for small businesses could be provided through the tax system, or through reducing compliance costs (this is discussed further below).

Issue: Other comments on a progressive company tax rate

Submission

(Baucher Consulting Limited, CPA Australia, EY, Horticulture NZ, Venture Taranaki Trust, Xero)

Several submitters provided further comments on the progressive company tax rate proposal:

- The concept of a progressive tax rate for small business has some appeal, as it offers the prospect of cost effective support for SMEs. However, consideration of any progressive tax regime should consider the possibility that the regime may add some administrative complexity to the tax system (*Xero*).
- One submitter commented that there are options for a lower company tax rate for small businesses – including a lower company tax rate for smaller companies (as in Australia), or a tax-free threshold for smaller companies (as in Singapore), or a progressive tax rate for companies with a lower rate until a particular threshold is met (as in Malaysia) (*CPA Australia*).
- One submitter suggested an alternative means of supporting small business could be system that does not tax businesses that turnover under \$500,000, but continue to tax business owners on their wages, salaries and dividends from the business (*Retail NZ*).

- If lower or progressive rates are introduced, then the universal imputation credit system for all corporate would need to be considered. Further consideration would need to be given to the double tax issue of the entity/company and the shareholder (*AMP Capital*).
- In determining whether a business is a SME, the relevant criteria should be based on turnover rather than full time equivalent employees (*Horticulture New Zealand*).
- A lower tax rate for small companies may require the introduction of rules to counter excess profit retention if companies reduce dividends following a rate reduction (*Baucher Consulting Limited*).
- Full integration between small companies and their owners would need to be an essential component of a progressive company tax rate system. Otherwise, it would be too easy for high net wealth individuals to route funds through a series of small companies (*EY*).

Issue: Other tax relief for SMEs

Submission

(*Baucher Consulting, Business Central, ExportNZ Central, New Zealand Council of Trade Unions, NZ Post Primary Teachers' Association, Rural Women New Zealand, Wellington Chamber of Commerce*)

Six submitters considered that other tax relief could be considered for SMEs.

One submitter considered that there should be a review of taxation of closely held companies to provide tax relief for local owners of small firms (*New Zealand Council of Trade Unions*).

One submitter considered that the Group should investigate a model where a small business is given the option to move to a single business tax reflecting the marginal tax rate of the shareholders/owners. In addition, it should investigate introducing a form of presumptive taxation for micro businesses (*Baucher Consulting*).

One submitter suggested that another option (such as a time-bound tax free threshold for business in their early years of operation) should be considered (*Venture Taranaki Trust*).

One submitter considered that the Working Group should consider options for supporting businesses who support employment. This included allowing a proportion of the payroll costs of a business to be discounted against its profits before tax is applied (*NZ Post Primary Teachers' Association*)

Issue: Simplification measures for small businesses

Submission

(*Business Central, Chartered Accountants Australia and New Zealand, ECE Services, ExportNZ Central, Federated Farmers, Foodstuffs, Horticulture NZ, KPMG, National Council of Women of New Zealand, The Manufacturers' Network, Wellington Chamber of Commerce*)

Eleven submitters considered that there is a need to simplify tax compliance for small business (this is also discussed under *Administration*). A reason frequently stated for this was that small businesses had a higher level of compliance costs than larger businesses.

One submitter suggested that a low cost approach is to redesign the tax system for small businesses to allow for certain expense items to be either a standard fixed deduction set by Inland Revenue, or a fixed adjustment rate, or setting appropriate small business de minimis rules before regimes apply (*Chartered Accountants Australia and New Zealand*).

One submitter considered that RWT obligations on interest and dividends to family members of a closely held company should be removed. This would reduce compliance costs without real risk to the tax base (*Federated Farmers*).

OTHER BUSINESS-RELATED POLICY ISSUES

Issue: Loss continuity rules

Submission

(Angel Association NZ, Business Central, Wellington BusinessNZ, Chamber of Commerce, Corporate Taxpayers' Group, ExportNZ Central, New Zealand Venture Capital Association, Xero)

Eight submitters proposed allowing carry forward of losses by enacting a same or similar business test as an alternative to the existing 49% continuity of ownership requirement.

Issue: Black hole expenditure

Submission

(BusinessNZ, Corporate Taxpayers' Group, F&P Healthcare, Foodstuffs, Housing NZ, Meridian Energy, Inner City Wellington)

Seven submitters commented that currently there are a number of gaps in the law where legitimate business expenditure is not deductible (black hole expenditure). Examples are:

- feasibility expenditure;
 - the cost of raising debt funding where this funding is unecessary;
 - the cost of raising equity;
 - certain resource consents and improvements to land;
 - due diligence costs where the acquisition does not proceed;
 - losses on disposal of buildings;
 - capital expenditure to earthquake strengthen buildings; and
 - deductions (or subsidies) should be permitted for earthquake strengthening (*Inner City Wellington*).
-

Issue: Restore depreciation for buildings

Submission

(BusinessNZ, Foodstuffs, Housing NZ, Olivershaw, F&P Healthcare, Property Council NZ, Business Central, Wellington Chamber of Commerce, ExportNZ Central, Kiwi Property, Stride Investment Management, Goodman)

Eleven submitters proposed that the Government should restore depreciation deductions for investment buildings. This is considered further in *Property Taxation Issues*.

One submitter commented that this should include residential investment buildings (*Housing New Zealand*)

Issue: Interest deductibility

Submission

(New Zealand Council of Trade Unions, Olivershaw)

One submitter considered that the statutory deduction for interest expenditure allowed for corporates materially reduces compliance costs for all large corporates and SMEs (*Olivershaw*).

One submitter proposed that there should be consideration of ending tax deductibility of interest on related party borrowing (*New Zealand Council of Trade Unions*).

Issue: Reviews of PAYE rules for non-residents working in New Zealand

Submission

(AMP Capital, Corporate Taxpayers' Group, F&P Healthcare)

Three submitters proposed that there should be a review of how PAYE rules apply to non-residents working in New Zealand, to reduce compliance costs for New Zealand businesses.

Issue: Taxation of sale of patents

Submission

(New Zealand Venture Capital Association)

One submitter proposed that the transfer of patents outside New Zealand should not be taxable.

Issue: Reviews of other tax regimes

Submission

(Angel Association NZ, Corporate Taxpayers' Group, Xero)

One submitter suggested that there should be reviews of specific tax regimes, particularly to reduce compliance (*Corporate Taxpayers' Group*). These included:

- The tax pooling regime, in particular consideration of whether the regime is working as intended and whether any changes are necessary following amendments to the provisional tax rules and other BT changes.
- FBT rules.
- Entertainment expenditure regime.

Two submitters suggested reviewing the employee share schemes rules (*Angel Association NZ, Xero*). One submitter considered that the recent reforms to the taxation of employee share schemes have increased complexity, which will discourage their use (*Xero*).

Issue: Trusts

Submission

(New Zealand Council of Trade Unions)

One submitter submitted that the tax rules should ensure that trusts (other than charitable trusts) cannot be used for tax avoidance.

Issue: Technical issues

Submission

(Corporate Taxpayers' Group, KPMG)

The submitters suggested other technical proposals, including:

- More should be done to align the corporate tax code with accounting standards, particularly in specific areas such as tax depreciation, provisions and accruals, and unexpired expenditure/prepayments. This would reduce compliance costs.
- Consider the appropriateness of the current 66% shareholder continuity requirements for imputation credits.
- Consider shortening time bar periods.
- If financial statements are audited, then accruals booked should be accepted as expenditure incurred for tax without any review of possible under or over accruals.
- Similarly, unexpired expenditure/prepayment rules should follow IFRS accounting if financial statements are audited.
- There should be an ability to write off low value residual asset balances in the tax asset register.
- Taxpayers should be allowed to align their imputation credit account with their balance date.
- The depreciation framework/depreciation rate table should be simplified.
- Legislative thresholds should be reviewed for their appropriateness in the current business climate (such as a higher threshold for immediately deducting the cost of "low value" assets).
- Provide more flexibility or remove requirements for certain certificates (eg remove the requirement for taxpayers to have to seek the Commissioner of Inland Revenue's approval to issue Buyer Created Tax Invoices, allow special rate certificates and certificates of exemption to be granted retrospectively).
- Clarify the situations when directors' fees paid to non-residents are sourced in New Zealand.

SPECIFIC INCENTIVES FOR BUSINESS

Issue: Support for R&D tax credits

Submission

(Angel Association New Zealand, BusinessNZ, CPA Australia, F&P Healthcare, Horticulture NZ, New Zealand Venture Capital Association, The Manufacturers Network)

Seven submitters indicated their support for R&D support through the tax system.

One submitter commented that the R&D tax incentive proposed by the Government should be as clear and simple as possible *(Angel Association New Zealand)*.

Two submitters considered it important that the credit be refundable to companies in a loss situation.

Issue: Subsidies for businesses

Submission

(Baucher Consulting Limited, Link)

Two submitters considered that the Government should subsidise the cost of administration of taxes that businesses are required to withhold. For example, the PAYE intermediaries' subsidy should be retained.

Issue: Specific business-related tax incentives

Submission

(Angel Association New Zealand, Better Public Media Trust, CPA Australia, Deloitte, EY, Financial Markets Authority, F&P Healthcare, Ministry for Culture and Heritage, Talleys, The Manufacturers Network, Taxpayer's Union,)

Eight submitters considered that there was a case for specific business-related tax incentives.

One submitter suggested that incentives for capital-intensive investment could be considered, particularly as a way of attracting and retaining investment capital (such as infrastructure investment) *(EY)*.

One submitter suggested proposed that capital investment should be fully expensed in the year of purchase *(Taxpayer's Union)*.

Two submitters suggested that accelerated depreciation should be re-introduced on specified new capital assets. One suggested that the assets should be in areas where there was a proven track record of job creation, export productivity and export competitiveness. Alternatively, the full sale value of used plant should be debited to the capital value of the new replacement plant *(Talleys, The Manufacturers' Network)*.

One submitter proposed that small businesses could be provided with accelerated deductions for appropriate expenditure on education and measures that assist businesses to embrace the international trade opportunities the digital economy provides (*CPA Australia*).

Several submitters proposed that other specific incentives to increase economic activity should be considered - for example, tax incentives for:

- Independent research (*Financial Markets Authority*).
- Smaller issuers to list on the NZX. (*Financial Markets Authority*).
- FinTech initiatives (noting that the Government is currently calling for submissions on a new policy on R&D tax incentives) (*Financial Markets Authority*).
- Angel investors (*Angel Association New Zealand*).
- Training and skills (*The Manufacturers Network*), or self-funded work related training costs as in the UK (*Deloitte*).
- Creative industries (*Ministry for Culture and Heritage*).
- Media production (*Better Public Media Trust*).

Secretariat Comment

The Secretariat provided our views on a number of these issues in our *Business tax* papers. Having reviewed submissions, we remain comfortable with the conclusions in that paper, however we are having our company tax model reviewed.

Productivity enhancing and revenue negative items are planned for consideration in a future Working Group meeting.

Charities

CHARITIES: OVERVIEW

A total of thirty-one submissions were received on charities. A number of submissions expressed some support for the current tax concessions for charities and not-for-profits. A few submissions also proposed a number of enhancements to existing concessions, or introducing new concessions (particularly with respect to volunteers and donations). However, almost as many submissions argued for the removal of the income tax exemption for commercial businesses owned by charities.

Some submitters proposed that imputation credits should be refundable for charities as their exemption from income tax means that imputation credits they receive are unable to be used.

Some technical refinements were also proposed in relation to the tax rules for deregistered charities and GST issues that commonly arise for charities and not-for-profits.

CHARITIES

Issue: Support for retention of current charitable tax concessions

Submission

(Alexander Turnbull Library Endowment Trust, InterChurch Bureau, Medical Assurance Society, Moana New Zealand, Te Rūnanga o Ngāi Tahu, Salvation Army, Te Ohu Kaimoana, Tindall Foundation, Transparency International, Volunteering New Zealand, Waikato-Tainui)

Ten submissions expressed support for the income tax exemptions (including the exemption for business income) for charities, the tax treatment of reimbursements and honoraria payments made to volunteers, and the donation tax concessions (including payroll giving and the removal of the cap on charitable donations).

Two submitters emphasised that many charitable entities are associated with iwi, and that changes to the charities tax regime should not result in adverse or unintended consequences for iwi (*Moana New Zealand, Te Ohu Kaimoana*).

Issue: Link between charitable status and tax exemptions

Submission

(CPA Australia, Hāpai Te Hauora Tapui, Online Tax Association of New Zealand (OTANZ), Te Au Rangahau and Te Au Pakihi, Te Ohu Kaimoana, Te Rōpu Pakihi)

One submitter thought that the definition of “charitable” should be wider for income tax purposes if there is a sound tax policy rationale for it (*Te Ohu Kaimoana*).

Other submitters proposed that Inland Revenue grant charitable tax exemptions on a short fixed-term basis in order to support discrete projects, without facing the set-up and ongoing costs of registering as a charity.

One submitter was concerned that it was too easy to obtain income tax exemptions through charitable status (*CPA Australia*).

One submitter proposed that any asset base owned by iwi should be exempt from tax like charities are (*Hāpai Te Hauora Tapui*).

Issue: Support for retaining the charitable business income exemption

Submissions

(InterChurch Bureau, Salvation Army, Waikato-Tainui, Medical Assurance Society)

Four submitters specifically recommended that the charitable tax exemption for business income should remain. Submitters considered that there is no evidence of competitive advantage, and there are flow-on benefits to society from charities running businesses, as they can provide employment opportunities. The income tax exemption offsets the disadvantages that charities face in accessing capital (as they cannot offer a private return to any investor like a for-profit entity can). In order to qualify for the exemption the business is required to

have restrictions in their deed or constitution on where profits can go, so that they can only be ultimately applied to charitable purposes.

Submitters also considered that business operations provide greater cashflow certainty as charities are not reliant on annual funding rounds. Firm rules on what proportion of profits must be distributed are inappropriate as charitable businesses need the flexibility of making their own decisions about the prudent retention of capital – particularly if the business is in a sector which experiences years of volatile profitability.

Issue: Charitable business income exemption should be removed

Submission

(Income Equality Aotearoa New Zealand, Michael Gousmett, New Zealand Taxpayers' Union NZ Centre for Political Research, NZ Sugar, Rural Women New Zealand, Scoop, Talia Smart).

Eight submitters proposed the removal of the charitable income tax exemption for businesses as it confers an unfair competitive advantage.

Three submitters proposed that businesses could rely on the charitable gift deduction to make tax free distributions to charities instead of having a tax exemption themselves (*Michael Gousmett, New Zealand Taxpayers' Union, NZ Centre for Political Research*).

One submitter provided a detailed alternative proposal for taxing charities' business income, which involved the implementation of a "charity credit account" similar to the imputation credit account. Charitable businesses would be taxed on their profits like any other for-profit entity, but receive a 28% credit that they can attach to distributions to its charitable owner. This submitter proposed that the tax exemption for charities' passive income also be removed following implementation of the proposal to tax charities' business income (*Talia Smart*).

Issue: Tax concessions for social enterprises

Submission

(Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi, Waikato-Tainui)

Three submitters recommended that tax concessions should be provided to social enterprises to reflect the positive contribution they make to society, and to help overcome difficulties in accessing equity funding.

Issue: Income tax exemption for Veterinary services bodies and Herd improvement bodies should be removed

Submission

(Michael Gousmett)

One submitter considered that the exemption for veterinary service bodies and herd improvement bodies are anachronistic income tax exemptions and the original policy rationale for these exemptions is no longer relevant today.

Issue: Charities should be able to obtain a refund for imputation credits

Submission

(Philanthropy New Zealand, Tindall Foundation, Waikato-Tainui)

A number of submitters recommended that imputation credits be refundable for charities. Submitters considered that exempt shareholders effectively pay tax at the company rate on dividends as the imputation credits attached to dividends are not refundable, and charities have no taxable income to offset the credits against. This is contrary to the principle underpinning the imputation system, that shareholders should be treated as if the income earned by the company was earned by them directly. It is also contrary to the government's policy of exempting charities from tax.

Charities' inability to obtain refunds for unusable imputation credits distorts their investment decisions away from shares in New Zealand companies. Refundability would improve charities' cashflow positions and enable them to invest in more social initiatives.

One submitter considered that the administration of this could be done through charities could filing a six monthly application form for a refund of ICs, attaching copies of the relevant dividend certificates. Alternatively, the charity could receive a supplementary dividend for the dividends that it receives (*Tindall Foundation*).

Issue: Support for greater tax concessions for donations

Submission

(Alexander Turnbull Library Endowment Trust, Ministry for Culture and Heritage, OTANZ, Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi, Transparency International)

Six submitters supported greater tax concessions for donations. Specific proposals included:

- Donated goods should also receive a tax concession to encourage donations of physical items (*OTANZ*).
- Support for Gift Aid scheme where the donee organisation claims the tax rebate directly instead of the donor claiming the tax benefit (*Ministry for Culture and Heritage* (*OTANZ*)).
- Cultural giving could encourage increased donation of items of cultural significance from private collections to public institutions (*Alexander Turnbull Library Endowment Trust, Ministry for Culture and Heritage*).
- All school fees should be fully tax deductible, with an annual cap to ensure private school fees are not deductible above that paid in the public sector (*OTANZ*).
- Memberships and subscriptions to genuine charities should be tax deductible to individuals. This would end what the submitter describes as the anomaly where memberships to businesses are tax deductible (*Transparency International*).
- The definition of koha should be determined by tikanga Māori rather than loose equivalent western concepts. Circumstances in which koha attracts tax are not widely understood (*Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi*).

Issue: Support for tax concessions for volunteers

Submission

(Palmerston North Women's Health Collective, Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi, Volunteering New Zealand)

Submitters proposed that New Zealand introduce a tax rebate for volunteers based on hours volunteered, to recognise the contributions made by volunteers and to encourage greater voluntary contributions. Other submissions suggested a form of charitable status for individuals who undertake voluntary work, so they are exempt from tax on any koha or in-kind gifts received in return for their work

Issue: Deregistration tax

Submission

(Medical Assurance Society, Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi)

Three submitters considered that the tax rules for deregistered charities are unnecessarily punitive. Submitters considered that assets owned by an entity prior to it becoming a charity are included as taxable income, which the submitters considers as overreach. Submitters also considered that there are barriers for marae to deregister as charities due to the difficulty of valuing physical assets.

Issue: GST issues that commonly arise for charities

Submission

(Salvation Army)

One submitter considered that there should be greater clarity regarding the GST treatment of:

- accommodation;
 - overseas transactions, including on GST on imported services under reverse charge mechanism;
 - exempt activities including sale of donated goods and services; and
 - donations.
-

Issue: Charities law issues

Submission

(John O'Neill, McGuinness Institute, Medical Assurance Society, Ministry for Culture and Heritage, Moana New Zealand, Ngā Kaitatau Māori o Aotearoa Māori CFO Forum, NZ Post Primary Teachers' Association, Salvation Army, Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi, Venture Taranaki, Volunteering New Zealand, Waikato-Tainui)

There were a number of submissions which focussed on charities law issues. These included submissions on whether to widen or restrict the definition of "charitable"; the financial reporting standards for registered charities; compliance costs which arise from the number of rules and regulations governing charities; and the information contained on the charities register.

Issue: Further research required**Submission**

(Volunteering New Zealand)

One submitter did not make specific recommendations but encouraged further research into:

- Organisations who choose not to register as charities being denied donee status;
- Individuals receiving tax penalties and/or ACC levies applied to reimbursements and honoraria paid to them through volunteering; and
- The relationship between tax policies, charities, volunteer work, and economic benefits they provide to society.

Secretariat comment

Charity taxation issues are planned for consideration as part of a future Working Group meeting.

The Government has announced the Terms of Reference for a review of the Charities Act 2005. The issues outlined above in *Issues: Charities law issues* may be more appropriately considered by this review.

Māori Authorities

MĀORI AUTHORITIES: OVERVIEW

The majority of the submissions received on the Māori authority tax rules were in favour of retaining the current regime. These submitters considered that the policy rationale which supported implementation of the current regime, such as the unique constraints on Māori authorities' ability to sell their interest in underlying assets, continues to be relevant today.

Submitters proposed that wholly-owned subsidiary entities of Māori authorities should be eligible to be treated as Māori authorities. The current policy setting creates inefficiencies as different tax rates apply to members of the same economic group.

Submitters also identified a number of technical and administrative refinements that could be made to the Māori authority tax rules.

MĀORI AUTHORITIES

Issue: Support for retention of Māori authority rules

Submission

(Chartered Accountants Australia and New Zealand, CNI Iwi Holdings, EY, KPMG, Moana New Zealand, Ngāpuhi, Te Hunga Rōia Māori o Aotearoa, Ngāti Whātua Ōrākei Whai Rawa Limited, Te Ohu Kaimoana, Te Rūnanga o Ngāi Tahu, Waikato-Tainui).

Twelve submitters expressed support for the Māori authority tax regime and recommended that the current policy settings be retained, subject to some minor technical improvements.

Submitters considered that the policy rationale which supported implementation of the current regime continues to be relevant today. Submitters also considered that applying the company or trust rules to Māori authorities is impractical as it is difficult to maintain a defined list of members due to ownership being held directly or indirectly by iwi or hapū. Compliance with technical requirements such as shareholder continuity (for companies) or income attribution to individual members (for trusts) is therefore not possible.

Issue: Opposition to current Māori authority rules

Submission

(New Zealand Taxpayers' Union)

One submitter considered that Māori authorities receive a competitive advantage on the basis of blood or race, which is unfair and should be removed.

Issue: Eligibility of wholly-owned subsidiaries

Submission

(EY, KPMG, Moana New Zealand, Ngāti Whātua Ōrākei Whai Rawa Limited, Te Arawa, Te Ohu Kaimoana, Te Tumu Paeroa, Waikato-Tainui)

Eight submitters considered that wholly-owned subsidiaries of Māori authorities should be eligible to be treated as a Māori authority. The reasons for supporting this included:

- The subsidiary and parent form one economic group in substance however the current treatment results in subsidiary being taxed at a higher rate.
- Subsidiaries are subject to the same restrictions in relation to its assets as its parent entity.
- The current treatment results in a cash flow timing disadvantage, or in the worst case a real cost if there is no prospect of tax paid income to offset the credits against.
- Māori authorities having to enter into structures to achieve sensible tax outcomes, rather than structuring according to commercial merit.
- Less mature or well-resourced groups may lose the ability to quarantine commercial risk or access more efficient commercial structures.

One submitter proposed that the multi-rate PIE rules be applied to a wholly-owned subsidiary of a Māori authority, but acknowledged that this would result in greater complexity (*KPMG*).

Issue: Refinements to Māori authority rules

Submission

(Te Ohu Kaimoana, Moana New Zealand, Ngāti Whātua Ōrākei Whai Rawa Limited, Ngāti Kahungunu Iwi Incorporated, Te Arawa, EY, Te Tumu Paeroa, KPMG)

A number of technical refinements to the Māori authority rules were recommended by a number of submitters. These included:

- Māori authorities be able to have imputation credits in excess of the 17.5% that they are able to attach to distributions be refundable *(Te Ohu Kaimoana, Moana New Zealand, Te Arawa, KPMG)*.
- Māori authorities should be able to offset their tax losses with other companies, amalgamate with other companies, or be members of a tax consolidated group with non-Māori authorities. The policy rationale for denying Māori authorities the ability to do this is unclear *(Te Ohu Kaimoana, Moana New Zealand)*.
- Māori authorities that aren't companies should be able to group tax losses with other non-company Māori authorities. Submitters considered that the current rules disadvantage Māori authorities that are not companies *(Te Arawa, KPMG)*.
- Post-settlement governance entities (PSGEs) should be permitted to be established after the settlement process has been completed – for example, within 12 months of the settlement date. Current law and policy requires PSGEs to be established before receipt of settlement, and to have been contemplated in the deed of settlement. This limits flexibility for innovative settlements and for under-resourced claimant groups *(EY)*.
- The current Māori authority tax rate of 17.5% should be reduced to 5% to incentivise Māori corporations to invest in papakāinga *(Ngāti Kahungunu Iwi Incorporated)*.

Some submitters also recommended improvements to the administration of the Māori authority tax regime:

- The RWT non-declaration rate (the rate of RWT that is withheld if the recipient's IRD number is not provided) should be reduced to 17.5% from its current rate of 33%. It is not unusual for Māori authorities to be unable to identify all of their members, so it may not be possible to provide an IRD number *(Te Ohu Kaimoana, Moana New Zealand, EY)*.
- Companies paying imputed dividends to a Māori authority should have no RWT deducted, to ensure that the Māori authority doesn't bear the compliance burden of seeking a refund *(Te Arawa, KPMG)*.
- There should be an exemption from filing a tax return for small distributions (below a certain amount) *(Te Au Rangahau and Te Au Pakihi, Te Rōpu Pakihi)*.
- Making it easier to have excess Māori authority tax credits refunded automatically *(Ngāti Whātua Ōrākei Whai Rawa Limited)*.
- Allow Māori organisations such as Māori authorities to act as agents for its members – for example helping them to obtain IRD numbers and engage with the tax system *(CNI Iwi Holdings)*.
- There should be a Māori authority tax credit refund form similar to the RWT deducted in error form should be developed *(Te Ohu Kaimoana, Moana New Zealand)*.

Secretariat comment

We previously provided advice to the Group on Māori Authority taxation. The Group will consider this issue again at a later meeting.

GST

GST: OVERVIEW

Sixty submissions were received regarding New Zealand's GST system. Submitters were split regarding the merits of New Zealand's GST system with some considering it a regressive tax whose negative distributional impacts should be addressed, while other submitters considered it an effective, efficient tax which there is likely to be greater reliance on in the future.

The majority of submitters focused on the issue of whether New Zealand should have further exceptions from GST for fresh fruit and vegetables or other items. Twenty-eight submitters were in favour of this, primarily on distributional grounds or to support socially desirable activities. Thirty submitters opposed this, citing concerns with the complexity of GST exceptions and concerns that GST exceptions are poorly targeted.

Ten submitters supported decreasing the GST rate, primarily because of their desire to support low-income families and on the grounds that GST is a regressive tax. Eight submitters opposed decreasing the rate or submitted that if additional revenue was needed, increasing the GST rate should be considered. This was primarily on the grounds that GST was considered the most effective way of raising revenue.

Ten submitters considered the application of GST on financial services, with four submitters supporting removing the current exemption for financial services and four supporting its retention.

EXCEPTIONS FROM GST

Issue: Support for further exceptions from GST

Submission

(Association of Salaried Medical Professionals, Christchurch East Labour Electorate Committee, Community Housing Aotearoa, Edgar Diabetes and Obesity Research Centre, Environment and Conservation Organisations of New Zealand, Environment and Human Health Aotearoa, Grey Power, Hāpai Te Hauora Māori Public Health, Home Learning Organisation, Independent Schools of New Zealand, Manawatu Community Trust, McGuinness Institute, Ministry for Women, NZ Post Primary Teachers Association, Ngāti Whātua Ōrākei Whai Rawa Limited, Oji Fibre Solutions, Te Au Rangahau and Te Au Pakihi, Te Pūtahitanga o Te Waipounamu, Te Rōpū Pakihi, Te Rūnanga o Ngāi Tahu, University of Otago Department of Public Health, Wellington Tenth Trusts, WellSouth, Western Bay of Plenty District Council, Whanganui District Council, Wise Response, Wood Processors and Manufacturers' Association)

Twenty-eight submitters supported creating exceptions from GST for various goods and services. Exceptions were proposed for a wide range of goods and services including food and drink, unhealthy food, property development, local body rates, forestry, medical services, and education services.

The proposed reasons for the exceptions included:

- Supporting low-income households, reducing inequality and improving the progressivity of the tax system.
- Supporting health or social outcomes, for example through encouraging consumption of healthy food.
- Providing incentives for particular industries, for example incentives for the logging industry or to encourage property development.
- Removing GST from rates was proposed on the grounds that it is a tax on a tax.
- Some submitters noted the complexity and compliance cost of exceptions from GST, however the submitters considered that the benefits of the exception would outweigh these costs.

Issue: Opposition for exceptions from GST

Submission

(AMP Capital, Baucher Consulting Limited, BNZ, Business NZ, Chartered Accountants Australia and New Zealand, Child Poverty Action Group, Corporate Taxpayers Group, DairyNZ, ECE Services, Employers and Manufacturers' Association (Northern), EY, Federated Farmers, Foodstuffs, Income Equality Aotearoa, Institute of Directors, KPMG, MBIE, New Zealand Council of Trade Unions, New Zealand Initiative, New Zealand Taxpayers' Union, Professor Michael Littlewood, PwC, Regional Public Health, Retail NZ, Rural Women New Zealand, Salvation Army, Temperzone, Venture Taranaki Trust, Wellington Chamber of Commerce, Xero)

Thirty submitters opposed creating further exceptions from GST. The reasons for this included:

- GST exceptions would undermine New Zealand's well-functioning broad-base GST system.

- GST exceptions are complex and international evidence show they create high compliance and administration costs.
- GST exceptions benefit higher income households more than lower income households and other methods are better targeted towards distributional concerns.
- Health or social outcomes are better addressed through other measures.
- There is a risk of scope creep as once an exception is in place pressure for further exceptions grow.

Secretariat's comment

The Secretariat provided our views on this in our background paper on GST. Having reviewed submissions, we remain comfortable with the conclusions in that paper.

The Working Group previously agreed not to recommend creating further exceptions from GST.

Issue: GST on financial services

Submission

(Association of Salaried Medical Professionals, BNZ, Chartered Accountants Australia and New Zealand, Dr Simon Chapple, EY, Financial Services Council, KPMG, Mercer, New Zealand Council of Trade Unions, Public Services Association)

Three submitters proposed applying GST to financial services. Submitters noted that financial services are currently undertaxed and that there were feasible options to extend GST to financial services including a financial activities tax or partial coverage of financial services in the GST system *(Association of Salaried Medical Professionals, Dr Simon Chapple, New Zealand Council of Trade Unions, Public Services Association)*.

Four submitters did not support applying GST to financial services. Submitters noted that applying GST to financial services would be technically complex, create a number of difficulties, and applying GST to financial services would negatively impact retirement savings. One submitter noted that the financial activities tax would involve an element of estimation or speculation and so would be unfair *(BNZ, EY, KPMG, Mercer)*.

Three submitters considered that issues regarding the in-source bias created by the current rules should be explored and options to limit the scope of the financial services exemption or zero-rate financial services should be considered further *(EY, Financial Services Council, KPMG)*.

One submitter noted that it is possible to narrow the definition of financial services so GST applies to 'arranging' financial services. However, they did not support this as it would create an in-source bias and distort decisions *(Chartered Accountants Australia and New Zealand)*.

Secretariat's comment

This is to be considered in a future session on financial sector taxation.

Issue: GST on residential accommodation

Submission

(Chartered Accountants Australia and New Zealand, KPMG)

Two submitters considered that the current treatment of GST on residential accommodation was appropriate and that applying GST to rent would create practical and fairness issues. One submitter considered that the in-source bias created by the exception for residential accommodation should be explored.

GST RATE

Issue: Support for decreasing GST rate

Submission

(Baucher Consulting Limited, Child Poverty Action Group, Democrats for Social Credit, Income Equality Aotearoa, National Community Action on Youth and Drugs Advisory Group, New Zealand Council of Christian Social Services, New Zealand Council of Trade Unions, New Zealand Nurses Organisation, NZ Post Primary Teachers' Association, Palmerston North Women's Health Collective, Public Health Association, Public Services Association, The Alliance Party, Waikato-Tainui)

Fourteen submitters supported decreasing the GST rate. The submitters considered that GST was a regressive tax that unfairly impacted on the poor. Submitters considered that reducing the GST rate would help low-income families and that the tax system should be balanced towards more progressive taxes. Some submitters thought that lost revenue should be made up through wealth and capital taxes or through taxes on financial transactions or financial institutions.

Issue: Oppose decreasing GST rate/support increasing GST rate

Submission

(AMP Capital, Business NZ, Chartered Accountants Australia and New Zealand, Employers and Manufacturers Association (Northern), Horticulture New Zealand, KPMG, Olivershaw, Wellington Chamber of Commerce)

Eight submitters either opposed decreasing the GST rate or submitted that if there was a need to raise tax revenue that increasing the GST rate would be the best method. These submitters considered that GST is an efficient tax and presents the best opportunity for raising additional revenue. Some submitters noted that the future pressures on other tax bases meant there was likely to be a need for greater reliance on GST and others noted that concerns about progressivity can be addressed through transfers for the poor.

Secretariat's comment

This is considered in the Secretariat paper on the impact of decreasing the GST rate. This is planned to be considered by the Group as part of a future session.

Savings

SAVINGS: OVERVIEW

Twenty-one submitters supported providing tax incentives for savings.

Submitters raised concerns that New Zealand has a savings problem. Submitters raised concerns that New Zealanders current savings rates are not sufficient for households in retirement and that current savings rates are not sustainable with an ageing population.

Submitters considered that current tax settings exacerbate the savings problem and reform could help address future sustainability issues as well as help to improve New Zealand's capital stocks and productivity.

Submitters provided a wide range of proposed tax incentives for savings. Some submitters supported inflation indexation and moving to an exempt-exempt-taxed (EET) treatment of saving (where savings are exempt at investment, exempt at accumulation, and taxed at the point of withdrawal). A number of submitters had concerns about the difficulties of inflation indexation and EET including complexity, fiscal costs, and transitional issues. These submitters considered that partial measures should be looked at such as reduced tax rates on income used for savings contributions or reduced rates on investment income.

Five submitters opposed tax incentives for savings. This was on the grounds that incentives were fiscally expensive, regressive, complex there is insufficient evidence that they improve savings, and that the Government should focus on reducing poverty in old age rather than improving savings.

TAX INCENTIVES FOR SAVINGS

Issue: Support for tax incentives for savings

Submission

(Andrew Coleman, ANZ, BNZ, Baucher Consulting Limited, Britannia Financial Services, Commission for Financial Literacy, CPA Australia, Craigs Investment Partners, EY, Financial Cohorts Forum, Financial Services Council, Financial Services Federation, Forsyth Barr, KPMG, MBIE, Mercer, Milford Asset Management, Ministry for Social Development, mysuper, Professor Robert MacCulloch and Sir Roger Douglas, Public Trust, PwC, Serious Fraud Office, Stride Property Group, The Manufacturers' Network, Young IFA Network)

Twenty-one submitters supported further tax incentives to encourage savings.

The reasons for the incentives included the following:

- New Zealand has a private savings problem, New Zealand household savings are negative and New Zealanders are not saving enough for retirement.
- With an ageing population, greater levels of private savings are needed. New Zealand Superannuation is likely unaffordable in its current form and New Zealand will need greater private saving to make up for this. The Government should take action now to smooth transition and avoid inter-generational unfairness.
- There are high marginal effective tax rates for savings relative to property. As the Working Group cannot address under-taxation of owner-occupied housing it needs to recommend a decrease in tax on other savings types to make tax neutral.
- Low savings has negative impacts on productivity as it creates high real interest rates and exchange rates. The current tax system also creates overinvestment in housing which puts NZ savings to relatively unproductive use.
- The current tax rules overtax savings, tax future consumption more than current consumption and tax nominal returns rather than real returns. This has greater impact for the least sophisticated investors who are likely to have their savings in bank deposits.
- Some submitters noted the fiscal costs of concessions and proposed methods to mitigate this such as targeting concessions to low-income earners, removing KiwiSaver concessions in conjunction with tax incentives, or considering reducing expenditure on New Zealand Superannuation.
- One submitter considered that the fiscal cost was overstated and that distributional impact of current rules was not necessarily progressive due to the impact on the property market (*Andrew Coleman*).

Some submitters commented on the design of savings incentives, noting that any incentive should be carefully designed to maximise impact taking into account behavioural effects and making clear who the target of the incentive is. Some submitters also noted that incentives should be designed so they do not create further distortions in investment decisions.

A number of options were proposed for incentivising saving. These include:

- inflation indexing savings or having concessions which proxy for indexation;
- moving to a EET system for taxing savings or partial measures towards this system;
- lower PIE rates;
- extending PIE and KiwiSaver treatment to all savings types; and
- increasing KiwiSaver incentives.

The submissions regarding these options are outlined further below.

Issue: Opposition to tax incentives for savings

Submission

(Business NZ, Craig Stobo, Professor Michael Littlewood, Tauranga Property Investors, Wairarapa Property Investors Federation)

Five submitters opposed providing tax incentives for savings. The reasons for opposing them included the following:

- Incentives would be fiscally costly.
 - It is unclear to what extent incentives would improve savings and there is already material support for savers.
 - The integrated approach to PIEs is fair and efficient.
 - Government's should confine public policy initiatives to areas that only governments have unique capacity to influence. The Government should focus on reducing poverty in old age rather than increasing savings.
 - Savings concessions are complex and regressive.
-

Issue: Inflation-indexing savings

Submission

(Andrew Coleman, ANZ, Craigs Investment Partners, EY, Financial Services Council, Financial Services Federation, New Zealand Taxpayers' Union, Retirement Income Group)

Seven submitters considered that the over-taxation of savings due to taxing the inflationary part of savings should be addressed. Four of these considered that full inflation indexing should be undertaken to address this, with some noting that complexity was manageable *(Andrew Coleman, Craigs Investment Partners, Financial Services Federation, New Zealand Taxpayers' Union)*.

However, four of the submitters considered that full indexation would be complex and that instead proxy methods should be looked at such as reducing PIE rates, or providing reduced rates for long held savings *(ANZ, EY, Financial Services Council, Retirement Income Group)*.

Issue: Exempt-exempt-taxed approach

Submission

(Andrew Coleman, AMP Capital, ANZ, BNZ, Corporate Taxpayers Group, CPA Australia, Craigs Investment Partners, EY, Financial Services Council, Milford Asset Management, mysuper)

Four submitters provided support for moving towards a full EET approach to savings on the basis that the current approach results in over-taxation, with optimal tax theory suggesting that EET is the better approach and would encourage savings *(AMP Capital, Andrew Coleman, Craigs Investment Partners, mysuper)*.

Six submitters supported partial EET approaches. These submitters noted that EET has significant compliance, transition, and fiscal implications. Instead these submitters considered that partial options that either decrease tax on contributions or on investment returns should be considered to address New Zealand's savings problems.

Options suggested for decreasing taxes on contributions included:

- reducing the tax rate, or allowing capped tax deductions, on income earned used to make contributions to long-term savings;
- reducing or removing employer superannuation contribution tax; and
- targeted concessions for lower income earners.

Options suggested for decreasing taxes on investment earnings included:

- only taxing a portion of investment gains;
- greater concessionary treatment for PIEs;
- reducing tax rate for interest income, targeted at low and middle income earners; and
- providing for a personal savings allowance.

Some submitters noted that decreasing taxes on contributions would be the best approach to promote behavioural change as it gives the greatest upfront benefit while reduced level of tax at income earning stage is likely to have greatest long-term impact on savings balances.

One submitter supported introducing a TEE approach (full tax on initial saving, exempt from tax on accumulation, exempt from tax on withdrawal) for long-term savings vehicles. This was on the grounds that it would address over-taxation of savings relative to property investment. (*Baucher Consulting Limited*).

Issue: KiwiSaver

Submission

(AMP Capital, ANZ, Commission for Financial Literacy, EY, Retirement Income Group, Stewart Group, Professor Robert MacCulloch and Sir Roger Douglas, Andrew Coleman)

Four submitters considered that making KiwiSaver compulsory for all or some New Zealanders should be considered. This was on the grounds that it:

- Would address some of the behavioural factors leading to low savings rates, and help achieve a cultural shift in savings attitudes in New Zealand (*ANZ, EY*).
- Would enable a shift in government so that public savings were relied on more than welfare (*Professor Robert MacCulloch and Sir Roger Douglas*).
- Could be used to enable people to fund own retirement and therefore reduce tax rates on capital income and would support more wealth equality and intergenerational equality (*Andrew Coleman*).

A number of other KiwiSaver changes were proposed including:

- providing greater concessions for KiwiSaver;
- KiwiSaver benefits being available for post-retirement savings;
- providing greater incentives for contributions by the self-employed; and
- allowing for KiwiSaver schemes designed for short-term savings.

Issue: PIEs

Submission

(ANZ, Britannia Financial Services, Child Poverty Action Group, Craigs Investment Partners, Craig Stobo, EY, Financial Services Council, Forsyth Barr, Goodman, KiwiProperty, KPMG, Mercer, mysuper, NZ Council of Shopping Centres, NZ Super Fund, Professor Michael Littlewood, Property Council of New Zealand, Sharesies, Stride Property Group)

Nine submitters supported for the current PIE settings and having the maximum PIE tax rate lower than the top marginal rate. Submitters noted that it encouraged savings and is a practical measure to ensure collective investment is not disadvantaged compared with investing directly.

Ten submitters supported lowering PIE tax rates. Reasons for this included incentivising savings, proxying inflation indexation, moving towards EET treatment, ensuring the rate reflects the marginal tax rate of investors when they retire rather than when they save, and that lower rates were supported by the Savings Working Group.

Two submitters considered that PIE rates should be aligned with personal marginal rates (*Child Poverty Action Group, Professor Michael Littlewood*).

Two submitters considered that PIE treatment should be available for all investors and that favourable treatment should not be given to only one savings type (*Craigs Investment Partners, Forsyth Barr*).

Issue: Technical issues

Submission

(AMP Capital, ANZ, BNZ, Corporate Taxpayers Group, CPA Australia, Craigs Investment Partners, EY, Financial Services Council, KPMG, Milford Asset Management, Ministry for Social Development, Association, mysuper, Professor Andrew M C Smith)

Twelve submissions regarding technical issues for savings were made. These included:

- Listed PIEs should be able to facilitate cash refunds of excess imputation credits for investors (*Sharesies*).
- Simplification of foreign exchange rules and ensuring deductions are available for losses in situations where gains are taxable (*Associate Professor Andrew M C Smith, KPMG, New Zealand Super Fund*).
- Lowering fair dividend rate (*Craigs Investment Partners, Craig Stobo, New Zealand Super Fund*).
- Aligning tax treatment for shares held in different structures (*Craigs Investment Partners*).
- The tax rules for annuities should be reviewed to prevent over-taxation and make them more attractive for retirees (*Financial Services Council, Ministry of Social Development, mysuper*).

Secretariat's comment

The tax treatment of retirement savings is planned for consideration at a future Working Group session.

Environment

ENVIRONMENT: OVERVIEW

Eighty nine submissions commented on tax and the environment. Forty submissions were in favour of greater use of environmental tax (either generally or with regards to specific types of environmental tax). Twenty seven submissions were either opposed or had significant concerns. The remainder commented on various issues relating to environmental taxes.

Submitters had varying expectations for what the Working Group should do regarding environmental taxation. Some were looking to the Working Group to progress specific environmental taxes. Others questioned whether the Working Group was the right body to be considering environmental policy, and recommended that it limit its scope to recommending frameworks for the use of taxes to address environmental problems. Several submitters called for the Working Group to be mindful of the work of other reviews, especially the Productivity Commission and the Climate Change Commission.

Many submissions stressed that tax should be considered alongside, or in combination with, other policy tools. While some submissions saw tax as a complementary policy lever, other submissions saw it as potentially conflicting with regulatory efforts.

Several submissions suggested principles and frameworks for environmental taxes. These were generally similar to those highlighted in the Environmental Tax Frameworks discussion paper. In particular, submitters generally saw environmental taxes as a way to internalise negative environmental externalities, and resource taxes as a way for resource owners to capture rents. Eight submissions that environmental taxes should also be judged by their ability to achieve behavioural responses.

The most common specific tax issues raised were water abstraction taxes, water pollution taxes, greenhouse gas taxes, and waste taxes which are explored further below. We also overview submitters feedback on transport and fuel taxes, tourist levies, tax concessions, resource taxes, hypothecation, and Māori perspectives on environmental taxes, and an environmental footprint tax.

Secretariat comment

The Secretariat put up initial advice on tax and the environment in its *Frameworks* paper on 27 April 2018. Several submitters suggested that elasticity should be a core part of an environmental tax framework – a view echoed by some Working Group members at the 4 May 2018 meeting. We will pass this feedback on to the external reviewers of the Frameworks paper.

Submissions generally focused on arguments for or against specific types of taxes. Resource-specific taxes will be considered in the upcoming second paper on tax and the environment. We note that several submitters suggested there could be resource rentals attached to fish – an issue not identified in the *Frameworks* paper. The Secretariat is following up with relevant officials for further advice.

WATER ABSTRACTION TAXES

Issue: Support for water abstraction taxes

Submission

(CPA Australia, Environmental Defence Society, EY, Forest and Bird, Greenpeace, Infrastructure New Zealand, McGuinness Institute, NZ Centre for Sustainable Cities, Salvation Army, Te Au Rangahau and Te Au Pakihi, Te Ropu Pakihi)

Ten submissions were in support of water royalties or abstraction taxes. One further submitter (*NZ Beverage Council*) was supportive of water pricing, but not taxes. Reasons included:

- there could be significant rents (or private commercial gain) attached to water permits, and users should pay for that; and
 - taxes could encourage more efficient use of water, or better ration the use of water in water scarce regions.
-

Issue: Opposition to water abstraction taxes

Submission

(DairyNZ, Federated Farmers, Fertiliser Association, Horticulture New Zealand, International Council of Beverages Association, Irrigation New Zealand, New Zealand Beverage Council, New Zealand Taxpayers' Union, Te Runanga o Ngai Tahu, Trustpower)

Ten submitters were either opposed to the introduction of water abstraction taxes, or had significant concerns. Reasons included:

- the economic costs of introducing a water tax could outweigh the benefits;
 - a water tax may not be the best tool to achieve environmental objectives and should be compared with regulatory measures;
 - a water tax could reduce the amount of money that water users have to invest in water efficiency improvements;
 - a water tax could encourage a switch to more intensive farming practices in order to pay for for the tax;
 - a water tax could harm Māori rights and interests, especially if applied to a tribe accessing water resources within its rohe;
 - a water tax would be an expropriation of property rights from current consent holders;
 - the Crown does not own freshwater, and therefore does not have the right to tax its use; and
 - there are no super profits or rents attached to water to justify a rent tax.
-

Issue: Sectoral neutrality of water abstraction taxes

Submission

(Irrigation New Zealand, Mercury, New Zealand Beverage Council, New Zealand Taxpayers' Union, Trustpower)

Two submitters argued for the exclusion of water used for hydroelectric generation from a water tax (or raised significant concerns with its inclusion). Reasons included:

- hydro is a non-consumptive use of water;

- it could result in higher electricity prices (analysis of one submitter had found hydro generators were the marginal generator 80% of the time);
- it could create incentives to spill water when prices were low instead of using it for generation.

Three submitters argued that if a water tax was to be introduced, it should apply to all water users, including hydro, agriculture and urban users. It was noted that hydro involved the exclusive use of water, making it unavailable for other users.

Issue: Design considerations for water abstraction taxes

Submission

(Greenpeace, Irrigation New Zealand, McGuinness Institute, Mercury, Trustpower)

Five submitters raised a number of design issues and concerns including:

- the need to clarify the purpose of any potential water tax;
- the need to clarify or resolve Māori rights and interests in freshwater (see further discussion under *Māori perspectives on environmental tax* below);
- measurement concerns – water users have been required to measure their takes since 2010, but there is still no set of national accounts for water use;
- regional equity concerns – was it fair to make water-scarce regions pay a tax that might be used for cleaning up water ways in other parts of the country?
- localisation – pricing should be on a catchment-by-catchment basis reflecting differences in scarcity.

WATER POLLUTION TAXES

Issue: Support for water pollution taxes

Submission

(ActionStation, CPA Australia, Environmental Defence Society, EY, Greenpeace, McGuinness Institute, New Zealand Centre for Sustainable Cities, Salvation Army, Te Runanga o Ngai Tahu, New Zealand College of Midwives, University of Otago Department of Public Health, Waikato-Tainui, Whanganui District Council)

Thirteen submitters were in support of (or recommended consideration of) water pollution taxes, or other economic instruments to price nutrient use or run-off. Several of these submitters were also in favour of taxes on fertilizers. One submitter suggested volumetric charging for urban waste water. Reasons for supporting water pollution or fertilizer taxes included:

- taxes could disincentivise the excessive nutrient run-off into waterways;
 - pricing nutrient run-off is a least-cost way of reducing water pollution;
 - polluters of waterways should pay for their damage;
 - fertilizer use has been growing rapidly in New Zealand, contributing to a decline in water quality – nitrogen application increased seven-fold between 1990 and 2016;
 - the European experience with fertilizer taxes showed that they reduced fertilizer use.
-

Issue: Opposition to water pollution taxes

Submission

(DairyNZ, Federated Farmers, Fertiliser Association, Horticulture New Zealand, Irrigation New Zealand, Ravensdown)

Six submitters raised objections to the introduction of water pollution taxes, and specifically taxes on fertilizers. Concerns raised by primary industry bodies were expressed through an NZIER report.² Reasons included:

- taxes on fertilizers are a poor proxy for the damage from nutrient run-off. The damage will vary significantly by location, and most nutrient run-off comes from other sources (e.g., livestock urine);
 - fertilizer taxes might not reduce fertilizer use – fertilizer was an essential input into farms and its use is relatively inelastic to price changes;
 - a nitrate tax would likely have high compliance and administrative costs while raising little revenue;
 - a nitrate tax would be inequitable as it would only apply to one by-product of the production process;
 - a nutrient tax, especially at a national level, would be an overly blunt instrument;
 - non-tax measures, such as fencing, riparian planting and investment in R&D, could be more successful in reducing run-off.
-

Issue: Measurement issues with water pollution taxes

Submission

² NZIER, *Taxing times – Assessing proposed taxes on the primary sector* (March 2018).

(CPA Australia, Fertilizer Association, Greenpeace, Ravensdown)

Four submitters raised concerns about the difficulties in estimating or modelling nonpoint-source pollution (e.g. nutrient runoff from fertilisers or livestock urine). There were concerns from a range of interests that OVERSEER was not currently fit for purpose as a nutrient runoff model. One submitter raised concerns about the OVERSEER being part-owned by the fertilizer industry and suggested it be fully publically owned.

GREENHOUSE GAS TAXES

Issue: Support for strengthening carbon pricing

Submission

(ActionStation, Association of Salaried Medical Specialists, CDHB, Christchurch East Labour Electorate Committee, Dr Felicity Williams, Environment and Conservation Organisations of New Zealand, EY, Forest and Bird, Greenpeace, The Manufacturers' Network, McGuinness Institute, New Zealand Centre for Sustainable Cities, New Zealand Council of Trade Unions, New Zealand Nurses Organisation, Professor Michael Littlewood, Public Health Association of New Zealand, Salvation Army, The New Zealand College of Midwives, Wise Response)

Nineteen submitters were supportive of strengthening carbon pricing. Reasons included:

- New Zealand has been a poor performer in the OECD in reducing its emissions;
- polluters should face the full cost of their emissions, and the emissions trading scheme (ETS) has priced carbon well below the external cost;
- current exclusions from the ETS are unfair and inefficient;
- OECD evidence suggests that the immediate competitiveness impacts of existing carbon pricing mechanisms is negligible.

A range of actions to strengthen the ETS were called for including:

- inclusion of agriculture in greenhouse gas pricing schemes (eight submissions in favour);
- auctioning of units or the phase out of free allocation of permits (five submissions in favour);
- introduction of a price floor and/or the lifting of the price cap (three submissions in favour).

Issue: Concerns with strengthening carbon pricing

Submission

(DairyNZ, Employers and Manufacturers Association (Northern), Federated Farmers, Genesis, Horticulture New Zealand, Irrigation New Zealand, New Zealand Automobile Association, New Zealand Taxpayers' Union, PEPANZ)

Nine had a range of concerns with strengthening carbon pricing, and the Working Group making recommendations in this space. Concerns raised by primary industry bodies were expressed through an NZIER report. Issues included:

- higher carbon prices could be regressive and/or impose charges on people with little ability to control them;
- higher carbon pricing could reduce New Zealand's international competitiveness and drive industries overseas (international leakage);
- New Zealand has little impact on global emissions;
- the Working Group should defer to the considerations of the Climate Change Commission;
- incentives are a better way at reducing emissions than punitive charges.

Issue: Carbon tax

Submission

(Canterbury District Health Board, Christchurch East Labour Electorate Committee, Contact, Craig Stobo, Dr Felicity Williams, EY, Genesis, Fertiliser Association, McGuinness Institute, Ministry for the Environment, PEPANZ, Professor Michael Littlewood, Public Health Association of New Zealand, New Zealand College of Midwives, University of Otago Department of Public Health, New Zealand Centre for Sustainable Cities)

Sixteen submissions were received about the introduction of a carbon tax.

Nine submitters were in favour of considering either replacing or supplementing the ETS with a carbon tax. *(Canterbury District Health Board, Christchurch East Labour Electorate Committee, Dr Felicity Williams, McGuinness Institute, Professor Michael Littlewood, Public Health Association of New Zealand, New Zealand College of Midwives, University of Otago Department of Public Health, New Zealand Centre for Sustainable Cities)*. Submitters in favour of a carbon tax typically cited the failure of the ETS to appropriately price carbon to date. Some submitters suggested a special greenhouse gas tax on agriculture if it was not brought into the ETS.

Seven submitters were opposed to the introduction of a carbon tax. *(Contact, Craig Stobo, EY, Genesis, Fertiliser Association, Ministry for the Environment, PEPANZ)*. Submitters against a carbon tax highlighted that the ETS was New Zealand's chosen mechanism for dealing with carbon pricing, and that there was scope for improving it to better achieve climate policy objectives.

WASTE TAXES

Issue: Support for strengthening waste taxes

Submission

(Dr Jonathan Barrett, Emily Watson, Greenpeace, Karl Henderson, McGuinness Institute, Te Au Rangahau and Te Au Pakihi, Te Ropu Pakihi, New Zealand College of Midwives)

Eight submitters were in support of strengthening waste taxes. This included expansion of and lifting the waste levy, and the introduction of a plastic bag tax. Reasons included:

- current landfill levies are below the external cost to society and exempt a majority of waste going to landfill; and
- international experience suggests levy rates need to be significantly higher to significantly reduce landfill.

Issue: Concerns with strengthening waste taxes

Submission

(Oji Fibre Solutions, Packaging NZ, Te Au Rangahau and Te Au Pakihi, Young IFA Network)

Four submitters raised concerns or suggested alternatives to increased waste levies. Issues raised included:

- landfill waste charges already internalise environmental costs, assuming that landfills are compliant with their resource consents;
- the existing waste levy seems to have had little impact in reducing volumes going to landfill;
- regulation might be more effective at reducing waste. Some submitters suggested banning rather than taxing single use plastic bags *(Te Au Rangahau and Te Au Pakihi, Young IFA Network)*.

OTHER ENVIRONMENTAL TAX ISSUES

Issue: Transport and fuel taxes

Submission

(Corporate Taxpayers Group, EY, Greenpeace, Infrastructure New Zealand, Justice and Peace Commission, McGuinness Institute, Ngā Kaitatau Māori o Aotearoa Māori CFO Forum, New Zealand Automobile Association, New Zealand Centre for Sustainable Cities, Professor Michael Littlewood, Salvation Army, Sam Warburton, Whanganui District Council, Z Energy)

Fourteen submissions raised suggestions for changes to transport and fuel taxes. These included:

- introduction of congestion pricing, including a shift away from fuel taxes towards a universal road user charges system (four submissions in favour);
- introduction of a diesel excise to remove the “diesel differential” (three submissions in favour);
- differential registration charges based on the environmental performance of the vehicle (three submissions in favour);
- concessory treatment for electric vehicles (two submissions in favour, one against);
- increases in petrol taxes (two submissions in favour);
- introduction of an air pollutant tax for non-carbon emissions (two submissions in favour); and
- expansion of biofuel incentives (one submission in favour).

Three submitters highlighted equity concerns with transport taxes, especially in regions and communities without access to public transport alternatives.

Issue: Tourism levy

Submission

(CPA Australia, Dr Simon Chapple and Toby Moore, Forest and Bird, Ngā Kaitatau Māori o Aotearoa Māori CFO Forum, Palmerston North Women's Health Collective, Scoop Hivemind, Te Putahitanga o Te Waipounamu)

Seven submitters were in support of a levy on tourists, or encouraged the Working Group to consider it.

Issue: Tax concessions with positive environmental impacts

Submission

(Agcarm, Chapman Tripp, CNI Iwi Holdings, Corporate Taxpayers Group, CPA Australia, ECE Consultants, Environment and Conservation Organisations of NZ, EY, Federated Farmers, Justice and Peace Commission, NZ Post Primary Teachers Association, Rural Women New Zealand, Te Au Rangahau and Te Au Pakihi, Te Runanga o Ngai Tahu, Waikato-Tainui, Wise Response, Young IFA Network)

Seventeen submitters were in favour of using the tax system to incentivise or reward actions with positive environmental impacts. One submitter was opposed to using the tax system for this purpose (*Chapman Tripp*).

Specific concessions raised included deductions for maintenance of QE II covenanted land,³ environmental expenditure on farms (including riparian planting), electric cars, clean technology tax discounts, and environmentally-related R&D expenditure.

Issue: Tax concessions with negative environmental impacts

Submission

(Greenpeace, New Zealand Centre for Sustainable Cities, Forest and Bird)

Three submitters recommended the removal of tax concessions with negative environmental impacts. Specific concessions raised were fringe benefit tax concessions for carparks, refunds for excise duty from offroad vehicles, road user charge exemptions for electric vehicles, tax concessions for petroleum mining, free allocations of ETS credits, irrigation subsidies, and below-market rentals for Crown pastoral lease.

Issue: Māori perspectives on environmental taxes

Submission

(CNI Iwi Holdings Limited, Moana New Zealand, Ngā Kaitatau Māori o Aotearoa Māori CFO Forum, Ngai Tuahuriri, Ngāti Whātua Ōrākei Whai Rawa Limited, Te Au Rangahau and Te Au Pakihi, Te Ohu Kaimoana, Te Putahitanga o Te Waipounamu, Te Ropu Pakihi, Te Runanga o Ngai Tahu, Te Tumu Paeroa, Waikato-Tainui)

Twelve submissions were received from groups raising Māori viewpoints about environmental taxes.

Five submitters were in favour of greater use of at least some types of environmental taxes (*Te Au Rangahau and Te Au Pakihi, Te Putahitanga o Te Waipounamu, Te Ropu Pakihi, Waikato-Tainui*). One submitter stated that using the tax system to achieve positive environmental, and ecological, outcomes was aligned with their tikanga (*Waikato-Tainui*).

Four submitters were opposed to greater use of environmental taxes or had significant concerns (*CNI Iwi Holdings Limited, Moana New Zealand, Te Ohu Kaimoana, Te Runanga o Ngai Tahu*). Concerns raised included that they were a blunt tool and that they could impose costs of iwi who are already significantly contributing to the sustainable management, protection and restoration of the natural environment.

Specific issues raised included:

- several submitters strongly objected to facing environmental taxes for use of resources within their rohe;

³ QE II covenanted land is land that has been placed under a covenant forever to protect natural and cultural heritage sites. The landowner continues to own and manage the protected land, and the covenant and protection stays on the land, even when the property is sold to a new owner. QE II covenants currently cover more than 180,000 Ha of land in New Zealand.

- several submitters stressed that taxes should acknowledge and take into account rights held under Te Tiriti; and
- eleven submitters were in favour of hypothecation of environmental tax revenue either towards Māori groups, or to environmental conservation efforts.

Other issues raised by Māori groups are included in the relevant summaries.

Issue: Resource taxes

Submission

(EY, Forest and Bird, Greenpeace, New Zealand Council of Trade Unions, PEPANZ, Waikato-Tainui)

Six submitters raised issues relating to resource taxes (over and above those already identified in the water abstraction tax summary above). Issues raised included:

- Petroleum and minerals – increasing the government take from petroleum and mineral mining (two submissions in favour, one submission opposed). One submitter also suggested investigation of switching to a resource rental tax, and expansion of the tax base to cover aggregates;
- Fish – introduction of a resource rental tax, or some other change to capture rents associated with fish (two submissions in favour)
- Māori rights and interests – one submitter stressed the need to acknowledge and take into account Māori rights under Te Tiriti when considering resource taxes.

Issue: Hypothecation of environmental taxes

Submissions in favour of hypothecation to environmental causes

(Association of Salaried Medical Specialists, Christchurch East Labour Electorate Committee, Dr Jonathan Barrett, Environmental Defence Society, Forest and Bird, Ministry for the Environment, Infrastructure New Zealand, Moana New Zealand, Ngāti Whātua Ōrākei Whai Rawa Limited, Public Health Association of New Zealand, Rural Women New Zealand, Salvation Army, Te Ohu Kaimoana, Te Putahitanga o Te Waipounamu, Te Ropu Pakihi, Te Runanga o Ngai Tahu, Te Tumu Paeroa, Temperzone, University of Otago Department of Public Health, Venture Taranaki Trust, Waikato-Tainui, Wise Response)

Twenty two submitters were in favour of hypothecation of environmental taxes to environmental projects. Submitters cited improved public acceptability, and reinforcement of their purpose.

Submissions in favour of hypothecation to Māori groups

(Ngai Tuahuriri, Te Au Rangahau and Te Au Pakihi, Te Ropu Pakihi, Waikato-Tainui)

Four submitters argued for hypothecation to Māori groups. One further submitter was in favour of revenue raised from environmental taxes being spent within the rohe that it was raised.

Submissions against hypothecation

(Canterbury District Health Board, DairyNZ, EY, Greenpeace, New Zealand Automobile Association, New Zealand Initiative, New Zealand Taxpayers' Union, Oji Fibre Solutions, Packaging NZ, Young IFA Network)

Ten submitters were either against strong hypothecation,⁴ or called for environmental taxes to be introduced in a revenue neutral way. Several submitters highlighted that hypothecation can lead to under- or over-funding of the service for which it is hypothecated.

Two submitters called for targeted tax reductions for low income people to address distributional concerns from environmental taxes (*Canterbury District Health Board, Greenpeace*).

Two submitters highlighted concerns with use of the waste minimisation levy, including the lack of accountability for funds going to councils, and the exclusion of commercial recyclers (*Oji Fibre Solutions, Packaging NZ*).

Issue: Environmental footprint tax

Submission

(Environmental Defense Society, EY, Forest and Bird)

Three submitters suggested adoption of, or consideration of, an environmental footprint tax (or environmental consumption tax). The tax would be levied on a land area basis, with the rate set by categorical assessments of land use. Land use with high negative environmental impacts would attract a high tax rate, while land use with low environmental impacts would attract a low or negative tax rate. The Environmental Defense Society presented details on how this could work.

Issue: Other considerations

Three submitters representing local government stressed the importance of environmental taxes to local government, and expressed their interest in working with the Working Group (*Environment Canterbury, Local Government New Zealand, Waikato Regional Council*).

Several submitters mentioned the need to take broader environmental impacts of tax policy into account, and their impact on the circular economy. This was especially stressed by two submissions (*Ministry for the Environment, Parliamentary Commissioner for the Environment*).

Three submissions stressed the need for robust assessments before the application of new environmental taxes, and have otherwise not been noted in summaries of specific issues above (*Business NZ, Meridian, Wellington Chamber of Commerce, Business Central, ExportNZ Central*).

⁴ Strong hypothecation means that: (a) revenues from a tax go only to funding a specific service; and (b) the specific service is only funded from the hypothecated tax.

Corrective taxes

CORRECTIVE TAXES: OVERVIEW

This section covers submissions on non-environmental corrective taxes. The majority of submissions focused on the proposal to introduce a sugar tax, as well as both opposition and support for increasing alcohol and tobacco excise.

Submitters in favour of these taxes favoured the use of them on the basis that the tax system should encourage public health, in particular where a product is addictive, and that the health costs of consuming unhealthy products should be borne by those who consume them. Submitters considered tax to be an effective way of achieving these goals.

Submitters opposed to corrective taxes did so because they considered them as poorly targeted, having a disproportionate impact on the poor, and often based on a paternalistic attitude rather than being based on external factors.

For specific corrective taxes:

- twenty-three supported increasing alcohol excise, while five opposed this;
- thirteen supported increasing tobacco excise, while three opposed this; and
- twenty-three supported the introduction of a sugar tax, while nine opposed this.

Four submitters commented on corrective tax frameworks without providing support or opposition to their use generally. These submitters considered that it is important to be clear about the purpose of the tax is with a wide consideration of what the problem is, how the tax addresses this, whether tax is the best option and distributional impacts.

One submitter recommended using a human rights perspective for looking at corrective taxes and considering the rights of the individual and proportionality of tax instruments.

ALCOHOL EXCISE

Issue: Support for increasing alcohol excise

Submission

(Active West Coast, Alcohol Health Watch, Association of Salaried Medical Specialists, Ashburton Alcohol and Drug Service, Cancer Society, Canterbury District Health Board, Communities Against Alcohol Harm, Department of Public Health University of Otago, Federation of Women's Health Councils, Hāpai Te Hauora Māori Public Health, Hawkes Bay District Health Board, Health Promotion Agency, Justice and Peace Commission, McGuinness Institute, National Community Action on Youth and Drugs Advisory Group, National Public Health Alcohol, New Plymouth Injury Safe, New Zealand Nurses Organisation, NZ Drug Foundation, Professor Jennie Connor, Professor Nick Wilson, Professor Tony Blakely, Dr Amanda Jones, Dr Linda Cobia, Dr Nhung Nghiem, Dr Anja Mizdrak, Dr Cristina Cleghorn, Dr Felicity Williamson, Public Health Association, Salvation Army, SHORE and Whariki Research Centre, The New Zealand Initiative, WellSouth)

Twenty-five submitters supported measures to increase alcohol excise. The reasons for supporting the increase were:

- The current costs of alcohol-related harm are large and alcohol consumption increases crime, and hurts family wellbeing.
- The cost of alcohol-related harm is concentrated on lower socio-economic groups, Māori, and women, and it exacerbates current inequities.
- Current rates of alcohol excise do not reflect the cost of alcohol-related harm. It is unfair for the majority of New Zealanders to bear the cost of alcohol-related harm.
- Increasing alcohol excise is an effective, proven method of reducing harmful alcohol consumption.
- A similar approach taken for tobacco excise should be taken for alcohol.
- The impact of alcohol excise on moderate alcohol consumers is moderate.

Specific measures were proposed for alcohol excise to reduce alcohol-related harm including:

- increasing excise rates by at least 50%;
- annually adjusting excise rates;
- removing excise on alcohol products under alcohol under 2.5%; and
- applying alcohol excise to wine based on alcohol content as current treatment is inconsistent.

These proposals are based on recommendations contained in the Law Commission Report *Alcohol in our lives: Curbing the harm*.

Issue: Opposition to increasing alcohol excise

Submission

(Brewers Association of New Zealand, ECE Services, New Zealand Wine, Spirits New Zealand, The New Zealand Initiative)

Five submitters opposed increasing alcohol excise. The reasons for this were as follows:

- Current alcohol excise rates are too high and cause adverse consequences.
- Alcohol excise is a blunt tool that is poorly targeted. 80% of drinkers are moderate drinkers and do not create harm, and light-to-moderate drinking has health benefits.

- Heavy drinkers are not strongly price responsive, instead other measures such as regulation should be used to address hazardous drinkers.
- Alcohol excise is regressive and negatively impacts poor people. Imposing a regressive tax on poor people 'for their own good' is only beneficial if the targeted population see it that way.
- The different excise treatment for wine is justifiable as the alcohol content is determined by natural factors and therefore highly variable. For compliance and administration cost reasons this should be based on the volume of product.
- Public health costs are not a good justification for limiting personal liberty.

TOBACCO EXCISE

Issue: Support for increasing tobacco excise

Submission

(ASPIRE 2025, ASH NZ, Cancer Society, Canterbury District Health Board, Department of Public Health University of Otago, Hāpai Te Hauora Māori Public Health, National Community Action on Youth and Drugs Advisory Committee, New Zealand Nurses Organisation, Professor Nick Wilson, Professor Tony Blakely, Dr Amanda Jones, Dr Linda Cobia, Cr Nhung Nghiem, Dr Anja Mizdrak, Dr Cristina Cleghorn, Dr Felicity Williamson, Public Health Association, Regional Public Health, SHORE and Whariki Research Centre Massey University, WHO Collaborating Centre)

Thirteen submitters supported increases in tobacco excise. Some supported the Government's planned increases of 10% per year, while others believed that further increases should be made. The reasons for the proposed increases were as follows:

- Smoking creates community and individual harm as people harm their own health and create costs for the public healthcare system.
- Smoking is not an individual informed choice. Smoking is usually taken up when someone is young and unable to make an informed choice and then addiction prevents them from quitting while older.
- Tax increases are shown to be the most effective way of reducing smoking.
- Increases in tobacco excise are needed in order to meet the Government's goal of a smoke free Aotearoa by 2025.
- Most smokers support tobacco tax increases.
- Concerns about tobacco excise being a regressive tax can be addressed through hypothecating revenue to tobacco control or health promotion programmes. In addition, the poorest people benefit most from quitting smoking.

Specific policies supported included continued tobacco excise increases, extra increases in excise for roll-your-own cigarettes, price controls, and hypothecating tax revenue to tobacco control or health promotion programmes.

One submitter considered that tobacco excise increases should apply at the beginning of the financial year rather than calendar year as the beginning of the calendar is a time of financial constraint for many in the community.

Issue: Opposition to increasing tobacco excise

Submission

(ECE Services, New Zealand Taxpayers' Union, The New Zealand Initiative)

3 submitters opposed further tobacco excise increases. The reasons for this included:

- tobacco excise imposes significant financial burdens on those least able to afford it;
- tobacco excise revenue already exceeds the health costs of smoking;
- tobacco excise is paternalistic;
- there has been low levels of people quitting smoking over the period that tobacco excises have increased;
- tobacco excises have led to an increase in the black market and robberies; and
- public health costs are not a good justification for overriding personal liberty.

SUGAR TAX

Issue: Support for sugar tax

Submission

(Active West Coast, Association of Salaried Medical Professionals, Cancer Society, Canterbury District Health Board, Child Poverty Action Group, Christchurch East Labour Electorate Committee, CPA Australia, Department of Public Health University of Otago, Diabetes New Zealand, Edgar Diabetes and Obesity Research Centre, Environment and Human Health Aotearoa, Federation of Women's Health Councils, Hāpai Te Hauora Māori Public Health, Justice and Peace Commission, McGuinness Institute, New Zealand Dental Association, New Zealand Medical Association, New Zealand Nurses Organisation, Professor Nick Wilson, Professor Tony Blakely, Dr Amanda Jones, Dr Linda Cobia, Dr Nhung Nghiem, Dr Anja Mizdrak, Dr Cristina Cleghorn, Professor Michael Littlewood, Dr Felicity Williamson, Public Health Association, Regional Public Health, Salvation Army, SHORE and Whariki Research Centre Massey University, Waikato-Tainui, WellSouth, Te Au Rangahau and Te Au Pakihi, WHO Collaborating Centre)

Twenty-seven submitters supported the introduction of a sugar tax, in particular a tax on sugar-sweetened beverages. Reasons for this are as follows:

- New Zealand has an obesity and diabetes problem and this has serious negative health impacts.
- There is a causal link between sugar sweetened beverages, obesity, and type 2 diabetes.
- There is a role for Government in regulating harmful activity. Current government policies are not enough and there needs to be a hard hitting regulatory intervention.
- Consumers of sugary drinks should bear their health and dental costs.
- A sugar tax would decrease the consumption of unhealthy beverages and lead to a healthier population and reduced healthcare costs. The tax would encourage manufacturers to reduce the sugar content of their products.
- A sugar tax would lead to an increase in public revenue which can be used for public spending.
- Overseas countries have set an example that New Zealand should follow and evaluations of them have shown positive results.

Issue: Opposition to sugar tax

Submission

(Chartered Accountants Australia and New Zealand, Coca Cola, Corporate Taxpayers Group, Frucor Suntory, KPMG, New Zealand Taxpayers' Union, NZ Beverage Council, NZ Food and Grocery Council, The New Zealand Initiative)

Nine submitters opposed the introduction of a sugar tax. Reasons for this are as follows:

- International evidence shows that sugar taxes are not effective at achieving health outcomes. This includes an NZIER metastudy prepared for the Ministry of Health. Studies supporting sugar tax are flawed and overestimate price-responsiveness and often do not take into account substitution effects.
- Sugar taxes impose costs on low-income households. Imposing a regressive tax on poor people 'for their own good' is only beneficial if the targeted population see it that way.

- Externality arguments are weak as fiscal savings in superannuation likely exceeds health costs. Public health costs are also not a good justification for overriding personal liberty.
- A sugar tax is harmful to economic growth and socioeconomic outcomes. This in of itself is harmful for health outcomes.
- Moderate consumption of sugar-sweetened beverages causes no harm to human health. Obesity is caused by imbalance in energy consumption which is caused by a range of factors. Sugar is not a unique risk.

OTHER CORRECTIVE TAXES

Issue: Other corrective taxes

Submission

(Department of Public Health University of Otago, Environment and Human Health Aotearoa, Hāpai Te Hauora Māori Public Health, Professor Nick Wilson, Professor Tony Blakely, Dr Amanda Jones, Dr Linda Cobia, Dr Nhung Nghiem, Dr Anja Mizdrak, Dr Cristina Cleghorn, Dr Felicity Williamson, New Zealand Taxpayers' Union, Salvation Army, Te Au Ranguhau and Te Au Pakihi, The New Zealand Initiative)

Two submitters considered that a junk food tax, salt tax and other food taxes should be kept under review *(Department of Public Health University of Otago, Professor Nick Wilson, Professor Tony Blakely, Dr Amanda Jones, Dr Linda Cobia, Dr Nhung Nghiem, Dr Anja Mizdrak, Dr Cristina Cleghorn, Dr Felicity Williamson)*.

Two submitters did not support taxes on food products as evidence indicates they do not work and face similar concerns to sugar taxes *(New Zealand Sugar Company, The New Zealand Initiative)*.

Three submitters considered there should be increased taxes for gambling to address associated harms of gambling addictions *(Salvation Army, Environment and Human Health Aotearoa, Hāpai Te Hauora Māori Public Health)*.

One submitter did not support a plastic bag tax as a total ban would be more effective. However, they considered a tax on packaging could be a useful incentive *(Te Au Ranguhau and Te Au Pakihi)*.

CORRECTIVE TAX FRAMEWORK

Issue: Corrective tax framework

Submission

(Arthritis New Zealand, Baucher Consulting Limited, Chapman Tripp, Corporate Taxpayers Group, Deloitte, Dr Jonathan Barrett, Financial Cohorts Forum, KPMG, Meridian, Rural Women New Zealand, Wellington Chamber of Commerce)

Eight submitters commented on the appropriate framework for corrective taxes without providing support or opposition to particular corrective taxes.

Five submitters considered that clear frameworks are needed for considering corrective taxes. Considerations for the framework included the following:

- It needs to be clear what the purpose of a corrective tax is and whether the tax system is the best way to influence a particular behaviour. Regulation should be considered as an option alongside tax.
- The price elasticity for the targeted good should be considered along with the distributional impact of a tax on it.
- Proposals need to go through rigorous policy process and should be evidence based.
- The impacts on Māori and Pasifika warrant examination *(Deloitte, KPMG, Wellington Chamber of Commerce, Meridian, Financial Cohorts Forum)*.

One submitter opposed corrective taxes generally, noting that taxes are ineffective in actually amending people's actions and instead penalise consumers *(Corporate Taxpayers Group)*.

One submitter supported the approach considered by the 2001 Working Group and proposed a high threshold before departing from our broad-base, low-rate approach. The submitter considered there were risks of incentivised being politicised, being the thin edge of a wedge, that these incentives were against the broad-base, low-rate framework, and there were other options to achieve social objectives *(Chapman Tripp)*.

Three submitters supported corrective taxes generally, noting they could improve health outcomes *(Arthritis New Zealand, Rural Women New Zealand, Baucher Consulting Limited)*. One submitter noted some concern that current taxes on cigarettes are already too high *(Rural Women New Zealand)*.

One submitter encouraged taking a human rights view of corrective taxes. Under this approach, the following should be considered:

- The right of individuals to autonomy and self-responsibility, including human dignity and autonomous decision making.
- A proportionality test needs to be undertaken considering whether the objective of the corrective tax is sufficiently important, whether the tax is rationally connected with this objective, whether there is a less intrusive method of achieving the objective; whether an appropriate balance has been struck between the objective and individual rights *(Dr Jonathan Barrett)*.

Secretariat response

Consideration of corrective taxes on non-environmental grounds is planned for a future Working Group meeting.

Administration

ADMINISTRATION: OVERVIEW

Submitters raised a number of concerns regarding aspects of the current tax administration rules and practice.

Concerns raised included:

- The generic tax policy process is deteriorating. There is not enough quality consultation, some policies bypass the process, prioritisation is skewed towards revenue positive measures, there is not enough resource for remedial issues, and implementation and review of policy has been weak.
- The disputes process has significant costs and burn-off for taxpayers. The Commissioner does not take principled positions and does not follow policy intention.
- The shadow economy and avoidance is a concern and there needs to be greater investment in addressing this.
- Data collection from Inland Revenue needs to have clear protections and minimise compliance costs. Data disclosure from Inland Revenue needs to be improved.
- There is inconsistent treatment of tax fraud and benefit fraud.

Specific proposals were recommended to address these including:

- Reforming the Generic Tax Policy process to encourage earlier, less formalised consultation and having a dedicated unit to deal with remedial legislation.
- Introducing an independent tax body to advocate for taxpayers in disputes and play a role in the generic tax policy process.
- Changes to the disputes process.
- Clearer data protections and greater disclosure of Inland Revenue information.
- A standardised approach to debt collection across all government debt.
- A taxpayer Bill of Rights.

ADMINISTRATION

Issue: Generic tax policy process

Submission

(AMP Capital, Baucher Consulting Limited, Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, David McLay, EY, KPMG, Ministry for Women, New Zealand College of Midwives, National Council of Women New Zealand, NZ Super Fund, Olivershaw)

Eight submitters commented on the current generic tax policy process. Most submitters considered that the process has been successful and resulted in better tax legislation.

However, most submitters had concerns that the process is deteriorating. The following concerns were raised:

- Recent reforms had undergone a rushed process without enough consultation.
- Some policy changes have bypassed the generic tax policy process entirely.
- Submitters felt that even if officials do not agree with them on a policy, the submitters should feel as if they have been listened to.
- Tax policy is unduly influenced by Inland Revenue investigators resulting in reforms contrary to policy frameworks.
- Tax policy prioritisation is weighted towards issues that bring in more revenue. There is not an appropriate balance between revenue-favourable and taxpayer-favourable initiatives.
- Remedial issues need to be addressed in a timely basis. There needs to be a more flexible process, with dedicated Inland Revenue resource to address them. Recommendations raised by the Select Committee advisors and Inland Revenue during submissions and consultation have not always been followed up on due to a lack of resources.
- Implementation and review of policy has been weak. Tax policy officials don't have resources to gather sufficient, high quality external views in a changing world. There are current system biases towards retention of the status quo and orthodoxy.
- There is unequal access to the tax policy process and weak Parliamentary scrutiny of tax policy.

Submitters considered that the Working Group should consider ways in which the process can be improved to address these concerns. Specific suggestions included:

- The generic tax policy process should be retained but reformed to encourage earlier, less formalised consultation beyond a narrow group of tax professionals (*EY*).
- Inland Revenue should have a dedicated unit within tax policy solely to deal with remedial legislation (*NZ Super Fund*).
- An independent tax body should be established (*EY, Chartered Accountants Australia and New Zealand, Baucher Consulting Limited, David McLay*).
- The fiscal cost or benefit methodology should be reviewed. Fiscal costings assume revenue currently collected is consistent with the law prior to change being proposed and the flow on benefits from a policy are not captured. This methodology inhibits necessary improvements to the law (*KPMG*).

Three submitters considered that gender responsive budgeting approaches should be incorporated as part of the future tax system. The submitters considered that it helps ensure that allocation of public resources is carried out in ways that address gender gaps and advance

gender equality and women's empowerment. (*Ministry for Women, National Council of Women of New Zealand, New Zealand College of Midwives*). One submitter considered that there was a need to ensure transparency and accountability in tax policy through encouraging broad public participation, analysis of distributional outcomes and tax burden borne by different income sectors and disadvantaged groups and by considering gender impacts of tax policy (*Human Rights Commission*).

Issue: Disputes

Submission

(*Chartered Accountants Australia and New Zealand, David McLay, KPMG*)

Three submitters raised concerns that the current process has significant costs and burn-off for taxpayers and is not available for individuals and small and medium enterprises. They also raised concerns that the Commissioner does not take principled positions and does not follow the policy intention behind the law.

One submitter raised concerns that the lack of access to the disputes process meant that the disputes process did not expose weaknesses in the system and enable development of tax rules to meet societal needs (*David McLay*).

Two submitters considered that an independent tax advocate should be set up to address this (*Chartered Accountants Australia and New Zealand, David McLay*). One submitter considered that the disputes processes should be reformed and the Commissioner should lose the backstop against procedural fairness on her part and limit her ability to take positions contrary to policy positions communicated to Parliament (*KPMG*).

Issue: Independent tax body

Submission

(*Baucher Consulting Limited, Chartered Accountants Australia and New Zealand, David McLay, EY*)

Four submitters recommended introducing an independent tax body to advocate for taxpayers and assist with the policy development process.

Submitters considered that the independent tax body could improve the generic tax policy process through:

- ensuring the full generic tax policy process is followed;
- reviewing legislation, carrying out post-implementation reviews, recommending remedial changes, and assisting in facilitating wider consultation and carrying out other enquiries requested by Government;
- ensuring the voice of small business gets heard; and
- providing a more systematic review of the implementation of new tax rules, reviewing older provisions and providing a more transparent way of keeping tax policy requests and submissions in the public square.

One submission considered that the independent tax body should assist taxpayers in disputes with Inland Revenue, identify areas in which taxpayers are having problems, and propose

administrative and legislative changes to mitigate these (*Chartered Accountants Australia and New Zealand*).

Issue: Taxpayer Bill of Rights

Submission

(Baucher Consulting Limited)

One submission considered that there should be a Bill of Rights for Taxpayers to enhance the fairness of the administration of the tax system and provide greater oversight of Inland Revenue. The submitter considered that Inland Revenue has broad powers with little effective oversight and there is growing and arbitrary use of some of these powers. The concept of integrity should be more strongly made an overarching concept for use of Inland Revenue powers.

Issue: Commissioner discretion

Submission

(Corporate Taxpayers Group, NZ Super Fund)

Two submitters considered that the Commissioner should have the ability to issue determinations or regulations to ensure that legislation is applied consistent with policy intent and to provide taxpayers certainty on what is acceptable. Submitters considered it would provide flexibility; however, any such power should be subject to checks and balances.

One submitter noted that they consider that continued commitment to full and effective processes for policy development should be the first line of defence for minimising mistakes and providing certainty (*Corporate Taxpayers Group*).

Issue: Non-compliance

Submission

(Chartered Accountants Australia and New Zealand, Dr Lisa Marriot, New Zealand Council of Trade Unions, Palmerston North Women's Health Collective, Wise Response)

Five submitters raised concerns about the extent of the shadow economy and avoidance in New Zealand.

Submitters considered that the shadow economy should be a focus of the Working Group. Submitters believed that Inland Revenue needs to be adequately resourced and for Inland Revenue to have a strong and visible audit presence, and that the public wants to know that evaders are being investigated and caught. Submitters considered that better use of data and digital information would play an important role in addressing tax evasion and that there needed to be education and a public awareness campaign.

Submitters also considered that addressing tax avoidance require Inland Revenue to be adequately resourced.

One submission considered that investment in tax enforcement is not in line with the total amount of revenue collected and New Zealand has one of the lowest proportion of staff usage on debt collection (*Dr Lisa Marriot*).

Issue: Taxpayer education and awareness

Submission

(*Chartered Accountants Australia and New Zealand, Online Tax Association of New Zealand, Te Au Rangahau and Te Au Pakihi, Te Pūtahitanga o Te Waipounamu, Te Rōpū Pakihi*)

Five submitters considered that there needed to be greater education for taxpayers.

Three submitters recommended that mentoring should be offered to start-up firms so they get it right from the start (*Te Pūtahitanga o Te Waipounamu, Te Au Rangahau and Te Au Pakihi, Te Rōpū Pakihi*). One submitter was concerned about the trend of a lack of understanding about tax and recommended this be corrected with increased education of taxpayers at a high school level (*Online Tax Association of New Zealand*).

One submitter considered that New Zealanders need to believe that tax system is fair, user friendly, and that all sectors pay their fair share. The submitter considered that there needs to be a change in community attitude towards tax fraud and evasion not being okay and that this requires a public awareness campaign. (*Chartered Accountants Australia and New Zealand*).

Issue: Inconsistent treatment of tax and welfare

Submission

(*Dr Lisa Marriot, New Zealand Council of Trade Unions*)

Two submitters raised concerns regarding discrepancies in how tax and welfare non-compliers are treated. Specific concerns raised were as follows:

- Inland Revenue is much more willing to write off debt and, in 2015/16, it wrote off \$1.1b of debt while the Ministry of Social Development wrote off \$14m.
- Inland Revenue is more lenient for taxpayers in serious hardship and will not collect from them while Ministry of Social Development will generally still negotiate repayment from those in serious hardship.
- For welfare fraud, liability may be extended to partners of the individual who committed the fraud while for tax this is not possible.
- Inland Revenue uses deduction notices far less than welfare recipients with 1% of taxpayers receiving a deduction notice, compared with 7–12% of welfare recipients.
- Inland Revenue has access to stronger penalties; however, these are infrequently used. Around 15 times as many prosecutions and 15–20 as many investigations occur for welfare compared with tax cases.
- New Zealand spends \$17 for every \$100 in welfare collected compared with \$2.86 for every \$100 in tax collected.

One submitter considered that processes should be reviewed to ensure this apparent double standard does not continue (*New Zealand Council of Trade Unions*).

One submitter considered that there should be a standardised approach to debt collection across all government debt. There should be similar legislative rules as well as having a single debt collection agency (*Dr Lisa Marriot*).

Issue: Director penalty notices

Submission

(*Dr Lisa Marriot*)

One submitter recommended that director penalty notices be considered. This will enable tax to be collected in corporate structures where there has been non-compliance but current rules means there is no consequence for non-compliance.

Issue: Inland Revenue performance

Submission

(*Baucher Consulting Limited, NZ Super Fund*)

One submitter considered that Inland Revenue performance should not be based on discrepancies. Instead it should be reset to focus on providing certainty, reducing compliance costs, getting things right from the start and educating taxpayers (*NZ Super Fund*).

One submitter considered that reducing compliance costs for businesses will require an attitude change by Inland Revenue (*Baucher Consulting Limited*).

Issue: Data collection

Submission

(*AMP Capital, Baucher Consulting Limited, Deloitte, Internet NZ, McGuinness Institute Ministry for Women*)

Four submitters commented on Inland Revenues data collection process. Submitters considered that data collection provided opportunities for tax administration and provided an important tool to provide transparency and improve compliance. However, submitters raised concerns that it is important to seriously consider compliance costs of collecting more information and if additional information is required consideration should be given to compensating entities required to report.

Submitters considered that there were risks from data collection that the Working Group should consider, including the risk of improper use or access. Submitters considered that the Group should consider how best to manage these risks, with one submitter considering that taxpayers should have greater protections for their rights (*Baucher Consulting Limited*). One submitter considered there should be reporting on cyber-security breaches, particularly where tax data is compromised (*McGuinness Institute*).

One submitter raised concerns that taxpayers are providing the same information to different parts of government and that taxpayers should only be asked for information from government once (*AMP Capital*).

One submitter considered there was a need to extend administrative data collection to contribute to wider information system needs. In particular the submitter considered that Inland Revenue should collect information on the hours worked by employees (*Ministry for Women*).

Issue: Information disclosure

Submission

(Alcohol Healthwatch, Dr Simon Chapple, EY, Human Rights Commission, McGuinness Institute, New Zealand Council of Trade Unions, NZ Post Primary Teachers' Association)

Six submitters considered that there should be greater disclosure of information by Inland Revenue to assist in public debate in tax policy and to retain public confidence in the appropriateness of New Zealand tax policy. Specific disclosures recommended were:

- Detailed tax statistics on all forms of tax including effective rates of company tax collected by industry.
 - Publishing tax statistics on all companies.
 - A published record of businesses which have been granted special tax exemptions or status.
 - Supporting Statistics New Zealand to develop regular high quality large sample household income survey data more aligned with a comprehensive definition of income.
 - Multinational alcohol companies being more transparent about their financial accounts to assist in determination of tax avoidance.
 - Public reporting on who the individual are who own companies that operate in New Zealand.
 - Requiring every company to use its legal name on its annual report and state its business number, registered address and industry classification.
 - Implementing wider use of industry classifications to track tax paid across sectors.
 - Using business numbers to track tax payments, tax avoidance, and tax compliance.
 - Benchmarking the effectiveness of the tax system over time, including compliance, administration costs, penalties by dollar and quantity and analysis of risks and opportunities that lie ahead.
 - Inland Revenue's government department strategy should be published in its annual report.
-

Issue: Filing returns

Submission

(Chartered Accountants Australia and New Zealand, CPA Australia, Deloitte, Income Equality Aotearoa New Zealand, KPMG)

Three submitters recommended that everyone should be required to file an income tax return to ensure that all income is included. Submitters considered that the requirement on all taxpayers to file brings integrity and should be reconsidered given recent research on the size of the hidden economy and the Business Transformation Programme (*Deloitte, Income Equality Aotearoa, KPMG*).

One submission considered that every taxpayer should receive correspondence from Inland Revenue giving information about their interaction with Inland Revenue, thanking them and prompting them to contact Inland Revenue if they have other income (*Chartered Accountants Australia and New Zealand*).

One submission considered that many employed individuals have very easy compliance as they have no need to file returns and that this simplicity should be retained (*CPA Australia*).

Issue: Other administrative issues

Submission

(*Chartered Accountants Australia and New Zealand, CNI Iwi Holdings, Corporate Taxpayers Group, CPA Australia, Deloitte, Income Equality Aotearoa New Zealand, KPMG, Ministry of Business, Innovation and Employment, Rural Women New Zealand, Te Rūnanga o Ngāi Tahu*).

A number of submissions were received on other administrative matters. These are as follows:

- Tax agents play a crucial intermediary role between taxpayers and Inland Revenue and should be recognised for their contribution and their role should not be diminished (*Chartered Accountants Australia and New Zealand*).
- It is imperative that the tax pooling regime is effective to mitigate high use-of-money interest rates. A broad review of the tax pooling regime should be undertaken (*Corporate Taxpayers Group*).
- Current settings for provisional tax do not work well for large taxpayers with volatile income streams which results in overpayment and high compliance costs. Options for AIM for large taxpayers should be implemented. The New Zealand Super Fund should be able to offset their provisional tax against government contributions (*New Zealand Super Fund*).
- There should be scope for Māori organisations to act as agents for their members to help them obtain an IRD number and avoid the non-declaration rate (*CNI Iwi Holdings Limited*).
- Persons aged 15 years and under who do not supply an IRD number should default to a 10.5% rate (*Te Rūnanga o Ngāi Tahu*).
- There is concern about the growing requirement for taxpayers to transact affairs on-line. Not everyone has reliable internet access, and Inland Revenue appears to be moving towards requiring everyone to interact with them online (*Rural Women New Zealand*).

Secretariat's comment

The Secretariat provided information on how Inland Revenue intends to address issues regarding self-employment compliance in *The Future of Work: Sustaining the tax system*.

Consideration of administration issues regarding collection challenges, the shadow economy, information disclosure, the generic tax policy process, and a taxpayer advocate are planned for a future Working Group meeting.

Other taxes and issues

OTHER TAXES AND ISSUES

Issue: Transaction tax

Submission

(Deloitte, Democrats for Social Credit, Environmental and Human Health Aotearoa, Goodman, Kiwi Property, New Zealand Council of Trade Unions, NZ Post Primary Teachers' Association, Poverty Action Waikato, Property Council of New Zealand, Property Institute, Public Services Association)

Seven submitters supported transactional taxes such as a financial transactions tax on bank withdrawals or international transactions. The submitters thought it would be a simple tax, would reduce speculation and would raise revenue that could be used to reduce other taxes or increase government spending.

One submitter supported a direct tax of financial transactions tax on the accounts of businesses with parent companies which are foreign registered. *(NZ Post Primary Teachers' Association)*

Three submitters opposed transaction taxes such as financial transaction taxes or stamp duties. These submitters considered they would be inefficient, do not raise significant revenue, and for a stamp duty would not assist in housing affordability *(Kiwi Property, Property Institute, Property Council of New Zealand)*.

One submitter noted that internationally there is no indication of moves away from traditional sources of tax to 'new' or 'novel' methods of taxation *(Deloitte)*.

Secretariat's comment

Consideration of financial transaction taxes are planned for consideration at a future Working Group meeting.

Issue: Gift and gambling tax

Submission

(Income Equality Aotearoa New Zealand, New Zealand Council of Trade Unions, Professor Michael Littlewood, The Alliance Party)

One submitter supported gift taxes. They considered they fall within the economic definition of income and are anomalous not to be recognised, in particular when the welfare system does recognise them *(New Zealand Council of Trade Unions)*.

Two submitters opposed taxing gifts and gambling winnings. This was because if they were treated as income, deductions would need to be provided where taxpayers would lose on such transactions and it would be over-taxation to tax without relief provided for losses. Submitters considered that gambling is more akin to consumption and that previous evidence with gift duty indicated that it was high compliance costs for little benefit *(Corporate Taxpayers Group, Olivershaw)*.

One submitter supported taxing gambling winnings with the possibility of a *de minimis* (*ECE Services*). One submitter considered that if a comprehensive capital gains taxed gambling winnings that these should be taxed with a *de minimis* (*Chartered Accountants Australia and New Zealand*). One submitter considered that gambling winnings are already taxed under other tax rules. The submitter considered that in circumstances where the gambling winnings are not taxed then there may be case for taxing, although it would need to be ring-fenced (*Professor Michael Littlewood*).

Issue: Inheritance taxes

Submission

(*David McLay, Income Equality Aotearoa New Zealand, New Zealand Council of Trade Unions, NZ Post Primary Teachers' Association, The Alliance Party*)

Four submitters supported inheritance taxes. They considered they fall within the economic definition of income and are anomalous not to be recognised, in particular when the welfare system does recognise them (*Income Equality Aotearoa New Zealand, New Zealand Council of Trade Unions, The Alliance Party, NZ Post Primary Teachers' Association*). One submitter considered that inher One submitter considered that it should only apply on inheritances greater than \$1m (*The Alliance Party*).

One submitter opposed death duties (*David McLay*).

One submitter considered that inheritance taxes should be looked at in conjunction with a capital gains tax to see if the compliance costs would outweigh the benefits (*ECE Services*).

Issue: Social security and payroll taxes.

Submission

(*Andrew Coleman, NZ Post Primary Teachers' Association*)

One submitter supported introducing social security taxes. The reasons for supporting them was to enable a decrease in the taxation of non-property capital income. Reducing taxes on capital would support economic productivity through increasing capital intensity and would be in line with most OECD countries.

One submitter suggested the Working Group consider a payroll tax dedicated to finance replacement income for superannuation and retired workers. (*NZ Post Primary Teachers' Association*)

Issue: Greater hypothecation

Submission

(*NZ Post Primary Teachers' Association*)

One submitter considered that the Working Group should consider a broader range of progressive taxes with a greater degree of linkage between the tax raised and the expenditure by Government. The submitter believed this would give greater levels of support for the tax

system, greater stability, and more flexibility to allow targeted increases to part of the tax system to meet greater spending needs or priorities in specific areas.

Issue: Voluntary tax payments

Submission

(Palmerston North Women's Health Collective)

One submitter supported the creation of a public contribution fund for those willing and able to pay more tax.

Issue: Cost of standing timber

Submission

(Forest Owners Association, NZ Farm Forestry Association)

One submitter recommended an amendment to the income tax rules to remove the 'cost of standing timber' provision, which prevents a buyer of standing trees from deducting the cost of the trees until they dispose of the timber. The submitter considered that:

- This provides a tax disadvantage.
- The revenue account property rules are not designed for assets that are held for 30 years before generating income.
- Inland Revenue's assertions that there would be fiscal risks and risks of abuse are without evidence.
- The provisions are inconsistent with how the costs of planting trees is treated for farmers.
- This treatment punishes investment away from forests into more liquid areas with tax free capital gains.

The submitter considers that the sale of trees should not be recognised and that income should only be recognised at the point of harvest *(NZ Farm Forestry Association)*.

If this, or removing the cost of standing timber provision is not possible the submitter recommends expediting work Inland Revenue is doing to provide an exemption for forest aggregation. One other submitter supported the Inland Revenue work to support forestry aggregation *(Forest Owners Association)*.

Issue: Funding public media

Submission

(Better Public Media Trust)

One submitter considered that there was a need to provide alternative public media funding mechanisms.

The submitter considered options for a small tax on a range of media services to be the most promising. The submitter considered that it would help address issues about inadequate

funding for important public interest media, would ensure that those who benefit from commercial media market contribute to redressing market failures.

Issue: Tax treatment of cryptocurrencies

Submission

(CPA Australia, New Zealand Taxpayers' Union, Voice for Crypto)

Two submitters raised concerns regarding recent Inland Revenue guidance on cryptocurrencies. The submitters were concerned that the guidance did not reflect the true nature of the technology, that the tax system was not set up to handle the new digital economy it would bring, that it is not in line with international best practice, and that the Working Group should recommend reform.

Submitters believed that the Inland Revenue guidance provided a one-treatment-fits-all approach and that instead cryptocurrencies are varied and tax treatment should reflect this.

One submitter (*Voice for Crypto*) recommended a number of specific changes including:

- Inland Revenue should remove GST from all crypto-tokens with the exception of some utility tokens as a matter of urgency;
- crypto-tokens should not always be regarded as property and should have a “presumed return” taxation on a portfolio basis and like-kind exchange;
- tokens used to raise capital should not be treated as property; the tokens should be treated the same as their underlying nature and entities should be allowed to allocate funds for a multi-year period; and
- Inland Revenue should accept cryptocurrency as a form of payment for taxes.

One submitter recommended that the Working Group should consider whether crypto currency taxations should be loss quarantined to protect the revenue (*CPA Australia*).

Issue: Deductibility of employment expenses

Submission

(Online Tax Association New Zealand, KPMG, ECE Services, Ministry of Business, Innovation and Employment, Chartered Accountants Australia and New Zealand)

Three submitters (*Online Tax Association of New Zealand, KPMG, ECE Services*) considered that the current rules that prevent employees from claiming deductions should be reviewed. The reasons for this included that:

- they provide a disadvantage to working and provides a disincentive to work;
- the expenses are real costs that should be deductible like any other business costs;
- the cost of filing for employees is less of a constraint given the Business Transformation programme; and
- deductions for items such as childcare would help parents to return to the workforce.

Two submitters considered that the future of work may mean there is a need to look at allowing deductions or creating incentives for training (*Ministry of Business, Innovation and Employment, Chartered Accountants Australia and New Zealand*)

Issue: Statutory deduction for interest for corporates

Submission

(Olivershaw)

One submitter considered that the current statutory deduction for corporates should be endorsed by the Working Group. The submitter considered that it materially reduces compliance costs, was done in response to significant compliance costs and structuring that occurred, the current boundary line is that all interest is deductible so long as there are comprehensive dividend rules which are operating well, the mixed-use asset rules shows that trying to prevent deductibility results in extremely complex rules.

Issue: Tax exemption for New Zealand Super Fund

Submission

(NZ Super Fund)

One submitter considered the New Zealand Super Fund should be tax exempt. This was because it would bring the fund in line with international best practice, would remove the need for the fund to liquidate assets to pay tax; would reduce contributions required by the Government and prevent the fund and Government handing money back to each other; and reduce compliance costs in providing entitlement to offshore exemptions and bolster their arguments for exemption.

Issue: Opposition to separate taxes for economic rents

Submission

(KPMG)

One submitter raised the issue about whether economic rents (excess profits or returns above the global rate of return) should have different tax rates or separate taxes. The submitter considered that this did not seem a practical proposal and there is not likely to be easily available, or robust information to support taxing these rents.

Issue: Tax changes to support women

Submission

(Ministry for Women)

One submitter considered that the Working Group should consider changes to encourage women to pursue employment opportunities and recognise unpaid work by:

- providing tax benefits that acknowledge childcare costs;
- having a more favourable marginal tax rate for women who receive a benefit;
- considering how unpaid care work can be recognised and accounted for in the tax system;
- considering how information is collected and secondary taxation;
- enabling employers to continue KiwiSaver contributions during care-career breaks;

- creating positive tax incentives to employers who offer flexible work options; and
- supporting employer initiatives for return-to-work and training opportunities.

Appendix 1: Capital gains tax design issues

DESIGN

Issue: Need to minimise complexity, consider SMEs and innovation

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, PwC)

Two submitters considered that care must be taken in designing a capital gains tax to minimise complexity and compliance costs. The Australian capital gains tax regime has shown that these regimes are complex (*Corporate Taxpayers Group, PwC*).

One submitter considered that the impact on small and medium enterprises and innovation needs to be carefully considered in the design of a capital gains tax (*Chartered Accountants Australia and New Zealand*).

TRANSITIONING TO A CAPITAL GAINS TAX

Issue: Support for valuation approach (Canadian transition)

Submission

(ECE Services, EY, Housing New Zealand, KPMG, Professor Michael Littlewood PwC)

Six submitters supported having a capital gains tax apply to property disposed of after the application date, but where the property was acquired before the application date only taxing the gain from the application date. Reasons for this included:

- the method avoids applying capital gains tax to gains made before the application date;
- the method avoids creating tax preferences for assets acquired prior to the application date (if not already taxable);
- the method avoids unfairness from gains being excluded due to the asset being acquired before the application date;
- the method avoids complex grandparenting provisions; and
- valuations are commonly done for other tax provisions and other reasons.

Issue: Support for acquisition date approach (Australian transition)

Submission

(CPA Australia, Olivershaw)

Two submitters supported having capital gains taxes apply only to property acquired after the application date. The reasons for this included:

- compliance costs in getting valuations are large;
- a Canadian transition approach is likely to lead to significant dispute; and
- if a Canadian transition approach is taken there is likely to be overvaluation of assets by taxpayers and Inland Revenue will not be able to manage reviews or disputes given the volume.

Issue: Valuation methods

Submission

(Corporate Taxpayers Group, New Zealand Institute of Valuers, Olivershaw, Property Institute)

Two submitters considered that if a Canadian transition approach was taken taxpayers should have the option to take the greater of valuation or cost as the base. This was on the basis that otherwise taxpayers could end up paying tax even though they have not made a gain over the life of the asset *(Corporate Taxpayers Group, Olivershaw)*.

One submitter argued against a valuation approach based on a straight-line basis for transitioning to a capital gains tax where the gain is apportioned based on how long the asset is held before and after the application date. The submitter considered that it would penalise taxpayers that hold assets for a long-time post commencement and would result in a very distortionary approach and result in large unrealised gains *(Olivershaw)*.

If a Canadian transition approach is taken there needs to be a robust approach to valuation and that there are a number of market factors which can affect the market value. Council valuations will often not reflect market values, in particular as they follow a defined process, and may not consider refurbishments. International valuation standards should be referenced in treatment of property valuation within any taxation process (*New Zealand Institute of Valuers*).

One submitter noted that 'simple proxies' for market values would not be accurate when compared with a property valuation by a registered property professional. The submitter noted that the public distrust these proxies, which include council valuations and online appraisals but the public do trust valuations by registered valuers. The submitter considered that valuation would lead to dispute and when this happens their members, who are respected property professionals should be the group used to review the valuation (*Property Institute*).

INTEGRATION WITH INCOME TAX

Issue: Support for integration

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, CPA Australia, ECE Services, Professor Michael Littlewood, New Zealand Council of Trade Unions, Olivershaw)

Seven submitters supported integrating capital gains tax in income tax. Submitters considered that as capital gains are income they should be treated the same as all other income. Using the Income Tax Act is a simpler and more efficient approach and would avoid the need for flow-on changes, and that this approach would be consistent with most other countries.

CAPITAL GAINS TAX RATE

Issue: Marginal tax rate

Submission

(Baucher Consulting, ECE Services, Income Equality Aotearoa Olivershaw, PwC, Young IFA Network)

Six submitters considered that a capital gains tax should be levied at the taxpayer's marginal rate. Reasons for this included:

- misaligned rates will add another layer of administrative complexity
- misaligned rates will erode the efficiency gains for a capital gains tax as it will maintain current incentive to overinvest in capital; and
- New Zealand has first-hand experience of issues with misaligned rates.

Issue: Reduced rate

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, CPA Australia, David McLay, Financial Cohorts Forum, Professor Michael Littlewood)

Four submitters supported a reduced rate for capital gains. This was on the basis that the rate should reflect risk and reward, not stymie investment, and that a reduced rate could be a proxy for inflation *(CPA Australia, David McLay, Financial Cohorts Forum, Professor Michael Littlewood)*.

One submitter considered there to be a balancing exercise in the choice of capital gains tax rates. The submitter considered that marginal rates would provide a more coherent system. However, they also considered that a flat tax rate may in some situations be simpler, although it could increase compliance costs due to the need to distinguish capital from other investments. The submitter considered that more research and study are needed *(Corporate Taxpayers Group)*.

The question of a capital gains tax rate should be addressed in conjunction with the level of capital gains inclusion *(Chartered Accountants Australia and New Zealand)*. The submitter considered that options included:

- taxing the full nominal capital gain at marginal tax rates;
- taxing the full nominal capital gain at a reduced flat tax rate;
- taxing a reduced value of the nominal capital gain (for example 50% of the increase in value) at marginal tax rates; or
- a split inclusion or rate depending on the duration of time the asset has been held.

The submitter considered that the main attraction of 100% at a flat rate is simplicity, integrity and coherence. The submitter considered that the downside was that it would tax nominal gains. As a result, they considered that a balance could be normal rates, but 50% inclusion for long-term gains.

REALISATION VERSUS ACCRUALS

Issue: Support for realisation basis

Submission

(Chartered Accountants Australia and New Zealand, CPA Australia, ECE Services, Financial Cohorts Forum, Housing New Zealand, Income Equality Aotearoa, Professor Michael Littlewood, New Zealand Council of Trade Unions, New Zealand Taxpayers' Union, Te Rūnanga o Ngāi Tahu)

Ten submitters recommended that a capital gains tax should not be imposed on an accruals basis. This was on the basis that:

- an accruals capital gains tax would punish taxpayers for holding property;
- taxing accrued gains would result in cash flow difficulties;
- an accruals basis would create greater compliance costs and another level of complexity; and
- realisation is the approach taken in most countries.

One submitter considered that although realisation is preferred that there should be rules to address situations where there is non-market consideration. Special rules are also required for the creation of rights and lease *(CPA Australia)*.

Issue: Support for hybrid approach

Submission

(Young IFA Network, Professor Michael Littlewood)

One submitter recommended that the Working Group consider a hybrid approach where realisation is used for situations where valuation or cash flow are of concern. The submitter noted that the hybrid approach could create distortions, although this is balanced by distortions that a realisation-based tax will create.

One submitter noted that a hybrid approach was feasible *(Professor Michael Littlewood)*.

SCOPE OF ASSETS COVERED

Issue: Comprehensive

Submission

(AMP Capital, Chartered Accountants Australia and New Zealand, CPA Australia, EY, Foodstuffs, PwC, Tauranga Property Investors' Association, The Manufacturers' Network, Young IFA Network)

Eight submitters considered that a capital gains tax should be broad or comprehensive. Reasons for this included:

- any exemptions or exclusions from a capital gains tax will create fairness issues;
- if the goal of the capital gains tax is to treat income similarly, then it is appropriate to have few exemptions;
- a narrow capital gains base could lead to distortions and structuring;
- a comprehensive capital gains tax would aid simplicity of design and administration, exemptions would increase administration costs and diminish effectiveness of tax for revenue collection; and
- a broad base helps with simplicity of the tax. It also means that it is able to maximise the goal of reducing wealth inequality

All residential property investors should be caught comprehensively *(The Manufacturers' Network)*.

Issue: Targeted

Submission

(Corporate Taxpayers Group, Olivershaw)

By contrast, two submitters preferred a targeted capital gains tax on the basis that a more targeted approach would avoid the complexity and compliance costs associated with a comprehensive approach.

Issue: Family home

Submission

(AMP Capital, Chartered Accountants Australia and New Zealand, CPA Australia, KPMG, Tauranga Property Investors' Association, Young IFA Network)

Six submitters commented on the issues created by a family home exception.

One submitter considered that a capital gains tax should include the family home *(Tauranga Property Investors' Association)*. One submitter considered that the exclusion of the family home opens up avoidance and non-compliance issues *(AMP Capital)* and one noted that the family home exclusion means that in designing a capital gains tax we are already in a second-best environment *(EY)*.

One submitter recommended that the Group formally confirm and document the pros and cons of the family home exception so that the exception can be tested in the future *(KPMG)*.

Two submitters recommended the consideration of a *de minimis* for the family home where gains above a certain threshold are still caught by the capital gains tax. This could potentially help mitigate the ‘mansion effect’ where tax encourages people to invest more heavily in their family home over other assets (*Chartered Accountants Australia and New Zealand, CPA Australia, Young IFA Network*).

Administrative mechanisms should be looked at to buttress the narrower scope of the capital gains tax due to the family home exception, and to maintain efficiency. For example, record-keeping requirements could be looked at specifically for main homes (*Young IFA Network*).

Issue: Exclusions

Submission

(*CPA Australia, ECE Services, Environment and Conservation Organisations of New Zealand, Foodstuffs, Māori Economic Development Advisory Board, PEPANZ, Professor Michael Littlewood, Te Pūtahitanga o Te Waipounamu, The Manufacturers’ Network*)

A number of exclusions were proposed from the capital gains tax. These included the following:

- Productive assets should be excluded (*Foodstuffs, The Manufacturers’ Network*).
 - The tax should only apply to investments held for a short period of time (*Māori Economic Development Advisory Board*).
 - A second home used for whānau should be excluded as many Māori often purchase homes for whānau members who are not in a position to own their own home (*Māori Economic Development Advisory Board*).
 - The tax should exclude shares or interests in controlled petroleum mining entities as petroleum mining assets are already subject to income tax and this could result in double taxation. Further, shares in controlled petroleum mining entities were once subject to a capital gains tax, but the rules did not achieve their policy objectives (*PEPANZ*).
 - Collectibles should be excluded as complexity would outweigh benefits (*ECE Services*).
 - There should be an exclusion for one rental property, as this is often the investment property for a whānau retirement fund (*Te Pūtahitanga o Te Waipounamu*).
 - Assets owned by charities should be exempt (*Te Pūtahitanga o Te Waipounamu*).
 - Small businesses should be excluded, as political concessions mean they will likely be under-taxed anyway, and there will be complexity. Leaving small businesses out of the base will help support them (*Professor Michael Littlewood*).
 - Conservation-motivated land should be excluded to remove risk to these assets and ecosystems (*Environment and Conservation Organisations of NZ*).
-

Issue: Treaty settlement assets and Māori land

Submission

(*CNI Iwi Holdings Limited, Māori Economic Development Advisory Board, Moana New Zealand, Ngai Tuahuriri, Ngā Kaitatau Māori o Aotearoa Māori CFO Forum, Ngāti Kahungunu Iwi Incorporated, Te Au Rangahau and Te Au Pakihi, Te Hunga Roia Māori o*

Aotearoa, Te Ohu Kaimoana, Te Pūtahitanga o Te Waipounamu, Te Rōpū Pakihi, Te Rūnanga-Ā-Iwi O Ngāpuhi, Te Rūnanga o Ngāi Tahu, Waikato-Tainui)

Fourteen submitters commented on how the introduction of a capital gains tax could impact Māori land and/or Treaty settlement assets. A number of these submitters recommended that the Working Group, when considering whether to introduce a capital gains tax, should have regard to: the principles of the Treaty of Waitangi; the impact a capital gains tax would have on the Treaty settlement process; the risk that a capital gains tax could result in Māori being further alienated from their land; and the cultural and environmental benefits that could be promoted through concessions for Māori land.

Most submitters considered that if a capital gains tax is introduced, all assets acquired through a Treaty settlement should be excluded from its scope. Submitters argued that this concessionary treatment is necessary due to the unique constraints imposed on the ability to transfer Māori land, and the fact that Treaty settlement assets represent compensation by the Crown for past wrongs. Further, as Treaty settlements are negotiated in good faith, and in the context of New Zealand not having a capital gains tax, it would be inequitable for Treaty settlement assets to now be subject to a capital gains tax regime. Submitters also argued that if a capital gains tax was to apply to Treaty settlement assets, it would decrease their effective value, thereby significantly reducing the settlement redress.

Five submitters considered that the introduction of a capital gains tax that applied to Māori land would: erode the value of Treaty settlements; increase the cost of holding whenua (land) in trust for future generations; fail to reflect the fact that Māori are still in the phase of redressing the economic, political, social, and cultural deprivations suffered by their people; and fail to recognise Māori economic contribution to New Zealand (*Ngā Kaitata Māori o Aotearoa Māori CFO Forum, Ngāti Whātua Ōrākei Whai Rawa Limited, Te Rōpū Pakihi, Te Tumu Paeroa, Waikato-Tainui*).

One submitter noted that the potential effects of capital gains tax on papakāinga and iwi developments is currently unknown. A better understanding of the potential effects is therefore necessary to ensure that the introduction of any capital gains tax would provide affordable, healthy, and sustainable housing for whānau (*Ngāti Kahungunu Iwi Incorporated*).

Some submitters considered that all Māori land should be exempt from a capital gains tax as Māori should not be taxed on their whenua. Submitters also considered that a capital gains tax on Māori-held land would cut across Māori tino rangatiratanga (sovereignty), mana whakahaere (governance), and kaitiakitanga (stewardship) in respect of their land. One submitter argued that any Māori land (i.e. Māori freehold land or general Crown title land) that sits within Māori reservations or Māori reserved lands should be exempted from any capital gains tax regime (*Ngai Tuahuriri*).

One submitter noted that they would only sell their land to finance the acquisition or development of other land within the area and, as a result, a realised capital gains tax would be inappropriate in this circumstance (*Ngāti Whātua Ōrākei Whai Rawa Limited*).

Two submitters considered that if a capital gains tax was imposed on an accruals basis (i.e. an unrealised capital gains tax), then all Māori land would need to be exempt because post-settlement entities tend to be “asset rich, cash poor”. Imposing an accruals-based capital gains tax could therefore further alienate Māori from their land (*Te Hunga Roia Māori o Aotearoa, Te Rūnanga-Ā-Iwi O Ngāpuhi*).

One submitter considered that there should be narrow exemptions for Māori-held land used for certain cultural or environmental purposes, and wide exemptions for other Māori land to ensure the Crown does not fall short of its obligations as a Treaty partner (*Te Rūnanga-Ā-Iwi O Ngāpuhi*).

One submitter proposed that if a capital gains tax is considered, further consultation would be required with them, and other iwi, to ensure that the exclusion of Māori land and other assets is appropriately designed (*Waikato-Tainui*). This submitter also argued that any capital gains tax needs to exclude the whenua (land), taonga (property), whenua raupatu (confiscated land), and other Treaty settlement assets belonging to them, regardless of how they choose to hold and manage such assets, and put them to use for the benefit of their iwi (*Waikato-Tainui*).

Issue: Private assets

Submission

(*CPA Australia, ECE Services, Olivershaw*)

If private assets such as holiday homes and boats are brought into the capital gains base, this raises a set of complex issues. In particular, their owners are likely non-filers as these assets do not currently create tax obligations. Examples of complex issues include what is included within the capital costs, what happens when ownership interests are changed, and whether there should be a deductible loss due to private consumption of the asset (*Olivershaw*).

Two submitters considered that there should be an exclusion from capital gains tax for private assets (*CPA Australia, ECE Services*).

Private assets are problematic from a compliance perspective. One simplification could be to say that if any deduction would be denied because of the private expenditure rule, any gain or loss would remain non-taxable under a capital gains tax (*KPMG*).

INFLATION INDEXING

Issue: Support for inflation indexation

Submission

(ANZ, Baucher Consulting, Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, Dairy NZ, ECE Services, EY, Financial Services Council, Olivershaw, Property Council of New Zealand, Professor Michael Littlewood PwC)

Twelve submitters recommended inflation indexing any capital gain. The reasons for this included:

- gains solely due to inflation should not be taxed as doing so would represent over-taxation and would be unfair and inefficient;
- if there is no indexation then the effective tax rate can be significant for long-held assets; and
- some submitters noted complexity; however, they considered it was more important to avoid over-taxation.

Some submitters noted the complexity of inflation indexation and proposed simpler methods that proxied inflation indexation. These included:

- a tapering approach that reduces the rate the longer an asset is held;
- a tapering approach that reduces the level of capital gain depending on length of time held – one submitter noted there was a need to ensure that tax does not drive behaviour so it should be carefully designed;
- using the risk-free rate of return (RFRM) method; and
- a flat reduced capital gains rate.

Issue: Opposition to inflation indexation

Submission

(CPA Australia, KPMG)

Two submitters opposed inflation indexation. This was on the grounds that:

- inflation indexation is too complex and the international experience shows that it creates considerable complexity; and
- we are in a low inflation environment and so taxing nominal gains is not too distortionary.

ROLL-OVER RELIEF

Issue: Roll-over relief

Submission

(Chartered Accountants Australia and New Zealand, CNI Iwi Holdings, Corporate Taxpayers Group, Foodstuffs, Property Council of New Zealand, Professor Michael Littlewood, PwC, Te Rūnanga o Ngāi Tahu)

A number of submitters supported roll-over relief provisions for specific circumstances. These are listed below:

- There should be roll-over relief where there is reinvestment in similar assets. Economically the gain has not been realised and should not be taxed. Roll-over will ensure capital flows to the best performing asset unimpeded by the loss of value created by realising a capital gain *(Chartered Accountants Australia and New Zealand, Foodstuffs, Property Council of New Zealand)*.
- It is critical to ensure tax does not impede economic growth, so there should be roll-over provisions for productive assets *(PwC)*.
- There should be roll-over relief to allow asset ownership reorganisations, and mergers and acquisitions to take place without tax consequences. Tax should not impede normal business *(CNI Iwi Holdings, Corporate Taxpayer Group, Olivershaw, Te Rūnanga o Ngāi Tahu)*.
- There should be roll-over relief where gains are reinvested due to natural events such as earthquakes *(Chartered Accountants Australia and New Zealand)*.
- There is support roll-over relief for relationship property settlements *(Chartered Accountants Australia and New Zealand, CPA Australia, Olivershaw, Professor Michael Littlewood)*.
- Although it raises complexities, one submitter noted that an absence of roll-over relief would be problematic *(Professor Michael Littlewood)*.
- Decisions will need to be made on how to address publicly- or iwi-owned land *(Chartered Accountants Australia and New Zealand)*.

One submitter considered that roll-over would not be necessary if a targeted approach is applied *(Olivershaw)*.

Issue: Inheritance

Submission

(Chartered Accountants Australia and New Zealand, CPA Australia, Olivershaw, Property Institute, Professor Michael Littlewood)

One submitter supported roll-over relief for inheritance *(CPA Australia)*.

Two submitters considered that the best approach to inheritance is to realise the gain on inheritance. These submitters considered that a second-best approach was to allow for roll-over relief, with one noting this may be necessary for political acceptability *(Chartered Accountants Australia and New Zealand, Professor Michael Littlewood)*. One submitter considered that exemption was the worst approach, was unsound in principle and highly problematic in practice as evidenced by the US *(Professor Michael Littlewood)*.

One submitter considered that if death is to be considered a taxable event there was a need to ensure that two realisation events did not occur through transfers to the executor and then to the beneficiary. The submitter also considered that an allowance or extended *de minimis* for inheritance would deal with equity concerns regarding bunching (*Chartered Accountants Australia and New Zealand*).

One submitter considered that if there is a targeted response for a capital gains tax then the current rules should apply. The submitter considered that if a comprehensive capital gains tax is introduced, there should be roll-over relief. This is because if realised, assets would need to be sold to meet the tax liabilities. It could also cause double taxation where share gains are realised, and then the company sells its assets (*Olivershaw*).

One submitter advised caution about the treatment of inheritance given the Terms of Reference (*Property Institute*).

CAPITAL LOSSES

Issue: Support for ring-fencing losses

Submission

(Baucher Consulting, CPA Australia, EY, New Zealand Council of Trade Unions, Professor Michael Littlewood)

Five submitters supported ring-fencing capital losses. The reasons for this were that maintenance considerations suggested it was necessary and that not ring-fencing would likely lead to tax planning opportunities to bring forward capital losses and defer gains.

One submitter noted that if there is a lower capital gains rate then ring-fencing losses would be necessary *(Professor Michael Littlewood)*.

Issue: Opposition to ring-fencing losses

Submission

(Angel Association of New Zealand, Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, Kiwi Property Group, KPMG, Olivershaw, Property Council of New Zealand, PwC, Te Tumu Paeroa)

Eight submitters opposed ring-fencing capital losses. The reasons for this included the following:

- Ring-fencing is unfair. If the gain from an asset is taxed, then the loss should be deductible. In many cases people will not have other capital gains to offset loss against and would favour large investors over small.
- Ring-fencing creates complexity and a simpler approach is to allow deductions without restriction.
- Small businesses (in particular Māori businesses) need to be able to access capital losses, ideally through a cash out, to allow them to start again.
- A capital gains tax should aim to remove boundary issues between capital and revenue amounts which ring-fencing would retain.
- Allowing capital losses would provide respite to risky investments that fail.

One submitter considered that if there are specific concerns, for example with portfolio investments, targeted rules should be considered, rather than blanket ring-fencing *(KPMG)*.

One submitter considered that if roll-over relief applies then the roll-over approach should be symmetrical for gains and losses and taxpayers should not be able to realise losses when rollover applies *(Property Council of New Zealand)*.

One submitter noted that a targeted capital gains tax may create more justification for capital losses to be ring-fenced *(Corporate Taxpayers Group)*. Another submitter considered that if there is a targeted response then losses should not be ring-fenced as there would be little ability to manipulate losses and this would give rise to compliance costs *(Olivershaw)*.

One submitter considered that if a comprehensive capital gains tax was introduced then to reduce compliance costs and complexity there should be no ring-fencing. However, they

considered that not ring-fencing would create risks. Therefore, ring-fencing would add complexity (*Olivershaw*).

INTERNATIONAL ISSUES

Issue: Support for taxing foreign sourced capital gains by New Zealand residents

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, ECE Services, New Zealand Council of Trade Unions, Olivershaw)

Three submitters supported taxing foreign-sourced capital gains earned by New Zealand residents. This was on the basis that we tax New Zealand residents on their worldwide income. This is an agreed and accepted principle with foreign tax credits, double tax agreements and other exceptions in place to avoid any double taxation. Capital gains should be treated similarly. Consideration would be needed for specific regimes and tax credits.

One submitter considered that capital gains tax liability should only apply to non-residents on land assets or land rich companies (*Olivershaw*).

Issue: Opposition to taxing foreign sourced capital gains by New Zealand residents

Submission

(Olivershaw)

International assets should be excluded as the complexity created by taxing these gains would exceed the benefits. The complexity arises due to a number of issues:

- Double taxation can arise. A tax credit will not always be available if there is a mismatch in the New Zealand and foreign jurisdiction's capital gains tax regimes.
- Capital gains will always need to be calculated in New Zealand currency. This can lead to a mismatch and result in a fictitious gain for a taxpayer due to a currency change.
- If foreign assets are included, officials are also likely to require all foreign assets owned by foreign corporates and trusts to be brought into the base if the ultimate shareholder or settlor is resident in New Zealand. This raises complex issues such as ownership interest, costs basis, foreign exchange rates on acquisition and commencement date, and sale date. These issues will be compounded for future transactions.
- Capital gains can be reduced by payment of exempt dividends. This raises issues regarding how the dividend should be accounted for in the sale proceeds. Overseas countries have CGT exemptions when gains are made by foreign subsidiaries due to these issues which New Zealand should follow.

The submitter considered that the quantum of foreign assets would be small and these complexities and associated compliance costs would be large.

Issue: Taxing New Zealand sourced capital gains earned by non-residents

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, Chapman Tripp, CPA Australia, New Zealand Council of Trade Unions, Professor Michael Littlewood PwC)

Five submitters supported taxing New Zealand-sourced capital gains earned by non-residents. Submitters noted that:

- non-residents should only be subject to capital gains tax on certain New Zealand-sourced assets;
- the impact of double tax agreements should be considered carefully;
- regard should be had to what other countries do such as only taxing land or land-rich companies; and
- special rules are required (*CPA Australia*).

One submitter considered that on a principled basis we should tax non-residents on New Zealand-sourced income; however, practical reasons point to not taxing them (*Professor Michael Littlewood*).

Another submitter noted that the Working Group would need to consider the potential risk of decreasing foreign capital investment into New Zealand from extending a capital gains tax towards non-resident investors (*Chapman Tripp*).

Issue: Interaction with CFC and FIF rules

Submission

(Corporate Taxpayers Group, EY, Financial Services Council, Professor Michael Littlewood)

Five submitters recommended that thought should be given to how capital gains tax works with FIF and CFC rules to avoid double taxation. Many other countries exempt capital gains made by active CFCs.

One submitter considered there should be an active exemption for capital gains made by CFCs. This is partly due to most capital gains being taxed in foreign jurisdictions and most dividends being tax exempt when paying dividends from foreign CFCs. As a result, if a CFC is to be sold, any capital gain could be reduced by paying large pre-sale exempt dividends. Rules to prevent this would be overly complex with illogical boundaries and so exemption should be created (*Olivershaw*).

One submission considered that the Fair Dividend Rate (FDR) regime should be repealed and replaced with a capital gains tax and noted this would likely reduce government revenue (*Olivershaw*).

DEDUCTIONS

Issue: Further deductions should be allowed

Submission

(Corporate Taxpayers Group, EY)

Two submitters considered that further deductions should be allowed if a capital gains tax is introduced.

Submitters considered that a capital gains tax strengthened the argument for allowing deductions for certain black-hole expenditure. Submitters noted that a capital gains tax will significantly broaden the base. This is particularly important for capital-intensive businesses as they will face additional burden, and capital gains are not their business model.

Suggested deductions included the following:

- There should be a deduction for goodwill. Organisations are taxed on the income they received to earn their goodwill balance; however, no corresponding deduction is allowed. Taxpayers should be allowed to impair their goodwill according to IAS 36.
- All black-hole and feasibility expenditure should be deductible.

Issue: Deductions for personal services

Submission

(KPMG)

One submitter noted that income from personal services is taxed; however, no deductions are allowed for expenditure related to them, for example, the costs of obtaining qualifications. The submitter considered that a related design issue is whether these should be made deductible.

DOUBLE TAXATION AND DEDUCTIONS FOR COMPANIES

Issue: Support for addressing double taxation and deductions

Submission

(KPMG, Olivershaw)

The submitters considered that the issues regarding double taxation and double deductions for companies in a capital gains regime need to be addressed. The submitters considered that it was necessary as otherwise there would be double taxation and substantial distortions. A failure to address this issue would lead to all small and medium enterprises restructuring as trusts *(KPMG, Olivershaw)*.

Further, dealing with double deductions through Australian rules will materially increase tax compliance costs and result in extremely complex and subjective tax rules *(Olivershaw)*.

Issue: Capital gains and dividends

Submission

(Olivershaw)

One submitter recommended clear rules to ensure that companies that make capital gains that are not subject to the capital gains tax (i.e. gains made before introduction of CGT), are not subsequently taxed when the company pays a dividend. If so, this would be retrospective taxation.

PORTFOLIO INVESTMENT ENTITIES

Issue: Support for exception for investments held by PIEs

Submission

(ANZ, CPA Australia, Mercer, Professor Michael Littlewood, Property Council of New Zealand)

Four submitters supported an exception from capital gains for portfolio investment entities (PIEs). This was on the basis that it would encourage retirement savings. In addition, practical concerns were raised about how a capital gains tax would apply to multi-rate PIEs. This arises as multi-rate PIEs are required to attribute income to investors on a real time basis and so it is not clear how a realisation-based capital gains tax would apply to them.

Two submitters considered that the current PIE exception for Australasian shares should be retained for all PIEs (*EY, Financial Services Council*). One submitter considered that it should be extended to cover global shares (*EY*).

One submitter considered that a discounted rate of taxation on capital gains for PIEs may be needed if a realisations basis is not practical (*KPMG*).

One submitter considered that consistency with the “broad based low rate” principle would require that savings schemes should be taxed, but an exemption might be desirable as an incentive to saving (*Professor Michael Littlewood*).

Issue: Opposition for exceptions for PIEs

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, New Zealand Council of Trade Unions, Olivershaw)

One submitter considered that as capital gains are income they should be treated the same as all other income (*New Zealand Council of Trade Unions*).

Two submitters considered that assets held in savings schemes should be treated the same as assets held independently. Submitters considered that if the tax treatment for retirement savings schemes is to be changed, it should be done consistently and should not incentivise one scheme over the other (*Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group*).

One submitter considered that if there is a comprehensive capital gains tax then all assets should be taxed. This submitter however noted that for international shares held by KiwiSaver funds there is no benefit from changing the treatment from the current FDR method, although consideration should be given to reducing the tax rate for interest income in such funds (*Olivershaw*).

DE MINIMIS

Issue: Support for *de minimis*

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, CPA Australia, New Zealand Council for Trade Unions, Olivershaw, Professor Michael Littlewood, PwC)

Seven submitters supported a *de minimis* as it would reduce complexity, in particular for ordinary households, and remove administration and compliance costs in situations where they exceed the benefits from the tax.

A *de minimis* should be set as a percentage of the asset as opposed to a single monetary figure. The submitter considered that doing otherwise would lead to relatively insignificant gains being included. The submitter also considered that there would also need to be a differing *de minimis* depending on the type of asset as all assets are not equal and have differing expected gains and losses. For example, a rental property owner has greater control to decide on prices and could adjust them to fall under a *de minimis* *(Corporate Taxpayers Group)*.

One submitter considered that if there was a comprehensive capital gains tax the *de minimis* should be considerable given the compliance costs from a capital gains tax and suggested that assets should have to exceed \$500,000. The submitter considered that if a targeted capital gains tax is pursued then no *de minimis* should apply *(Olivershaw)*.

One submitter considered that an annual exclusion could be set at a threshold level that excludes the majority of taxpayers from the capital gains tax net without a large revenue or efficiency cost as a capital gains tax is a progressive tax *(Chartered Accountants Australia and New Zealand)*.

One submitter considered that a *de minimis* would be advantageous for small capital gains in the case of non-filing taxpayers and for collectibles *(Professor Michael Littlewood)*.

Issue: Opposition to *de minimis*

Submission

(ECE Services)

The submitter considered a *de minimis* would not be necessary if a capital gains tax is part of the income tax.

EXISTING RULES

Issue: When caught by existing rules

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, CPA Australia, David McLay, KPMG)

A capital gains tax should only apply to assets that are not already taxable under existing rules *(CPA Australia)*.

If New Zealand has a comprehensive capital gains tax regime, then full integration with existing capital gains rules could be made to reduce complexity. However, if a targeted capital gains tax is chosen then existing rules should remain unchanged *(Corporate Taxpayers Group)*.

Three submitters considered that if New Zealand introduces a capital gains tax there should be a rationalisation of the existing range of *ad hoc* capital gains tax regimes *(Chartered Accountants Australia and New Zealand, David McLay, KPMG)*.

One submitter considered that capital gains should simply be deemed as income to minimise compliance costs. Assuming this, they made further comments outlined in the *Other issues* section below.

Another submitter considered that integration depends on the level and extent of the capital gains tax and whether certain deemed income gains should be unpicked or left within income *(Chartered Accountants Australia and New Zealand)*.

Issue: Administration

Submission

(Young IFA Network, Serious Fraud Office)

One submitter considered that the existing tax administration rules should be used for a capital gain. These include the rules for disputes, penalties, and taxpayer responsibilities. The effectiveness of tax administration rules has as much of an impact on fairness in a tax system as the design of the tax itself *(Young IFA Network)*.

If incentives for property are removed then there is a need to increase financial literacy so people moving into other investments avoid the risk of fraud *(Serious Fraud Office)*.

REALISATION EVENTS

Issue: Minimise realisation events

Submission

(EY)

A capital gains tax should minimise realisation events to reduce complexity and compliance burdens. This needs to be balanced against the need to reduce the opportunity to subvert the tax through structuring.

The submitter considered there is a need to consider rules for when there are different rights to use assets, and assets are subject to other rules such as trading stock or financial arrangement rules.

Issue: Realisation events to consider

Submission

(Chartered Accountants Australia and New Zealand, *Olivershaw*)

If a comprehensive capital gains tax is pursued then complex rules will be needed for:

- realisation (sale/assignment/gift/transfer etc.);
- death/distribution;
- migration;
- sale by certain leases;
- assignment;
- resettlements; and
- deemed sale if sale of shares needs to be considered.

The submitter considered that if there is a targeted capital gains tax, then only realisation should be the trigger for a capital gains liability. (*Olivershaw*)

Another submitter considered that Division 104 of the Australian legislation provided a useful summary of the events to consider:

- disposals;
- use and enjoyment before title passes;
- end of CGT asset;
- bringing into existence a CGT asset;
- trusts;
- leases;
- shares;
- special capital receipts;
- Australian residency ends;
- CGT events relating to roll-overs;
- other CGT events;
- consolidated groups etc.

(Chartered Accountants Australia and New Zealand)

Issue: Support for realising gifts

Submission

(Chartered Accountants Australia and New Zealand, CPA Australia, Professor Michael Littlewood)

Three submitters considered that a gift should be a realisation event for a capital gains tax if the asset is in the capital gains tax base. The submitters considered that not doing so could create risks of avoidance.

One submitter considered that a pragmatic *de minimis* should be considered *(Chartered Accountants Australia and New Zealand)*.

Issue: Support for realising on emigration

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, Olivershaw, Professor Michael Littlewood)

Three submitters considered that individuals or organisations with a capital gains tax liability should not be able to escape the tax by emigrating *(Corporate Taxpayers Group, Olivershaw, Professor Michael Littlewood)*.

One submitter considered that if there is a targeted response then no capital gains event needs to occur as the land would remain in New Zealand and that if rules of emigration were created it would create complexity, uncertainty, compliance costs and non-compliance *(Olivershaw)*.

Issue: Treatment of immigration

Submission

(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group, Olivershaw)

Two submitters considered that immigration is a trickier issue as we want to ensure that tax does not become an impediment to attracting people and organisations to New Zealand. Issues regarding the timing of a capital gains tax, and whether there should be exclusions, such as the transitional residents rule, should be considered *(Chartered Accountants Australia and New Zealand, Corporate Taxpayers Group)*.

One submitter considered that assets would need to be valued on expiry of transitional residence, on initial arrival, or in some combination of the above, and that design considerations should take into account that some treaty partners preserve their right to tax former residents for a period of time subsequent to emigration *(Chartered Accountants Australia and New Zealand)*.

One submitter considered that immigration is a complex area. They considered the first response is to require a valuation of assets post the transitional residency period. This creates complexity as valuation is difficult in complex structures, and there are issues when the foreign jurisdiction taxes such an asset. As a result, it would be better to exclude all foreign assets *(Olivershaw)*.

One submitter considered that immigration should be treated as establishing a basis where appropriate, in particular in respect of assets situated outside New Zealand (*Professor Michael Littlewood*).

TRUSTS

Issue: Treat trustees same as all other taxpayers

Submission

(Chartered Accountants Australia and New Zealand, CPA Australia, Olivershaw, Professor Michael Littlewood)

Four submitters considered that trusts and relevant trust assets would need to be subject to a capital gains tax in the same manner as other taxpayers.

Issue: Deferral of capital gains tax through trusts

Submission

(Chapman Tripp, Professor Michael Littlewood)

One submitter considered that the Working Group will need to consider the application of a capital gains tax where the interests in the trust are passed across generations. The submitter noted options to remedy this included:

- deemed disposal after a number of years;
- deemed disposal upon the settlor's death or death of a 'primary beneficiary' of the trust, although they noted that this could run into issues with the exclusion from the terms of reference for inheritance (*Chapman Tripp*).

One submitter noted that it may be necessary to enact rules dealing with the use of trusts to escape liability (*Professor Michael Littlewood*).

OTHER ISSUES

Issue: Other issues

Submission

(DairyNZ, Environment and Conservation Organisations of Aotearoa New Zealand, Federated Farmers, Oji Fibre Solutions, Parliamentary Commissioner for the Environment, Professor Michael Littlewood, PwC)

Submitters raised a number of additional issues that need to be considered when designing a capital gains tax. These include the following:

- There should be no adjustment to the imputation rules as both dividends and capital gains are income *(Professor Michael Littlewood)*.
- The need to address the interaction with livestock herd scheme gains. Any revaluations of herd stocks should be treated as the taxable amount, although such an approach would result in it being effectively a tax on unrealised gains *(DairyNZ, Federated Farmers, Olivershaw)*.
- The need to address situations where the primary residence is a component of a larger-land-owning activity, for example a residence on a farm *(Federated Farmers)*.
- How to treat houses that move into and out of the capital gains tax base as usage changes.
- Consideration of whether self-assessment is best mechanism *(PwC)*.
- Consideration of the implications of a capital gains tax on the environment, including unintended impacts *(Environment and Conservation Organisations of Aotearoa New Zealand, Oji Fibre Solutions, Parliamentary Commissioner for the Environment)*.
- How depreciation on assets is subject to the CGT interface *(Olivershaw)*.
- What receipts are subject to capital gains tax, for example compensation payments, civil damages, defamation receipts, etc. *(Olivershaw)*.