



Tax Working Group
Te Awheawhe Tāke

Tax Working Group Information Release

Release Document

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This paper has been prepared by the Secretariat to the Tax Working Group 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 whole Group or the Government.

Some papers contain draft suggested text for the Final Report. This text does not constitute the considered views of the Group. Please see the Final Report for the agreed position of the Group.

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Minutes

Date: Friday 17 August

Location: The Treasury, No 1 The Terrace

Attendees: Sir Michael Cullen (Chair), Joanne Hodge, Kirk Hope, Robin Oliver, Nick Malarao, Craig Elliffe, Marjan van den Belt, Hinerangi Raumati, Michelle Redington, Bill Rosenberg

Independent Advisor: Andrea Black

Secretariat: Paul Kilford, Mark Vink, Matt Benge, Bevan Lye, David Carrigan, Casey Plunket, Phil Whittington, Steve Mack, Scott Petty (note taker)

Apologies: Geof Nightingale (present for some discussion)

Administration

Previous minutes

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| Noted | <ul style="list-style-type: none">There are some additions to the Interim report agreed on that were not yet reflected in the Interim Report. These will be dealt with as the chapters are discussed by the Group. |
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Commissioning further work for forward agenda

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| Noted | <ul style="list-style-type: none">The Group will consider this issue during this meeting |
| Actions for the Secretariat | <ul style="list-style-type: none">Prepare a document proposing forward agenda and further work |

Future timelines (final report) and other administrative issues

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| Noted | <ul style="list-style-type: none">The Secretariat proposed an alternative schedule of Group meetings for the next few monthsSeveral Group members would have a clash with a 19 October meeting due to the Chartered Accountants Australia and New Zealand (CAANZ) conferenceThe Group can still have options in the Final Report |
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| | <ul style="list-style-type: none"> • The Secretariat proposed that Diligent be the only vehicle for changes to the Interim Report from this point as it will provide tighter security • The Secretariat asked Group members to complete a Treasury satisfaction survey for the advice they had received from the Secretariat • Proactive release post-Interim Report would involve release of 6700 submissions made to the Group and all advice received to date. • Secretariat needs firm decisions today from Group so that can finalise interim report middle of next week. Secretariat will circulate what is received from capital income subgroup mid next week. Includes appendix from subgroup. |
| Agreed | <ul style="list-style-type: none"> • To use the original schedule for Group meetings (not the alternative dates proposed by the Secretariat) • To have one and a half day meetings in November and December. Group members should examine their diaries and see whether they are free in the afternoons of days before scheduled meetings. • To make sure that Māori issues are discussed when Hinerangi is present • That the Māori assets paper will be discussed at the 13 September meeting |

NZ Super Fund submission

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| Noted | <ul style="list-style-type: none"> • The Group will defer discussion of this issue. |
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Papers for noting

Retirement villages paper by Group's independent advisor

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| Noted | <ul style="list-style-type: none"> • The Group discussed whether the retirement village industry would be covered by broader capital gains taxation. • There would be taxation of capital gains at the shareholder level in this industry. • For non-resident investors in retirement villages, there would be withholding tax for smaller interests, with possible taxable capital gains for larger interests due to the land-rich company provisions in DTAs |
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Māori Authorities note by Group's independent advisor (discussed in context of Chapter 15 of Interim report)

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| Noted | <ul style="list-style-type: none"> • This issue is dealt with on page 8 of the Chapter |
| Agreed | <ul style="list-style-type: none"> • General support from the Group for recommending subsidiaries of Māori Authorities taxed at 17.5% tax rate • Leave out the words "better-resourced" in that part as it indicates a judgment that is unnecessary |

Interim report

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| Noted | <ul style="list-style-type: none">• The Group will consider Interim Report chapters with the most issues to be resolved first. |
| Actions for the Secretariat | <ul style="list-style-type: none">• Make the following changes to the draft chapters (listed below). |

Chapter 6 – structure, fairness, balance

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| <ul style="list-style-type: none">• Noted that comments are still being added to the chapter. Some changes weren't directly picked up and are hopefully reflected in this copy which the independent advisor worked on.• The Group discussed the use of plain language. There is a possibility of defining terms when used (in addition to glossary) for the first time. Secretariat still need read through for overall coherence in relation to this issue.• Para 2<ul style="list-style-type: none">○ The Group discussed the natural capital lens/approach○ Discussion of relevance of particular framework elements for particular taxes. E.g. Integrity chapter closely connected to social capital, environmental to natural.○ Noted that Tax system historically doesn't consider environment• Para 6<ul style="list-style-type: none">○ Rewording to be done (allocated to Robin Oliver)• Paras 15+<ul style="list-style-type: none">○ Group discussed natural degradation of land• Para 24<ul style="list-style-type: none">○ Technical accuracy query. Group noted that no change needed.• Para 27<ul style="list-style-type: none">○ CFCs to be in glossary• Para 30<ul style="list-style-type: none">○ Agreed that change should be made: "For a purpose other than sale"• Para 40<ul style="list-style-type: none">○ Group discussed the promises in this paragraph as time constraints may prevent the Group from looking into each issue.○ Group discussed the treatment of film in tax system. Noted that New Zealand currently subsidises financing of film by giving screen production grants – not through tax system○ Further work needed on environmental concessions○ Wording for last sentence in that paragraph: keep these regimes under review (by Government). Specific reference under natural capital part.• Para 41-41<ul style="list-style-type: none">○ Need consistency between this and the environment chapter – reference specifically• Para 44<ul style="list-style-type: none">○ Cannot make an assessment before chapter 10 (environment) dealt with• Para 46 |
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- Change wording to broadening the base rather than filling holes

Chapter 7 – Capital and Wealth

- Some discussion of process in relation to the capital gains subgroup:
 - Subgroup’s focus has been on the ETCI appendix. Another cut needed over next three days.
- Discussion as to the Chapter’s tone on ETCI.
- Subgroup doesn’t think the Group should be definitive at this point
- Group discussed ETCI as an extension of income tax with coherence of whole tax system relevant
- Group discussed dividend stripping issue that could be solved with ETCI ‘backstop’, helps to deal with alignment pressures too. Reference to integrity chapter in Chapter 7
- Group doesn’t necessarily recommend ETCI, but should state it would reduce reliance on taxing labour income. Noted that by final report Group may or may not decide on particular solution.
- Chair asked for fundamental disagreements on Chapter aside from Māori assets work (which hasn’t been dealt with yet) and received none.
- Discussion of capital income appendix – nothing in there that Secretariat strongly opposes
- Action for Secretariat: table of recs and secretariats views on them
- Capital income taxation of shares issue. PIE rules, KiwiSaver embedded in tax system
- Land taxes mentioned in housing chapter but not in this chapter – Secretariat to add to this chapter
- Process: Subgroup to continue working on chapter/appendix until Wednesday then send to rest of Group/Secretariat for review/comment by Friday 24th.
- Chapter 7 changes seen today to be accepted into Interim Report

Chapter 10 - Environment

- Para 98 (fringe benefits tax/carparks issue)
 - Agreed that report should recognise practical difficulties of making carpark availability subject to fringe benefits tax, but should say this is inconsistent with treatment of employers providing a public transport allowance and recommend that this be addressed.
- Para 78
 - Discussion of tax on solid waste and the UK experience
- Para 38 table
 - Agreed to remove fiscal impacts for Scenario 3

- Para 24
 - Noted that there is no time to look at issues beyond the five listed: greenhouse gas emissions; water pollution; water abstraction; solid waste; and road transport.
- Paras 1-5
 - Noted that tikanga framework needs closer alignment with living standards framework; also needs academic rigour and possibly revision
 - Noted that Group has already agreed living standards framework one way of approach – includes natural capital, which has overlap with tikanga approach. Combining the two gives a treaty-based perspective, which can be followed by concepts such as waiora.
- Para 93
 - Revision needed: replace “future” with “longer term future”
- Para 100/101
 - Discussion as to whether this discussion on tax concessions should be stronger.
 - Agreed that it should remain as is.
 - Noted that positive support from Government will be important in changing environmental practices.
- Para 99
 - Remove reference to “seeking views” on removing concessions discussion
- Para 14
 - Agreed that tracked changes should be rejected.
- Discussion of Road transport in table X – congestion charging. Elasticity and ability for measures to moderate behaviour.
 - Agreed that some asterisks with footnotes needed as to explaining the judgment/reasoning in each tick.
 - Noted some short run/long term framing could be added.
 - Noted that in relation to the behavioural response row, policy design is important
 - Noted that Climate change commission may pick up some of this work – design issues – noted that they are supportive of the groups’ direction on environment
- Some discussion on the interrelationship between tax on personal income and the environment
- Para 31
 - Remove reference to tariffs
 - Add regulation to third sentence alongside free allocation
 - Noted that regulation may be needed to compensate for costs – to ensure they are still competitive, particularly one company industries (e.g. steel).
 - Noted that replacing domestic production with imports
 - Agreed that options should be acknowledged here.
- Discussion of tax vs market based instruments (regulation). Chapter needs slight reframing to indicate that there are different options and that regulation can be relevant to solving problems

Chapter 15 – Business income

- Drafting: Suggestion of taxation of business rather than business tax regime
- Para 4:
 - Discussion of voluntary compliance of tax system (self assessment), hidden economy issue. Limited data on this.
 - Agreed to remove second sentence.
- Para 2
 - Discussion as to whether it is too negative/needed. Secretariat to redraft with a bit more balance – Business can have impacts.
- Discussion of social enterprises
 - Noted that this could be looked at after interim report, for final report
 - Secretariat asked to provide some info on what UK/France do in this area
- Para 19
 - Noted that Level of FDI in NZ is low
- Para 21
 - Some discussion on the modelling. Drafting changes needed: “welfare” change to “national income”
- Para 25
 - Noted that older comments by Group members has been addressed by new drafting
- Para 30
 - Alignment of tax rates discussion. Excess retention tax raised. Group agreed its not considering reduction in the top personal income tax rate.
- Paras 31, 32
 - Remove word majority. “Overall, the group” to be used instead.
- Secretariat to add corporate tax rates of major trading partners (headline rate). Noted that imputation relevant to comparison.
- Paras 33+
 - Discussion on deduction for legal expenses
 - Noted that look through companies can access lower tax options, or there is the sole trader option
- Para 39
 - Tax planning term. Tax minimisation better. Secretariat to find and replace this term.
- Paras 43+
 - Group needs a to do list on other simplification options. Drawing from ideas in submissions, reducing compliance costs. NZLS and CAANZ submissions helpful in this area.
 - Noted that simplification should be part of the ETCI discussion – integration of capital revenue distinction.
 - Also noted that IR’s ability to cope with an ETCI is relevant
- Para 57+ (options for enhancing business productivity)
 - Noted that it would be helpful to cost these options – these would be assuming no CGT (though there will be some clawback even so)
 - Noted that it’s a possibility to phase them in.
- Agreed that discussion of financial transactions taxes be moved to GST section.
- Noted that the grey box at para 68 is ok (building depreciation and seismic strengthening)

Chapter 12 - International

- Chapter currently says Govt should monitor digital equalisation levy/tax. Noted that NZ should not be bound by lack of OECD action in this area.
 - Change to reflect that NZ should be cognisant of other countries. Craig Elliffe to mark up changes to paragraph 28 and circulate
 - Agreed to specifically mention that NZ has direct involvement in OECD discussions.

Chapter 2

- Secretariat to fix up some minor editing matters

Chapter 3 - Frameworks

- Paras 11+12
 - Certainty/predictability as a tax principle discussion
 - Noted that it goes to retrospectivity concerns, shock tax changes would undermine certainty.
 - Agreed that predictability to be used as it allows for changes, but is not rigid.
 - Discussion as to transparency/effectiveness as additional concepts. Group agreed not to add these as they are not established tax principles like the others.
- Para 12: Change “tax administration” to “tax system”

Chapter 8 - Savings

- Noted that once ETCI and other issues settled, may need to come back and look at savings area.
 - Group discussed tax neutrality for savings vehicles
 - Agreed that assessment section should recognise effect of inflation on savings
- Para 2:
 - Wording should be saving and investment for “individuals, *households*, firms, Government”. Bill Rosenberg to send proposed changes to Secretariat (Bevan Lye), copying the Chair
- Agreed that Independent Advisor to the Group will attempt to weave in some gender commentary (wealth distribution etc.) into the Chapter.
- Para 8: Noted that we are unique in our “TTE” approach to the taxation of savings.

Chapter 9 - Housing

- Para 59
 - Agreed to specifically draw out accommodation supplement as something that helps people.
- Para 50, 51
 - Discussion on vacant land
 - Competition for same tax base between Central Government and Local Government. Some discussion of whether particular money should be allocated to particular purposes. Local Government funding review being done – discussion as to whether to comment on it.

- Noted that the issue is out of scope of that Local Government funding review
- Agreed that Central Government should stay in control of the framework
- Housing affordability and intensification discussion – discussion of whether it’s in scope
 - Housing quality and housing density in relation to the environment should be considered
- Para 20
 - Discussion as to imputed rent and what it means.
 - Noted that McLeod review had a box on imputed income with an example.
 - Discussion as to accommodation supplements recognising that homeowners don’t get imputed income (but can get it with a mortgage in some circumstances)
 - Taxation of vacant homes/land banking – no main home exemption so non-residents would be taxed.
 - Noted that Australia has made moves here and more work to do for Group in conjunction with work on capital income
- Agreed that title of chapter should be changed to “Housing affordability”
 - Noted that Chapter doesn’t go into renters – if title change made this is more ok. (affordability includes renting)
 - Noted issue of Māori and renting – they are disproportionately renters. Some demographic comments to be inserted.
 - Noted that in relation to the accommodation supplement can again refer to Welfare Expert Advisory Group (WEAG). More support for low income renters needed – mentioned in chapter 7 but can add it in here.
- Para 56 (effect of ETCl on rents, prices)
 - Redraft needed to make it more consistent with fact that expectation of theory

Chapter 16 - Integrity

- Paras 36/37
 - Group agreed that alternative text is preferred
- Paras 61, 62
 - Discussion as to IR investigator/technical resourcing. Agreed that current wording should remain – there is no evidence yet to adopt a stronger position.
- Discussion on no tax return filing obligation for individuals with uncomplicated tax affairs.
 - Noted that policy in relation to this is currently in a Bill before Parliament.
- Para 78
 - Agreed that some more reasoning for the Government debt collection agency should be added to report
- Para 40
 - Drafting issue (repetition). Nick to provide Independent Advisor/Secretariat(Bevan) with suggested wording change.

Chapter 18 – Administration

- Group discussion of Government procurement and relationship with tax compliance
- Para 14 – Tax information
 - Inland Revenue information collection issues discussion.
 - Noted that Group has often asked for evidence where there is none.
 - Noted that it would be helpful to have info collected for analysis of tax system changes and policy
 - IR could work with Stats NZ in relation to info publishing
 - Noted that public interest in this is relevant
 - Agreed to keep report as is with minor drafting changes
- Transparency discussion
 - Noted that Australia has made some tax transparency proposals, but that these did not have significant success.
 - Group discussed risk of IR releasing info and neither company nor IR can explain what it means
- Discussion of filing requirements with companies office if a non-resident company.
- Ombudsman issue
 - Agreed that in any future expansion of Ombudsman office, need to think about tax and welfare expertise.
 - Secretariat to talk to Ombudsman office to socialise these views
 - Noted that ombudsman oversight would be in to things like a bank account being frozen, not a dispute over whether a deduction should be disallowed
- Paras 16-18: Tax dispute resolution general discussion
 - Agreed that Group still considering tax disputes issue
 - Noted that Crown law could take a look at this part of the report
- Noted that suggested purpose clause for tax legislation incorporates wellbeing concept

Appendix on capital income

- Group discussion on livestock and herd scheme rules.
 - Agreed that application of scheme may need to be reviewed
- Para 190 exemption for gains from Aus shares option
 - Discussion of possibility of individuals making investments through KiwiSaver to pay less tax (than direct investment under ETCI)

List of issues raised by secretariat

- Agreed that no revision needed to Chapter 13 paragraphs on explicit fees in financial services industry (report's recommendation is no change)
 - Group discussion on KiwiSaver fees – noted that this is an open question
 - Brokerage fees also discussed – noted that not subject to GST currently
- Chapter 14, Para 19 – New material on universal basic income to remain.
- Chapter 17
 - Competitive neutrality discussion. Noted that it is addressed in para 14.
 - Para 25: Secretariat to add some wording on application of deregistration, including penalties. Noted Canada's 100% tax for deregistration – this would encourage distribution to another charity on deregistration.
- Chapter 4
 - Secretariat to check graphs throughout report.
 - Fig 4.4. GST is not included, so there should be a comment saying NZ's position is no better, could be worse.
 - Sugar taxes: Group comment that the latest rewrite a bit vague as to whether tax a good option. Agreed that if Government wants to reduce sugar consumption, then could use a tax, if it wants to reduce consumption of sugary drinks, should consider regulation.

Process issues

- Process: Revised draft for Wed 22nd based on today's meeting. For Friday 24th feedback from Group members. Whole interim report for next meeting (31st) as a final check – limited changes can be made on this date.
- Ch 7/appendix on slightly delayed timeline – can have some changes by Wed 22nd.