Tax Working Group
Te Awheawhe Tāke

Tax Working Group Information Release

Release Document

September 2018

taxworkingroup.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.***

Tax Working Group
Te Awheawhe Tāke

Minutes

Date: Friday, 6 July 2018

Location: Meredith Connell, Auckland

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

Independent Advisor: Andrea Black

Secretariat: Paul Kilford, Mark Vink, Matt Benge, Bevan Lye, Steve Mack, Emma Grigg, James Beard, Phil Whittington, Jordan Ward, Stewart Donaldson, Rachel Lilly

Other officials: Talia Smart (IR), Peter Nelson (MfE), Bryan Smith (MfE)

Apologies: Bill Rosenberg

1. Previous minutes, administration, forward agenda, stocktake

Noted	• Noted minutes from previous meeting, subject to the following changes: o Interim report is to have a gender lens throughout; o The Group is open to an extension of childcare being a revenue negative item (a spending item); o Lisa Marriot's work is to be referenced positively in the interim report; o The "employee" definition in tax law and employment law should be aligned as much as possible (noting that full integration may not be possible); o Group to further consider the removal of GST for dependent contractors, noting potential issues with the financial services industry; o Sub-group to further consider the effective tax rate of a CGT (i.e. retirement villages would not be affected by a CGT without some changes to what a realisation event looks like); o Andrea's vision statement to be dropped; o Andrea to draft a note on retirement villages for the CGT Sub-group; and o There needs to be further work on environmental concessions (Marjan). • CGT Sub-group to report back on Friday 20 July.

	• RFRM is not on the Forward Agenda as it will be considered by the Sub-group and will be in the interim report. • Treasury's satisfaction survey is to be circulated to the Group early next week. • Sir Michael is away from 25 July to 15 August.
Agreed	• The Group will meet on Friday 31 August.

Actions for the Secretariat	• Amend the minutes for the previous meeting to reflect the recommended changes above.
	• Include the following as agenda items for the next meeting:
	  o Interim report; and
	  o Allocation of members to interim report topics.
	• Add tentative fortnightly dates for future meetings from Friday 31 August, noting:
	  o *Friday 3 August*: Hinerangi is away;
	  o *Friday 19 October*: CA ANZ conference (so ensure there is no TWG meeting);
	  o *Friday 2 November*: Sir Michael is away.
	  o *Friday 16 November*: Andrea is away.
	• Prepare speaking points for Sir Michael to discuss at a meeting with the Minister of Finance on 20 July.

2. Interim report

Noted	• Tentative allocations for topics in the interim report:
	  o Wealth and capital – *CE, JH, GN, RO, MR*
	  o Savings – *MC, KH, RO*
	  o Housing – TBC
	  o Environmental and ecological outcomes – *MC, GN, BR, MvdB*
	  o International tax and the digital economy – *CE, GN, RO, BR*
	  o GST – *GN, BR*
	  o The future of work / labour – *KH, MR, BR*
	  o Business tax – *CE, KH, GN, MR, BR*
	  o Integrity – *CE, NM, RO*
	  o Tax and Society – *MC, JH, RO, HR*
	  o Administration and compliance – *JH, NM, BR*
	  o Appendix C: Options for extending the taxation of capital income – *CE, JH, GN, RO, MR*
	• The Group wishes to apply a gender and Te Ao Māori lens on the interim report.

Agreed	• The Secretariat will share early drafts (bullet points) of the interim report with members of the Group to ensure that the work is proceeding in the right direction. • The structure of the interim report should be set by 3 August (with some remaining bullet points where further work is required).
Actions for the Secretariat	• Bevan, Andrea, and Joanne to populate the draft with names to circulate next week to ensure everyone is happy with the allocations.

3. Environmental taxes *(Marjan van den Belt, Jordan Ward, Peter Nelson, Bryan Smith)*

<table>
<tr><td>Noted</td><td>
More work needs to be done on natural capital in the design principles section of the paper.
In terms of the distributional impacts, need to highlight the impacts on communities (Māori and other) – rather than focusing only on the impacts on industry.
The interim report needs to clearly distinguish between resource rent tax and economic rents.
Progressing Māori rights and interests is a pre-condition – not an opportunity. For example, you cannot have any kind of rent tax or levy on water unless the issues around Māori rights and interests in water have been dealt with.
The pre-condition can happen at the same time – it does not have to happen first.
The pre-conditions should be noted in the paper.
The interim report should discuss the ETS and carbon taxes – it is not “either/or”, but “and”.
</td></tr>
<tr><td>Actions for the Secretariat</td><td>
In the resource fiscal potential section – remove all numbers other than waste, water pollution, and GHGs (only if it is possible to narrow them down). In doing this, ensure the numbers are clear and concise.
Instead of “hypothecation”, the report should refer to “recycling revenue”.
Interim report needs to consider FBT on employees’ public transport.
The interim report should not get into the issues around fisheries quota as there are difficulties in the Māori rights and interests space.
</td></tr>
</table>

4. Corrective taxes *(Rachel Lilly)*

<table>
<tr><td>Noted</td><td>
Alcohol: The current treatment of alcohol is inconsistent with our framework.
There may be a case for a graduated tax on alcohol (whether flat per unit or increasing).
Sugar: The case for a sugar tax (relative to other tools) depends on the Government’s objectives.
Is there strong intervention logic to suggest that reduction will improve obesity?
There is a risk of unintended consequences e.g. diversion to artificial sweeteners or consumption of other unhealthy foods.
Is the best approach to tax or regulate sugar content?
The case rests on an assessment of the health effects.
Tobacco: Caution about further larger increases.
Diversion.
Distributional impacts.
</td></tr>
<tr><td>Agreed</td><td>
Apply the framework for environmental taxes to corrective taxes.
The Group is not going to recommend changes to the excise rates because it is outside the Terms of Reference.
</td></tr>
</table>

	• Recommend rationalising the alcohol excise rate structure (the level depends on the assessment of health effects which is beyond the Group's expertise). • In the context of sugar taxes, further thinking is required about what the Government is seeking to achieve and whether a sugar tax is the best vehicle to achieve this. • There should be support for people to cease smoking rather than further increases in the rate of tobacco excise.

5. Retirement savings *(Steve Mack)*

Noted	• When talking about owner-occupied homes not being taxed, need to remember rates. • If the Government considers the merits of a compulsory saving scheme, will need to think about how to ease the transition (especially for low income people); and how to deal with people in transition between jobs (gendered aspect – does the Government make contributions to women on maternity leave?) • Issues around inflation and the taxation of closely-held companies will be dealt with in a paper in the next session.
Agreed	• Remove ESCT for employer contribution for employees earning up to $48K per annum. • Reduce all of the lower PIE tax rates in KiwiSaver accounts by 5% points and simplify rates schedule • The above are modest incentives to save for low income people. If want to do more, really need to make a spending decision.

6. Removing the business tax exemption for charities *(Talia Smart – Robin Oliver Scholarship winner)*

Noted	• Talia sees the proposal to remove the business tax exemption for charities as a transitionary measure leading to the point where charities are not exempt at all (and refunded when apply funds to charitable purpose). • NZ's deregistration tax is much lower than other countries.

7. Charities *(Stewart Donaldson and Emma Grigg)*

Noted	• The charities sector is very complicated, and there are many different definitions for different entities. In the future, work could be done to make the sector more coherent (i.e. coherent tax treatment for charities, not-for-profits, done organisations, etc.).
	• DIA is undertaking a review of the Charities Act and from October to December will be consulting. They may consider:
	  o DIA's powers as a regulator;
	  o How to address excessive accumulation (e.g. requiring a minimum distribution); and/or

	o Whether businesses that fund charities (that do not undertake charitable activities themselves) should be able to register as charities. • The real question is how / are you distributing funds for charitable purpose (i.e. is there excess accumulation), rather than being concerned with the competitive advantage argument. • More thinking is needed on the treatment of private foundations: o There is no definition of "private foundations" in NZ. o In the UK they are "donor controlled charities". o Concern: since the donation cap was lifted, individuals can donate large sums to a foundation, receive a tax refund, then circle it around through entities to re-invest into the individual's business. • Foreign charities with no presence in NZ can register with IR to be a charity (as DIA would not grant it). • When thinking about recommendations to deal with excessive accumulation, you need to remember that a number of charities in NZ have no liquidity to distribute. • Potential different lens for capital base that has received tax benefit going in and that hasn't – for example, Treaty settlement and bequests. • The solution to the issues around private foundations should not be inconsistent with other jurisdictions. • More thought should be given to the issue of excessive accumulation and Talia's proposal to remove a business tax exemption (i.e. would it apply to every charity or are there some charities you want to let build up their funds?). • Regulation and tax need to work together – this involves IR continuing to work closely with DIA. • Need to ensure that any changes to the ability for charities to accumulate do not apply to charities with long-term or inter-generational objectives, such as disaster-relief funds and Māori charities.
Agreed	• The charities section in the interim report should be framed as follows: o Accumulations and that the default setting should be distribution. Need to factor in the need for some charities to make large calls on crises. Also potentially different approach when capital did not receive a tax benefit going into the charity – e.g. Treaty settlements (note: Hinerangi to think about accumulation by Māori authorities); o Deregistration – need to make the rules more robust; o Private foundations – need to require distributions particularly when the capital has received a tax benefit going in; and o GST – should charities be getting GST back? (note: Hinerangi to think about impacts for marae).
Actions for the Secretariat	• Do other countries recognise the charitable status of NZ charities? • Do Māori authority groups have private foundations?