Tax Working Group Public Submissions Information Release

Release Document

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[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

30 April 2018

Tax Working Group Secretariat
PO Box 3724
WELLINGTON

Dear Secretariat,

Tax Working Group Future of Tax: Submissions Background Paper.

Thank you for the opportunity to provide feedback on the Tax Working Group's (TWG) *Future of Tax: Submissions Background Paper* ("the submissions paper").

Introduction

Contact appreciates the release of the submissions paper and this initial consultation on the current tax system and the design of the future tax system. Contact looks forward to the more detailed consultation that will be undertaken later in the year post the TWG's recommendations to Government in September.

For completeness, Contact is a member of the Corporate Taxpayers Group (CTG) and will also be contributing to the submission made by CTG in respect of the submissions paper.

Submission Points

Tax Neutrality

Contact submits that generally the tax system should be one where there is neutrality between taxpayers, and that tax should not incentivise or hamper investment decisions. The result being that all economic activity has an equal tax burden, regardless of the taxpayer or the area of the economy in which they operate. This ensures the most efficient and effective use of resources, without risk of distortions being created by the tax system.

This supports the focus of the submissions paper of fairness in the tax system. In order for competition in the market to be on a level–playing field, the tax system should not create bias towards or against particular types of investments or forms of investment.

Such an approach is sustainable where the investor or investment is linked to New Zealand. However, where the investor has a choice between investing in New Zealand or another jurisdiction this neutrality principle needs to be assessed against the need New Zealand has for that investment. If the investor is able to choose between two jurisdictions, of which New Zealand is one, then we need to ensure that our tax settings (or some other alternative) do not hamper that investment. In many ways this is simply an extension of the neutrality principle: the difference being that we have to expand the lens through which we appraise neutrality.

Taxpayer and Industry neutrality

Contact does not support the tax system providing incentives to taxpayers that distorts behaviour towards a certain type of investment, particularly where taxpayers are in the same industry. Using the tax system in this way creates a bias towards investments that generate more favourable tax outcomes and this could lead to overinvestment in particular types of investments. Investment decisions should be driven by market demands rather than tax outcomes. If it is considered that an incentive is needed to redirect or attract investment then it needs to be considered whether the tax system is the best mechanism to achieve this. The risk of placing incentives in the tax system is that they can be poorly targeted and risk resulting in an extension of the incentive beyond that needed or contemplated.

Investor neutrality

Contact submits that a review of the current settings of taxing capital investment in New Zealand is necessary. In order to achieve investor neutrality in the tax system, then all investors should ultimately be taxed at their marginal tax rates ignoring where the investment is coming from.

This approach would mean that investors aren't biased towards particular investments based on the tax treatment of the type of return they are to receive e.g. dividend vs growth and location of investor. Accordingly, capital investment from offshore would continue to contribute to the economic growth that is needed in New Zealand irrespective of the tax outcome.

International competitiveness

Contact submits that the TWG review the international tax settings of New Zealand within the overall economic context of the economic desires of the country and its place in the international arena. New Zealand is a country that relies heavily on capital investment from offshore, therefore to ensure that we remain a competitive country to invest in we need to be sure that our settings are appropriate in that wider context.

Part of this review would be to consider the corporate tax rate in New Zealand and whether its level is appropriate given the need for foreign capital investment in New Zealand. If the corporate tax rate is higher than other countries and the cost of doing business in New Zealand is high, New Zealand receives less investment, which means less employment and lower country wealth.

Environmental taxes

Contact submits that in respect of New Zealand meeting its reduced net emission targets by 2030, this is best dealt with through the Emissions Trading Scheme (ETS) and the work to be done by the Climate Change Commission rather than the tax system.

The ETS is a sensible mechanism that could work better to achieve the desired outcomes of prioritising investments to meet international obligations in a more balanced way. This ensures that the tax system remains focused on its role to tax economic activity to fund Government expenditures and is not distracted from this role through being burdened with other goals.

Black hole expenditure

The current tax settings in regards to "black hole" expenditure act as a barrier to investment decisions with a resulting risk premium or cost being imposed on certain investment decisions. The result of the Supreme Court decision in Trustpower, where the costs of unsuccessful development projects were held to be non-deductible illustrates this point.

Contact submits that the TWG review the need for there to be a "catch all" mechanism that allows a deduction for expenditure that is currently treated as black hole expenditure. There continues to be a number of situations where genuine business expenditure is not currently allowed as a deduction. Disallowing deductions for this type of expenditure creates distortion in taxpayer behaviour towards expenditure that a deduction will be provided for. A spreading mechanism should be available to provide deductions for this expenditure over a number of years e.g. three years.

Should you wish to discuss any matter raised in this submission please do not hesitate to contact me at the number below.

Yours sincerely

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Saralaya Frost
Senior Tax Manager

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