Tax Working Group
Te Awheawhe Tāke

Tax Working Group Public Submissions Information Release

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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.

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Dear Members

Future of Tax

Forsyth Barr is a New Zealand-owned firm providing a full range of investment services including portfolio management, investment advice and sharebroking, and research. Our clients include tens of thousands of ordinary New Zealanders who invest directly in capital markets in New Zealand and offshore. As such, we have a keen interest in the taxation of savings and capital income generally.

The comments below largely respond to Chapter 5 of the consultation document, and in particular the section on taxation of household savings. We would be interested in discussing our comments further with the Tax Working Group and/or the Secretariat.

Changing demographics will make taxes on capital income become relatively more important over time. It will thus be critical that the playing field is as level as possible. The longer biases and distortions are allowed to persist, the more disruptive the later removal of those distortions will be.

In terms of taxation of savings, the Portfolio Investment Entity (**PIE**) regime provides welcome encouragement for New Zealanders to save for retirement with its package of tax measures. However (and as illustrated in figure 21 of the consultation document), the regime has also created tax incentives for investors to invest via PIEs as opposed to investing directly. We think that the playing field should be levelled for those investing directly, particularly for those investing via a discretionary investment management service (**DIMS**), by:

- Aligning the treatment of capital gains on New Zealand and listed Australian share investments. Currently, PIEs are generally not taxed on these gains, but direct investors can be. This change would not only better align the tax treatments of investments made through these channels, but would also remove the uncertainty for investors of the capital/revenue distinction when investing in shares directly.
- Providing for a maximum tax rate for income from directly-held investments that corresponds to the highest PIR, to mirror the PIE regime. This could be restricted to share investments only, or considered more widely for interest / financial arrangement income.

As well as improving consistency, we believe there may be positive externalities from such an approach. For example, the highly concentrated nature of the New Zealand funds management industry is often cited as a reason why smaller companies struggle to raise capital (as the proposed investment may be too small to warrant interest from large fund managers); levelling the playing field for direct investment in effect markedly increases the number of fund managers in the New Zealand economy. Such an approach would lead to an increase in market liquidity which investment theory has demonstrated leads to a lower cost of capital for companies.

Consideration could also be given to allowing investors to opt-in to 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.

More generally, we believe that taxation of returns from property investments and returns from capital markets investments should be better aligned. We do not make any specific suggestions in this regard, as we believe that the relevant changes would largely be to the taxation of returns from property investments. However we would be interested in participating in any future discussions about the taxation of savings and capital income generally.

While we believe that the current tax treatment of retirement savings through KiwiSaver is appropriate, we also note that, to the extent that changes to the KiwiSaver regime are planned or if there is to be any change to the universality of, or eligibility for, New Zealand Superannuation, the tax treatment would need to be reconsidered. We would be pleased to share with you our thoughts on these subjects.

No part of this submission is confidential.

Yours sincerely
Forsyth Barr Limited

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