



Tax Working Group
Te Awheawhe Tāke

Tax Working Group Information Release

Release Document

February 2019

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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.

Key to sections of the Official Information Act 1982 under which information has been withheld.

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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.

Minutes

Date: Thursday 22 November and Friday 23 November

Location: Meredith Connell, Auckland

Attendees: *Group:* Sir Michael Cullen (Chair), Geof Nightingale (absent before lunch on 22 November), Kirk Hope, Michelle Redington, Nick Malarao, Robin Oliver, Craig Elliffe, Bill Rosenberg, Joanne Hodge, Hinerangi Raumati-Tu'ua, Marjan van den Belt, Nick Malarao.

Independent Advisor: Andrea Black

Secretariat: Mark Vink, Jordan Ward, Paul Kilford, Emma Grigg, Steve Mack, Matt Benge, Bevan Lye, Scott Petty (Note taker), Phil Whittington, Patricia leong, Gordon Witte, Shane Domican, Oscar Parkyn

1. Administration

Noted	<ul style="list-style-type: none"> Minutes for previous meeting
Agreed	<ul style="list-style-type: none"> (In the context of reviewing previous meeting's minutes), it was agreed that the Group's progress on environmental taxes should be provided to relevant agencies and the Parliamentary Commissioner for the Environment
Actions for the Secretariat	<ul style="list-style-type: none"> Make changes to meeting 22 minutes as requested by the Group.

2. Submissions

Noted	<ul style="list-style-type: none"> Secretariat oral presentation and accompanying slides on submissions to the Interim Report and what topics were submitted on
Actions for the Secretariat	<ul style="list-style-type: none"> To produce a short summary of submissions to be used as an appendix in the Group's final report. To share with the Group a spreadsheet that breaks down submissions into issues dealt with

3. Compliance costs

Noted	<ul style="list-style-type: none"> Secretariat paper on the topic Paper by Professor Chris Evans on the topic
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	<ul style="list-style-type: none"> • Note by Robin Oliver (Tax Working Group – Reform Options) • Optional compliance costs (e.g. for avoidance behaviour) are not part of the Group’s consideration. Government-imposed compliance costs are the concern. • Listed shares may be more difficult in terms of compliance costs than Secretariat paper indicates • IRD numbers could be collected for all land sales • Noted that ‘rough and ready’ valuation methods would only be for first iteration of asset base sales; future realised gains would be easier to measure
Agreed	<ul style="list-style-type: none"> • Inland Revenue would take up some of the compliance burden by providing guidance and calculators etc. to help taxpayers understand and comply with rules <p>Valuation:</p> <ul style="list-style-type: none"> • Simple options will be recommended for valuation in order to reduce compliance costs. These will be different options for different asset classes • Technology to be used to simplify valuation • For property, RV is acceptable • For businesses, simple options including straight line which would be the default option if no valuation has been made 5 years after effective date (1 April 2021) • The median rule apply to assets apart from listed shares <p>Ongoing compliance costs</p> <ul style="list-style-type: none"> • An exempt amount (tax free threshold) of capital gains for individuals is not appropriate for the New Zealand context (personal assets excluded and managed funds market), but could review this in the future if compliance costs for individuals were larger than expected. • That a deferral for goodwill to enter the tax base was not justified
Actions for the Secretariat	<ul style="list-style-type: none"> • Change/incorporate final report text as per agreed actions above

4. Implementation

Noted	<ul style="list-style-type: none"> • Note by Robin Oliver (<i>Tax Working Group – Reform Options</i>) and further exploration of issues of double tax and double deduction in relation to taxing more gains. <ul style="list-style-type: none"> ◦ Proposed solution of taxing widely-held entities at the shareholder level. • Secretariat paper (<i>Post Final Report process</i>) • Consolidation rules similar to those in Australia may be needed in New Zealand for taxing more gains at the corporate level
Agreed	<ul style="list-style-type: none"> • To recommend a delayed implementation of taxing more capital gains for managed funds by a year • That no other delayed implementation should be recommended • The final report should speak to the challenges associated with the short timeframe to enact capital gains legislation before 2020 election. To mitigate these risks, the Government should devote significantly more resources to tax policy to achieve its indicative timeline

Actions for the Secretariat	<ul style="list-style-type: none"> • Prepare a brief paper on capital gains taxation for widely-held entities comparing shareholder level taxation to corporate level taxation
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5. Loss ring-fencing

Noted	<ul style="list-style-type: none"> • Secretariat paper on the topic
Agreed	<ul style="list-style-type: none"> • Capital losses should not generally be ring-fenced to capital gains, but this should be monitored going forward • Loss ring-fencing should apply to any asset which can be traded with low transaction costs and can be easily regained after crystallising a loss, but are not already taxed as a financial arrangement (including portfolio shares and derivatives) • Integrity measures are required for the following situations: <ul style="list-style-type: none"> ○ where the cost base or deemed sale price of an asset is determined using an uncertain valuation instead of actual cost or arm's length sale price; ○ losses on transfers between associated persons; and ○ where taxpayers can choose to apply an exemption to a gain but not to a loss. • Further consideration should be given to alternative integrity measures (in addition to loss ring-fencing) under the Generic Tax Policy Process • Loss restriction should apply to small businesses that qualify for rollover relief • Capital loss ring-fencing is not required for other rollover situations • If a transaction is entered into prior to introduction with intent to defeat valuation rules, then cost base of relevant asset should be set aside.
Actions for the Secretariat	<ul style="list-style-type: none"> • Change/incorporate final report text as per agreed actions above

6. Final decisions (packages and stocktake of decisions)

Noted	<ul style="list-style-type: none"> • Secretariat paper on packages • Secretariat oral update on decisions that have been made, decisions still to be made
Agreed	<p>Packages</p> <ul style="list-style-type: none"> • Final report would make no assumptions about wider Government objectives. Thus, the packages assume that all revenue gained by recommendations is recycled into the tax system in other ways. • To include in the final report four packages as set out in Secretariat paper as options for the Government, with the first of those (which relieves income tax) to be supplemented with a sub-option whereby the 17.5% tax rate for income between \$14000 and \$48000 would be increased to 20%. • To include in the final report a qualitative reference (i.e. with no forecast) to options that prioritise depreciation deductions for some buildings such as five and six green star buildings.

	<ul style="list-style-type: none"> ○ Encouraging environmentally friendly construction could be paid for with revenue raised from environmental tax measures • Include assumption in final report, that for distributional analysis of packages, analysis assumes that there are consequential changes to benefits so that beneficiaries benefit from tax reduction. <p>Stocktake of decisions</p> <ul style="list-style-type: none"> • That there are a number of issues that the Group has not made decisions on, and that these will need to be addressed through GTPP (with text in the final report flagging significant issues of this nature). That list includes: <ul style="list-style-type: none"> ○ The treatment of Māori authority membership interests under a proposal to tax more capital gains. Agreed that reference is made to the issue in the final report
Actions for the Secretariat	<ul style="list-style-type: none"> • Change/incorporate final report text as per agreed actions above

7. Taxation of digital economy

Noted	<ul style="list-style-type: none"> • Secretariat paper on the issue • Recent developments in relation to taxation of the digital economy
Agreed	<ul style="list-style-type: none"> • Recent developments should not change the Group's position on this issue from the Interim Report
Actions for the Secretariat	<ul style="list-style-type: none"> • Incorporate suggested text into the final report

8. Land banking and vacant land

Noted	<ul style="list-style-type: none"> • Secretariat paper on the issue
Agreed	<ul style="list-style-type: none"> • No further work on vacant property taxes should be done at this time • The Government should keep a watching brief on the effectiveness of vacant property taxes in other jurisdictions • Productivity Commission review on local Government funding and financing could look into whether local authority powers to consider such measures should be widened
Actions for the Secretariat	<ul style="list-style-type: none"> • Change/incorporate final report text as per agreed actions above

9. Whether to recommend taxing more capital gains

Noted	<ul style="list-style-type: none"> • Secretariat slides on the issue summarising pros and cons of taxing more gains
Agreed	<ul style="list-style-type: none"> • Majority/consensus of the Group supports expanding the tax base by taxing more gains

	<ul style="list-style-type: none"> • Minority doesn't support taxing more gains as designed for Group consensus, but all would support some form of extension to capital gains taxation to rental housing • To advise Government of the risks of their proposed timeline for reform and that they should ensure: <ul style="list-style-type: none"> ◦ sufficient resources are dedicated to the process ◦ informal consultation is done in addition to formal consultation stages (discussion document, select committee etc.) ◦ compliance costs are eased where possible; consultation with Australian officials may benefit this aim • Government needs to be thinking about ways to buttress the difference between personal rate and company rate
Actions for the Secretariat	<ul style="list-style-type: none"> • Incorporate agreed actions above into final report text

10. Final Report draft chapters and outlines

Noted	<ul style="list-style-type: none"> • Secretariat prepared draft chapters and outlines
Agreed	<ul style="list-style-type: none"> • Process: <ul style="list-style-type: none"> ◦ First draft of Vol 2 to Group by 30 November
Actions for the Secretariat	<p>Incorporate the following changes into Vol 2:</p> <ul style="list-style-type: none"> • Excluded home: Government to monitor 4500 sq m size restriction • Excluded home: Group believes the Government should seriously consider a cap to the family home exclusion • Māori freehold land: to emphasise the collective ownership this • Revenue account property: Other than trading stock, the usual revenue account property rules will apply with same loss ring-fencing rules as for capital gains • When to tax: Abandonment should be included as a realisation event • Death: full rollover on death was the preferred option of the Group • Gifting: this would include transfers to trusts, and transfers by trusts to beneficiaries (to be noted in Trusts section) • No rollover for gifting was the preferred option of the Group • Involuntary events: clarify that this rollover would only apply where funds are re-invested in like assets • No change of ownership in substance: Exact boundaries would be sorted through GTPP. Rearrangement of iwi assets should include associated entities. • Small business rollover: This would not be restricted to asset type (not 'like for like'). • Retirement KiwiSaver rule: limit to \$500,000 of gains at lower rates • Expenditure: this would include rates and maintenance • Administrative: cost base adjustments should be communicated to IR in the year that the cost incurred. IR should also know when rollover is exercised. • List of issues for further work through GTPP: No need to mention provisional tax estimation and interest rules apply to one-off capital gains • Valuation day: frame median rule as a backstop • Change of use:

	<ul style="list-style-type: none"> ○ Add rule that allows person to have a temporary change of use of excluded home for a period (4 years to line up with transitional residence). This will ensure short term labour mobility is not infringed. ○ 12 month allowance for when person moves into rest home – can be rented out or vacant, but enters tax base after • Emigration: Should not have deferral for emigration, could have an IR security bond on emigration • Partnerships and LTCs: issue of contribution of assets to partnership not fitting in no change of ownership in substance rollover principle. Small business rollover may apply instead • Non-residents: Need “top-hatting” rules to ensure rules are not avoided by insertion of an extra non-resident company. Noted can look to Australian rules for an example. • Shares: Government should consider compulsory consolidation. Noted can look at Australian consolidation rules • Managed funds: <ul style="list-style-type: none"> ○ PIE can’t hold land and other investments due to differing tax treatment – should be a materiality component to this. ○ Multi-rate PIEs holding shares discount to recognise shift from realisation basis to accrual – nature of discount should be explored in consultation <p>Incorporate the following changes into Vol 1 Ch 5 (fairness, progressivity and efficiency)</p> <ul style="list-style-type: none"> • Pros and cons as discussed in earlier agenda item on whether to recommend taxing more capital gains • Include commentary on loss ring-fencing and valuation day • Include an overview of Māori collectively-owned assets • Include a cross-reference to the appendix on RFRM <p>Incorporate the following changes into draft Vol 1 Ch 3 (structure, fairness, balance)</p> <ul style="list-style-type: none"> • Mention distribution of wealth in relation to Figure 3.2. Include point that untaxed income also increases by decile and this is not reflected in the graph. • Characterisation of the nature of industries in Figure 3.6 needed • Para 23 should note that existing rules that seek to tax capital gains are ineffective at collecting revenue. It should also note that the brightline rule should be phased out following the implementation of taxing more capital gains.
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11. Information Collected and Disseminated

Noted	<ul style="list-style-type: none"> • Secretariat paper on the topic • The “necessary and relevant” standard for IR information collection
Agreed	<ul style="list-style-type: none"> • To add the following to the proposed final report text as further options for collecting information on wealth in New Zealand: <ul style="list-style-type: none"> ○ Government funded oversampling of households ○ Add wealth-based questions to the census ○ Commissioned research to look at high wealth individuals ○ A repeat of IR’s high wealth survey
Actions for the Secretariat	<ul style="list-style-type: none"> • Incorporate the above into draft final report text

