

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

TAXATION (ANNUAL RATES FOR 2019–20, GST OFFSHORE SUPPLIER REGISTRATION, AND REMEDIAL MATTERS) BILL: APPROVAL FOR RELEASE OF SUPPLEMENTARY ORDER PAPER

Proposal

1. This paper seeks the agreement of the Cabinet Legislation Committee (the Committee) to release a Supplementary Order Paper (SOP) to the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill (the Bill) prior to the Bill's Committee of the whole House stage. The SOP primarily gives effect to removing an existing exemption from the requirement to provide a person's IRD number and any tax identification number, which currently applies when the transfer of property relates to the person's main home.
2. The proposed SOP introduces amendments to the Land Transfer Act 2017, the Income Tax Act 2007 and the Goods and Services Tax Act 1985.
3. The Bill is currently expected to receive its second reading in the week beginning 10 June, and its Committee of the whole House stage in the week beginning 17 June 2019.

Policy

Policy item with prior Cabinet approval

Collection of IRD numbers for the transfer of main homes (CAB-19-MIN-0240, 27 May)

4. The attached SOP includes a proposal to require transferors and transferees to disclose their IRD number and, if applicable, any tax identification numbers (TINs) and jurisdictions of tax residence, for a property transfer involving their main home.
5. Currently, transferors (sellers) and transferees (purchasers) must each complete a Land Transfer Tax Statement when a property is transferred. This Statement generally requires them to provide their IRD number and if applicable, any TINs, except in those cases where the transfer is non-notifiable. The most common non-notifiable reason is when the transfer involves a person's main home.
6. This exception impacts on Inland Revenue's ability to enforce compliance with brightline and other property tax rules, including making it more difficult to identify property speculators. In addition, it impacts on Inland Revenue's ability to provide TINs to treaty partners for these transfers.
7. The Tax Working Group recommended requiring the disclosure of IRD numbers on the Land Transfer Tax Statement when the transfer involves a main home.

8. Cabinet has agreed to amend the tax statement provisions in the Land Transfer Act 2017 to require transferors and transferees to provide their IRD number and, if applicable, any TINs and jurisdictions of tax residence, when there is a property transfer involving their main home.
9. The proposed amendments to the Land Transfer Act 2017 include requiring an indicator as to whether the property has or is intended to be the person's home. This indicator will assist Inland Revenue to appropriately target its compliance activities.
10. The sale of a person's main home is not usually taxable due to the main home exemption in the brightline and other property tax rules. Having an indicator will therefore assist Inland Revenue to appropriately target its follow-up compliance actions to taxpayers who are more likely to have tax to pay. Overall, this is likely to reduce administration costs for Inland Revenue and compliance costs for people who have sold their main home.
11. The main home exemption in the property tax rules is available to individuals, and is also available in relation to homes that are held by a trust in certain circumstances. Accordingly, I consider that the main home indicator should apply to transfers of residential property held in trusts, in addition to transfers of property involving natural person transferors or transferees. I therefore seek Cabinet's approval to this change in this paper.
12. The proposed amendments to the Land Transfer Act 2017 have the potential to increase compliance costs for conveyancers and their clients, due to the need to ask additional questions on the relevant forms. The Cabinet paper which sought policy approval for the proposed amendments to the Land Transfer Act 2017 noted the need to mitigate increases in compliance costs as a result of collecting IRD numbers for the transfer of main homes. Inland Revenue will consult with Land Information New Zealand (LINZ) to ensure that the amendments to the Land Transfer Act 2017 extending the main home indicator to cover trust transfers will minimise additional compliance costs.
13. These amendments have a proposed commencement date of 1 January 2020. Transitional provisions will allow for transferors and transferees to continue to apply for a non-notifiable transfer of the main home if the contract for sale is entered into prior to 1 January 2020 and the contract is completed by 1 July 2020.

Items not requiring Cabinet approval (approved by the Minister of Revenue)

14. I propose that three technical changes in relation to the GST on low-value imported goods proposals in the Bill be included in the SOP. These changes relate to tax invoicing requirements, currency conversion rates and safe harbour rules, and are consistent with the policy intent of the wider changes. I also propose that minor technical changes in relation to the ring-fencing of residential property deductions proposal and applications for RWT exemption certificates by charitable trusts be included in the SOP.
15. The changes are not considered significant in nature, and do not have any revenue or other fiscal effect, so reference to Cabinet is not considered necessary to confirm

these changes – rather they have been approved in my capacity as the Minister of Revenue.

Impact Analysis

16. A Regulatory Impact Assessment (RIA) for the *Collection of IRD numbers for the transfer of main homes* policy item was prepared and was submitted to Cabinet at the time the approval for this policy was sought.
17. The regulatory impact analysis requirements do not apply to the remaining items in the SOP, as the proposed changes result in little or no change to the policy in the Bill. These items involve technical “revisions” to improve legislative clarity and understanding to provide taxpayers with certainty (including the fixing of errors and oversights, the clarification of the existing legislative intent, and the reconciliation of inconsistencies).

Compliance

18. The proposed SOP complies with:
 - 18.1 the principles of the Treaty of Waitangi;
 - 18.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 18.3 disclosure statement requirements (a draft revised disclosure statement for the Taxation (Annual Rates for 2019-20, GST Offshore Supplier Registration, and Remedial Matters) Bill has been prepared and is attached to this paper);
 - 18.4 principles and guidelines set out in the Privacy Act 1993;
 - 18.5 relevant international standards and obligations; and
 - 18.6 the [Legislation Guidelines](#) (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

Relevant government departments or other public bodies

19. The Treasury, Land Information New Zealand, Statistics New Zealand and the Office of the Privacy Commissioner were consulted on the proposal to require the disclosure of IRD numbers and TINs when transferring main homes.

Relevant private sector organisations and public consultation processes

20. Officials are undertaking consultation with key stakeholders on the proposal to require the disclosure of IRD numbers and any TINs when transferring a main home. These stakeholders include the New Zealand Law Society, Auckland District Law Society and Chartered Accountants Australia and New Zealand (CA ANZ).

The government caucus and other parties represented in Parliament

21. Caucus, coalition and support party consultation will be undertaken on the SOP prior to its proposed release.

Binding on the Crown

22. The Land Transfer Act 2017, Income Tax Act 2007 and Goods and Services Tax Act 1985 are binding on the Crown. The SOP does not alter the status quo in this respect – the amendments will follow the position of the principal Acts.

Creating new agencies or amending law relating to existing agencies

23. The SOP will not create a new agency.
24. The SOP will not amend the existing coverage of the Ombudsman Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of decision-making powers

25. The SOP does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

Associated regulations

26. No regulations are required to bring the proposed legislation into operation.

Other instruments

27. The SOP does not include provisions empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/department

28. The SOP does not contain a definition of Minister, department, or chief executive.

Commencement of legislation

29. Each provision of the SOP comes into force on the date specified for the particular provision. The proposal to require the disclosure of IRD numbers for the transfer of main homes would come into force on 1 January 2020.

Parliamentary stages

30. I propose the SOP should be released as soon as possible following Cabinet approval, ideally on 18 June. The Bill is expected to have its Committee of the whole House stage between 18 and 20 June.

Gender and Disability implications

31. The proposals do not have gender or disability implications.

Publicity

32. The Minister of Revenue will make an announcement on the contents of the SOP when the SOP is released. Inland Revenue will include details of the new legislation in a *Tax Information Bulletin* after the Bill is enacted.

Proactive Release

33. I propose to proactively release this Cabinet paper, and associated minutes in whole within 30 working days of Cabinet making final decisions, subject to redactions under the Official Information Act 1982.

Recommendations

The Minister of Revenue recommends that the Cabinet Legislation Committee:

1. **Note** that to improve property tax compliance and enforcement, Cabinet has agreed to remove an exemption from the requirement to provide a person's IRD number or tax identification number (and jurisdiction of tax residence) when the transfer of property relates to the person's main home (CAB-19-MIN-0240 refers).
2. **Note** that Cabinet has previously agreed to retain an indicator on the Land Transfer Tax Statement to identify where it is a person's main home.
3. **Agree** that the main home indicator should apply to transfers by both natural persons and for transfers of property held in a trust.
4. **Note** that the attached Supplementary Order Paper (SOP) makes substantive, remedial and technical amendments to:
 - 4.1 the Land Transfer Act 2017, to remove an exemption from the requirement to provide a person's IRD number and, if applicable, any tax identification numbers and jurisdictions of tax residence;
 - 4.2 The Income Tax Act 2007; and
 - 4.3 the Goods and Services Tax Act 1985.
5. **Approve** the attached SOP for release, subject to the final approval of the government caucus and sufficient support in the House of Representatives.
6. **Delegate** the Minister of Revenue authority to make minor amendments of a technical nature to the SOP in relation to the measures recommended in this paper without further reference to Cabinet.
7. **Agree** that the attached SOP should be released before the Committee of the whole House stage of the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill, which is expected to occur between 18-20 June.
8. **Note** that this Cabinet paper and the associated Cabinet minute, will be proactively released on Inland Revenue's website.

Authorised for lodgement

Hon Stuart Nash
Minister of Revenue