Tax Working Group
Te Awheawhe Tāke

Tax Working Group Information Release

Release Document

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

Note to TWG on the issue of Dependent Contractors

Bill Rosenberg

28 June 2016

I have read the two papers by our independent advisor, Andrea Black, and by IRD on the issue of the taxation of 'dependent contractors'. They are addressing a real issue that has concerned the union movement for some time. The problem is particularly concerning where employees are pressured into becoming contractors, with little change the reality of their work but loss of the protections of employee status. The tax issues are an additional concern.

Three examples were given of such positions. I add a fourth:

> A freight firm contracts courier drivers to pick up and deliver items to businesses and homes. The courier drivers are required to provide their own van, which must be painted in company colours including logos, and must be maintained to standards set by the firm. The couriers are not allowed to use the vans for other commercial purposes, and must abide by standards of delivery times and times of day set by the firm.

The difference with this example is that the contractor uses substantial capital equipment which he or she is responsible for acquiring and maintaining. Drivers of heavy long-distance trucks and trailers may be in a similar position, with capital in the hundreds of thousands of dollars.

There are many problematic aspects to these employment practices, in addition to the tax issues they raise. The Labour Party's election platform includes an action to "Introduce statutory support and legal rights for "dependent contractors" who are effectively workers under the control of an employer, but who do not receive the legal protections that are currently provided to employees under the law." It is presumably on the work plan of the Minister of Workplace Relations and Safety. Perhaps the secretariat or the Chair could seek confirmation of the status of this.

It could create further problems if the tax authorities and labour authorities had inconsistent views of dependent contractors.

I propose that in our report we

- Lay out the problems regarding tax and dependent contractors that have been described in the papers brought to the TWG
- Outline possible solutions
- Recommend that this be resolved in conjunction with the forthcoming work on the employment status of dependent contractors.