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.

Dirk De Lu
[1]

I would like to present an oral submission.

Four Living Standards

At least since the mid 1980's Treasury's 'living standards' have been in decline in NZ. The neo liberal 'miracle' has brought many changes, at too high a cost. Much of the country's infrastructure was sold off, degraded and some bought back at a high price. Many of our factories closed quickly in the face of foreign competition. Thousands lost their jobs in both the public and private sectors. Suicides and poverty increased. With the sale of West Pac to Australian interests capital control along with billions in profits were lost offshore.

With the bursary for higher education and apprenticeship programs discontinued our human capital degraded. Institutional knowledge and skills were lost. Many of our best and brightest continue to go overseas to find meaningful work.

As a society we have deep divisions, loss of faith in government, insecurity in the work place and degraded community assets. Our local Councils struggle to maintain services and infrastructure. Our people struggle to afford housing which is too often of poor quality.

Our waterways are notoriously degraded; intensive dairying is coming to grief from over exploitation of unsuitable land, our clean water over allocated and now others, often under foreign ownership bottle it for sale to people overseas.

The challenges facing NZ are also found in many other western countries. Looking to overseas experiences and solutions may be helpful. The neo liberal 'miracle' is not just NZ's nightmare.

Tax to Change Behaviour

Where what people do has a financial impact on or produces negative outcomes for others or the government it makes sense that tax be used as an incentive or disincentive. Relying on the criminal justice system is not the only tool available. As noted in the discussion paper taxes are there to fund the services required by society. Heavy taxes on alcohol and tobacco can mitigate health care costs, reduce productivity losses due to ill health, etc. The taxes collected should be at least that which is required to offset all costs.

The same logic applies to taxing other actions or behaviours which incur costs to the public. Incentivizing behaviours which benefit society is equally legitimate, at least during the transition periods required to achieve behaviour change. Incentivizing electric cars makes sense, but should be dropped as the prices come down and the functionality increases. Road user charges for electrics will need to be implemented. Incentivizing active and public transport makes sense as it saves on the larger costs of having to constantly maintain and expand the more expensive transport choice of larger motorized vehicles.

<u>5 Key Questions</u>

What does the Future of Tax Look Like?

With decades of institutionalization of neo liberal influence the future of taxation will be a one sided war between taxing entities and those who have successfully removed regulation replacing it with tax and trade treaties favourable to protecting and expanding their outsized profits and assets. Government power has been decreased while the power of those with wealth is secured by those same governments.

Our globalized economy allows tax evaders to pick and choose where they will 'locate' business headquarters, where they will live, where they will declare their income. NZ will find taxing the wealthy a very challenging task. A task we have no choice but to tackle.

Add in our aging population, fewer jobs due to technology, many jobs lost to overseas production, the long deferred costs of damage done by extractive industries now requiring remediation, climate change, inequality and the list goes on. Governments face extreme challenges with a shrinking ability to effectively assess and collect tax. In the present environment tax fairness and the credibility of taxation are effectively undermined.

The Changing Nature of Work

Taxing the 'gig economy' should be possible through quarterly reporting from both vendor and vendee. Workers contracting for international work performed in NZ will be a challenge to discover and audit. Fund for the likely increased monitoring and enforcement costs.

Environmental Challenges

Individuals and entities should not be allowed to 'externalize' costs to others, such as the damage they do to the environment or society. Doing so creates inaccurate market signals and poor consumption choices.

The tax system can attempt to see all costs included in the market price of the good or service. Adding robust and well documented environmental cost assessments to taxpayer activities will require cooperation and reliance on environmental agencies of the government as well as input from the many environmental organisations which have developed the expertise and credibility to document the impacts. It will be important to find professionals who are not subject to 'capture' by the interests being assessed for taxation and to overcome political lobbying efforts by those interests.

Who determines what is good, what externalized costs should be taxed? After decades of neo liberal dominance we have a highly degraded environment, deteriorating infrastructure, gross inequality leading to homelessness, over full prisons, high suicide rates, ever increasing costs for the necessities of life and the challenge of tackling climate change which we have yet to effectively address. Looking at their track record it is clear which ideologies and ideologues should not be included in making the determination of what is good.

The scientific community applies the scientific method to determining what is theory, what is proven, the flexibility to revisit as new information comes to light and the 'consensus' of peer review. This can be a model for guiding taxation legislation.

Economic analysis will also play a part. What are the long term economic impacts? Addressing climate change impacts through carbon sequestration for ongoing activities adds costs which will be borne by generations, who did not incur the debt, require constant maintenance and are subject to failure. Tax which brings all costs into the current market price allows consumers to choose and producers to innovate. The resulting economy is able to plan and develop for current and future demands. The inertia of business as usual replaced by an economy 'fit for purpose'.

Clearly those who stand to profit by 'gaming' the system will always be looking for advantage. As always it is up to a well informed electorate served by skilled, knowledgeable, ethical and self-aware public servants to engage in decision making. The tax system alone will not achieve this, but should not thwart it.

Technology

Government may well be forced to monitor all bank accounts, ban crypto currencies and require registration for all income generating activities. We will all hate this invasion of our privacy and freedoms and it gives far too much power to government. Without it there will be many who do not pay their fair share. Alternatively and preferably audit intelligently and enact punitive laws which make the cost of noncompliance so great that it is mainly discouraged. Government can also utilize software and artificial intelligence to reduce tax avoidance.

Improving Productivity

It is wrong headed to assume that lower corporate tax rates will increase productivity or encourage more corporate creation. Many corporations and individuals have simply relocated their 'headquarters' and 'residences to a lower tax domain. The resulting 'race to the bottom' has left governments struggling to fund their basic mandates.

Inequality

Inequality is verifiably and unquestionably increasing. That you assert this is questioned undermines confidence in the impartiality of this process and the usefulness of submissions.

Tax on income, from whatever source, must be used to achieve better balance in economic benefits for all. CEO's making millions may add more value, but only as they are in the position to do so. Their position would not be possible without the contribution of the workforce which produces the goods, technology, or services which produce the profits. A progressive tax system with a wealth tax could help to spread the wealth to all those who create it.

There is little point in paying a CEO millions if income greater than $400,000 is taxed at 90%. The same applies to paying more in dividends to shareholders when they too are subject to a progressive tax system. Paying workers more can increase productivity, satisfaction, social cohesion and puts money with those who are more likely to spend it on the necessities of life than to hoard it or invest it offshore.

For the state to credibly require that we all comply the wealthy must be stopped from avoiding or evading tax. And the tax they pay must be at a rate higher than paid by lower income individuals.

With the inequality already in place those with the funds have bought the tax laws which serve them. By not keeping up, by serving special interests, successive governments have allowed tax evasion to become entrenched. It is hoped that this review will offer the changes required to undo much of this.

Those who cannot contribute to the economy need to be supported at some reasonable level. Homelessness, child poverty and other results of inequality cost us all. Lost lives, lost potential, crime, costs of health care for stressed often mal nourished individuals, communities no one wants to visit let alone live in. The contributions of tax dollars for goods and services to these unfortunates can help break the cycle of poverty. We all benefit.

Globalization

Physical goods purchased over the internet to be assigned GST as they enter the country. Services also attract GST. Virtual goods will be far more challenging.

Tax treaties are required but may well be undermined by non-signatory governments or lack of enforcement by some governments. Effective tax treaties are also unlikely given the clear favouritism to corporate interests found in the CPTPP for example.

What We Tax

NZ needs to aggregate all income sources for determining tax brackets and to tax them all. Apply a progressive tax structure offering an increasing tax rate as income received increases. Income earned in NZ by overseas companies and individuals to be taxed the same as residents.

Progressive taxes are preferred. Regressive taxes like GST may be seen as the only or affordable way to tax economic activity. If this is to continue lower decile persons should receive a GST rebate quarterly. Our tax system is regressive with the poor paying tax on nearly all of their income twice.

<u>Carbon Tax</u>

A carbon tax priced to account for the full impacts and a premium is required. Returning the premium portion of the tax collected evenly to all consumers will help to offset the impacts while encouraging low carbon consumer choices. The carbon tax will need to be sufficient to achieve NZ's stated goal to be carbon neutral by 2050.

<u>Tax on NZ derived Income</u>

To tax an overseas business with sales in NZ that percentage of its sales made in NZ to be applied to their worldwide earnings and taxed at that value.

Do not permit the spurious claims of costs currently used to allege minimal profits derived. Require disclosure of related party transactions often with inflated prices to push up costs. Penalize noncompliance.

<u>Departure Tax on non-value added goods sent Overseas</u>

Too many of NZ's resources are sold without value being added, water, logs, milk powder are examples. A departure tax is one possibility to encourage local value added enhancement which creates employment and increases income for NZ.

<u>Capital Gains Tax</u>

Apply income tax rates to an inflation adjusted capital gains tax. Holding periods of less than 2 years would simply incur tax at unadjusted income rates. The inflation adjustment would be equal to the cumulative inflation of the holding period. Inflation adjustments resulting in a net loss would not be treated as a loss for tax purposes. All asset classes to be included, income is income.

<u>Capital Gains on Real Estate</u>

All real estate transactions for property held less than 2 years, outside of the family home, taxed as income. Longer term real estate holdings, outside of the family home, incur an inflation adjusted capital gains tax. Depreciated capital costs and costs covered using pre-tax dollars are not eligible for calculating basis. Mortgage interest paid is not a deductible expense or credited to basis. Where rental income was not sufficient to cover after tax dollar losses are only eligible to be credited against gain from sale.

Capital gains in excess of basis on the family home greater than 150% of the average house price in the region to be taxed as income. Verifiable expenses for undepreciated capital improvements to be added to basis cost. Require home to have been the taxpayer's primary residence for at least the last 3 years for this exemption to apply. A taxpayer can have only one primary residence in which they actually lived in any 3 year period.

Why the exemption? When a person moves they need to buy at the then current prices. If they sell their highly appreciated home only to have a large percentage of the gain taxed away they are penalized for moving. For the average person this may well be a financial penalty that they simply cannot afford. As most of us don't relish moving and do so only for compelling reasons and moving is rarely detrimental to society as a whole a capital gains tax on the family home is a disincentive on an activity that generally does not need to be discouraged.

Like a homeowner exemption businesses which are relocating within NZ would have a limit on the amount of gain allowed before tax is assessed.

Empty Homes Tax

Homes in residential areas with unmet housing needs which remain unoccupied for more than 4 months without active building consents are to be taxed.

Estate and Gift Tax

Estate tax for estates over a set limit, say $3 million, can encourage philanthropy while lessening the likelihood of familial dynasties. If heirs are truly capable and skilled they will be able to do well for themselves with the capital contribution received. Encourage meritocracy, not entitlement.

Heirs of a very large going concern would none the less have millions of equity to support the tax to be paid on the excess and to borrow should it be required. The Paris Hilton's of the world take much and add little.

Gift taxes would be required to make evasion of the estate tax difficult if not impossible. Cumulative gifts with a value greater than a set limit, say $10,000.00 to any one recipient in any tax year must be declared. Valuation for tax purposes to be current market value at time of receipt. Donor is to have the option of inclusion of gifts in the estate exemption in which instance no tax would be due until the estate tax return is filed. Alternatively the amount in excess would be taxed at recipient's income tax rate.

For both estate and gift tax the untaxed gain, if any, of gifted assets would be taxed.

Income Averaging

Some taxpayers will have grossly uneven income year to year. Those holding assets for long term gains are one example. Upon sale after many years the gains due for taxation at applicable income tax rates, even with inflation adjustment, can be substantial. Allow taxpayers to choose to income average, either to previous or future years or both for tax purposes. A limit, perhaps 10 years, could be applied. While this adds complexity it can bring greater tax fairness. Accounting software will quickly adapt to ease compliance.

<u>Financial Transactions Tax</u>

Apply a 'Robin Hood tax' to financial product trading, shares, bonds, futures, commodities, etc. This would essentially be a 'fee' on all such transactions. The fee should be sufficient to discourage day trading, low enough not to interfere with legitimate investment and business activity.

Frequent trading is not productive and has resulted in dysfunctional market behaviour. Liquidity is important, but not at the cost of the economy. Financial products such as collateralized debt obligations masqueraded as ways to raise capital; they proved to be highly damaging fictions. If it cannot be easily understood and/or does not genuinely deliver clear benefits to the economy as a whole, tax it out of existence. Similar to taxing activities which damage the natural or social environment tax activities which present the potential for current or future harm to the economy. Such taxes must collect an amount sufficient to discourage the behaviour and at least equal to the cost of remediating their potential harm.

<u>Luxury Tax</u>

Add luxury tax to all non-essential items and to commonly required items which sell at more than a 50% premium to the average cost of such goods. Start with the most obvious. The purchase of luxury goods does not increase overall economic productivity while directing capital away from activities which can contribute. Many luxury items must also be imported removing funds from the local economy.

<u>Charities Tax</u>

Charities should pay tax on their commercial activities. Their commercial activities benefit from the many services provided by government. Rates relief on assets which serve primarily charitable purposes makes sense. These are assets which, supposedly, benefit the community and which many charities would not be able to maintain if having to pay full rates. A public good is often achieved.

Donations to charities to be tax deductible up to a set limit. That limit to be no more than 100% of the average post tax income.

<u>Assets Tax</u>

Taxpayers who fail to manage assets for productive gain need education more than taxation. Holding real assets incurs costs, rates, insurance; maintenance applied or deferred, utilities, etc. A progressive tax structure limits taxpayer's ability to amass unproductive capital; they may well not have the funds to hold an unproductive asset long term.

When an unproductive asset is held within a corporate structure the overall income of the corporation is likely applied to cover holding costs but, at a direct cost to profits. This should be sufficient to encourage the sale of unproductive assets. Upon sale of the asset the holding costs are not added to basis as these will have been funded with untaxed dollars. Undepreciated capital costs would be applied to basis.

For many working, middle and even upper middle taxpayers the family home is their chief asset. Some may also have prepared for retirement by investing in shares, term deposits, etc. A tax on assets along with rates has the potential to see retirees forced to give up much of what they have spent a lifetime acquiring. (Rates are required for our local Councils to operate. That they also need other income streams is not the discussion here.) All assets remain subject to taxation upon sale, gifting or as part of an estate.

This is especially apropos given the need for a capital gains tax. A retiree holding an investment which does not pay dividends, but which increases in value may be forced to sell that at an untimely juncture just to pay tax. Forcing the productive use of assets which would justify an assets tax is better achieved with a progressive and comprehensive tax system. The tax due will be paid when it is in the best interest of the taxpayer to sell it and pay the capital gains tax. .

NZ has similarly illegitimate taxes already. Current tax law assess a tax on imputed gains from overseas investments, this in spite of the ease of a taxpayer showing that no gains were realized. The current situation undermines the fairness of taxation while limiting the inflow of dividend income from overseas.

Housing

See discussion on the need for a capital gains tax above.

The lack of a capital gains tax on real estate is in part responsible for our unreasonably high real estate costs. Most other investment options do not offer the tax advantages of real estate investing. Leaving them at a disadvantage to attract capital. This limits local capital availability and requires more borrowing from overseas. Add in that much of our real estate debt is also funded from overseas and NZ is haemorrhaging cash. Meanwhile many are burdened by unaffordable housing, bought or rented, or suffer homelessness. While this will be extremely unpopular with those who are benefiting, or hope to, it is what is required.

Escaping Tax and Responsibility

Eliminate the asset protection trusts or at least make them voidable for the collection of legitimate taxes and debts. ‘Gifts’ between spouses/partners or to trusts are to be assessed and taxed at current value and to be voidable for the collection of legitimate debts related to the likely acquisition of the gifted asset. Trusts and transfers are to be voidable where the donor has been found guilty of fraudulent activities which may have contributed to the ability to make the gift or transfer.

Funding Losses

The government should not fund losses from investing or asset sales.

A tax refund is only possible if the tax has already been paid. Apply this to the example of taxation of imputed gains. If an asset has been assessed and paid tax for imputed gains and upon sale the profit, if any, does not justify the tax paid, a tax refund would be due.

Land Tax

Land already incurs rates. Rates should reflect both the cost to provide services and the value of the land. An investor land banking a section should be paying rates based on both. Agricultural land with a covenant restricting it to agricultural use should pay less in rates and adding a land tax would only discourage agriculture in favour of defeating the covenant to allow development.

Progressive Company Tax

Apply progressive tax rates across the board. A company, large or small, that makes a paltry profit should pay a lower tax, if it makes a large profit it pays more. This will require careful auditing of costs and sales. Related party transactions will be of special interest, especially where an individual or company is self-trading between entities. Discovery of unreported relationships should incur penalties which more than offset any gains which could have been realized. Where many 'shell companies' are utilized and tax avoidance is the most reasonable explanation enforcement costs to be added to penalties and a simpler structure required.

Legitimate business expenses should not include provision of luxury goods, offices, furniture, cars, services, etc. to employees. Where luxuries are provided the cost is to be included in calculating employee income for taxation.

Tax and the Environment

Tax all activities for their full impact costs. Tax is to be collected upon creation and included in the market price of the good or service. Guardianship, sustainability, social responsibility are values to be encouraged and supported.

Integrating full costs into the market price will encourage alternatives. Extractive industries offer a good example. Require bonds to cover full remediation costs of all impacts. Require remediation to be contemporaneous with production rather than later. Assess all impacts including environmental and social.

GST

Your discussion on GST again undermines confidence in this process. The most egregious example being the specious example of should we tax tomato sauce, soup, etc. As noted many countries already exempt all food from GST. We can easily learn from their experience. It is not that difficult. Portraying it as vexed is disingenuous, at best.

What is food? From the dictionary "any nutritious substance that people or animals eat or drink or that plants absorb in order to maintain life and growth." Clearly candy, soda, alcohol, tobacco and foods which offer more ill health than nutrition are not included. Certainly some debate around the edges can occur, but the overwhelming numbers of grocery items are easily classified.

Suffice to say that food, medicine, sanitary products and other base necessities should not incur GST.

The Tax Minimisation Industry

Whatever tax law is created by this process will immediately attract those who seek to profit by offering their ability to get around the law to those who seek to minimize their tax liability.

Parliament working with the IRD must seek to learn from these activities and quickly pass legislation to thwart them. Failure to do so undermines confidence in both Parliament and the IRD while providing a rationalisation for those who chose to participate in the untaxed cash economy. Both tax avoiding groups shift an unfair burden of taxation to those who dutifully comply.