Tax Working Group Public Submissions Information Release

Release Document

September 2018

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Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;

[2] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

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

STRIDE.

30 April 2018

Dear Tax Working Group Members

Re: submissions@taxworkinggroup.govt.nz

Stride Property Group ("Stride") would like to thank the Tax Working Group for the opportunity to submit on the discussion questions in the *Future of Tax* submissions background paper.

As a member of Property Council New Zealand ("Property Council"), Stride Property Group ("Stride") strongly supports the submission made to the Tax Working Group by Property Council.

Stride is one of the largest property vehicles listed on the NZX. Stride is both a real estate investor and real estate investment manager. Stride's portfolio comprises the principal sub-sectors of the New Zealand property market: commercial offices, industrial properties and retail, with a total value of approximately $1 billion (and approximately $2.1 billion of managed properties).

Stride would like to reiterate the following points in support of the submission made by Property Council:

Fairness and current inconsistencies

On the issue of fairness of the current tax system, a key tax distortion, which disproportionately impacts Stride and other property-owning entities, was the 2010 removal of tax depreciation on non-residential building structures. That change has resulted in real economic costs for building owners, as there is no tax recognition for economic depreciation on building structures, unlike every other business asset, or for the cost of required capital upgrades – for example, to earthquake strengthen building structures to prevent loss of life or incorporate new building technologies.

In relation to the former, it is only since the devastating events in Christchurch that this serious and fundamental tax anomaly, which Inland Revenue officials have conceded exists with the removal of depreciation for the building structure, has come to light. It is therefore deeply concerning that, on present track, it continues to be ignored. Continuing failure to address this anomaly acts as a tax disincentive to earthquake strengthening and prolongs the uncertainty for property owners who are already incurring costs in the expectation of a future legislative fix, while making any fix increasingly retrospective so as to deal with past expenditure. Put simply, it is untenable that commercial property owners can currently claim a tax deduction for a building that collapses as a result of an earthquake (and maybe kills people) but tax law does not take into account the costs of strengthening a building so that it does not collapse (and saves lives).

STRIDE

Stride believes the 2010 tax change was largely the result of a fiscal balancing exercise by the then Government, rather than for principled tax policy reasons as non-residential building structures clearly do depreciate due to obsolescence and other factors. Therefore, Stride strongly urges the Tax Working Group to recommend the reinstatement of tax depreciation for non-residential building structures.

Other tax bases – capital gains tax, land taxes and stamp duties

One of the questions posed in the submissions background document is whether New Zealand needs additional tax bases, including to improve fairness in the system.

In principle, Stride agrees that a comprehensive capital gains tax would improve fairness in the tax system. Our concern (borne out by international experience) is that real world capital gains taxes tend to be sub-optimal, both in terms of their coverage and ability to be a viable and stable revenue source.

At the outset, the consideration of a capital gains tax by the Tax Working Group is hamstrung by it not being able to be applied to the family home. This is the most tax advantaged asset, per the Tax Working Group's own analysis in its submissions background document. This is particularly relevant as one of the key questions asked is whether a capital gains tax would improve housing affordability. Stride would like to draw a clear distinction between the residential property market and the non-residential (i.e. commercial, industrial and retail) property sector. Addressing the housing affordability objective for the former should not result in a general application of any solution to the latter.

The practical design issues with a capital gains tax also cannot be extricated from whether a capital gains tax is an appropriate tax reform. In Stride's view, key design issues that would need to be resolved are:

- over-taxation due to a capital gains tax taxing inflationary gains (particularly relevant for long-lived assets, such as property):
- double taxation of shares (in the absence of imputation or similar, to offer relief);
- integration with the current Portfolio Investment Tax regime;
- reinvestment of capital proceeds triggering tax labilities (which will be the case in the absence of any "rollover relief" in these circumstances); and
- potential ring fencing of capital losses (while this is the approach with offshore regimes, this will add to complexity and the unfairness).

STRIDE

Stride does not consider that the trade-offs that would be required to make a general capital gains tax workable justify the fairness objective, which would be incremental at best in our view, or the alternative tax base objective. However, we acknowledge that this will be a balancing exercise for policy makers. Therefore, if a capital gains tax is considered necessary, on balance, to address fairness or other concerns, then its workability is paramount. The key design issues identified above should be clearly addressed.

Stride also considers that other tax base broadening options, such as a land tax or stamp duties, suffer from similar drawbacks to a capital gains tax that excludes the family home (and the land below it) from the base. These other types of taxes have the added distortion that they would apply to only a single asset class – non-residential land or property – which raises significant fairness concerns. Stride therefore does not support the introduction of either tax type.

Taxation of savings

Stride agrees with comments in the submissions background document that the current differential tax treatment of different savings should be made more consistent.

Listed property vehicles, such as Stride, give a range of New Zealanders (from institutional investors, such as Kiwi Saver funds, to super annuitants to ordinary "mums" and "dads") exposure to an asset class that they would not otherwise have access to. It should be noted that many investors, including retirees, typically favour NZ commercial property investment as it provides a relatively low-risk return and a regular income stream (rather than for capital returns, which can be volatile). This is important both for the diversification of their financial risk and New Zealand's macroeconomic risk from over exposure to housing.

Stride strongly supports the current Portfolio Investment Entity ("PIE") tax regime, in that regard, recognising that this was an attempt at the time to level the tax playing field. We note that the 2012 Savings Working Group concluded that this change did not go far enough. Stride would support further changes aimed at improving the consistency in the taxation of different savings.

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Yours sincerely

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