Tax Working Group
Te Awheawhe Tāke

Tax Working Group Public Submissions Information Release

Release Document

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From:	Dan Tohill [1]
Sent:	Tuesday, 30 October 2018 12:41 PM
To:	TWG Submissions
Subject:	Submission Capital Gains Tax - Variation to suggested options in Interim Report.

OUTLINE OF SUBMISSION

In general I was very pleased by the Interim Report from the group and feel that the final report is highly likely to have a positive outcome for NZ as a whole.

However I do feel that the suggested options for broadening the tax base and building a fairer system through the inclusion of a CGT and other measures will largely fail to address the issue of vertically integrated multi-national businesses paying very little tax in NZ. I also have concerns over the time lag that is likely to occur between implementing a CGT and realizing significant revenue gains from it. I fear that this lag will hamstring the swift implementation of significant changes to the lowest income tax rate and other reforms the government may desire to implement. I therefore propose a variation outlined below. It may seem a little radical at first glance but I believe it will be relatively easy to implement and legislate.

PROPOSED ALTERNATIVE

- Implement a CGT tax largely as outlined in the interim report.

- Gradually re-introduce the ability for companies (not individuals or trusts) to claim depreciation on buildings, both commercial and domestic, excluding the first 5 years after construction is completed.

- Continue to exclude individual property owners and trusts from claiming depreciation on buildings (both commercial and residential).

- Introduce a new annual tax applying to the capital value of all commercial and residential buildings owned by companies. This could be assessed on the rateable value of improvements and collected by councils via their rates notices. Exempt all new buildings for the first 5 years following completion of construction.

- Reduce the company tax rate to 26% (or some similar figure) to offset the additional tax burden imposed by the new tax on capital value.

RATIONALE

At present vertically integrated companies and corporations can avoid paying company tax in NZ by selling goods to overseas subsidiaries or related companies at the equivalent cost of production. Whilst there is some benefit to NZ from their operations it is glaringly unfair that they bear a lesser share of the infrastructure and environmental cost of their activities, relative to equivalent exclusively NZ based companies. Whilst my proposal will not solve the problem entirely it will help lessen the disparity.
The other advantage of implementing this additional tax is that it will generate some additional revenue far sooner than a CGT, therefore allowing government more flexibility to implement other policy changes. NZ based companies should by and large be supportive of it too (I would hope).

DETAILS, ISSUES, PROS AND CONS

I have not proposed a rate for the suggested tax because I have not been able to estimate the capital value of buildings held by companies. However I would imagine that a rate of around 0.1% would offset the reduction in the company tax rate. Timing the changes and setting the tax rates will require some detailed analysis. Some consideration will need to be given to avoiding imposing an excessive burden on the owners of properties with fixed long term lease or rental income, and clarifying whether a lease holder who normally pays the council rates would be liable for the capital value tax (CVT).

The purpose of the 5 year exclusion for new buildings is to avoid penalising new ventures which often have little profit in their initial stages and to avoid creating a disincentive for new commercial and industrial construction and investment.

Some businesses that are currently marginally profitable and that own the buildings they occupy may be placed under some distress by a CVT. All taxes have some degree of unfairness to some group and any business that is endangered by a relatively small tax increase should be considering restructuring eg. sell and lease back the property. A significant change in interest rates will have considerably more impact than a reasonably modest CVT.

An additional advantage of introducing a CVT is that it adds flexibility for future governments should technological advances rapidly start to impact on income tax revenues. In your interim report it was concluded that taxing plant and equipment is currently not necessary, however with the rapid advancement of AI technology I feel it is important that the new tax framework proposed have the capacity if necessary to tax technological advances which replace their human equivalents.

In your interim report you noted that widening the gap between the highest personal income tax bracket and the company tax rate would be a disincentive for business to declare full dividends. I do not believe that a modest reduction in the company tax rate in conjunction with a CVT will have this effect, and if it does then that will make greater capital available for businesses to either reinvest or reduce outstanding debt.

SUMMARY

This is not as complete a submission as I would have liked to make but time constraints have limited its content. Given the importance of the Tax Working Group's final report for our future as a nation, if more time is needed to achieve the most desirable outcome then the government should grant an extension to their self imposed deadline.
Introducing a CVT tax in conjunction with a CGT will future proof our tax base, partially address some multi-national tax avoidance, increase government revenue in a shorter time frame than a CGT alone will achieve (particularly as property values may well flatline for a considerable time to come), allow the government to modestly reduce the company tax rate and re-introduce claims for depreciation to commercial buildings and residential housing held by companies. It will be readily collected via council rates notices, though consideration might be given to allowing publicly listed companies to pay based on the declared asset value of their buildings, if that were deemed preferable.

I strongly urge you to give this proposal serious consideration. By all means identify any logical fallacies in my suggestion and dismiss it on those grounds but please do not discard it out of hand.

Yours sincerely,

Dan Tohill.