

Tax Working Group Public Submissions Information Release

Release Document

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Commentary on Interim Report

I would like to thank the Group and the Secretariat for its work in preparing an impressive and thorough interim report. I wish to make some brief comments on the interim report, primarily relating to matters on which the Group sought my input.

Summary of submission

1. I support the proposal to establish a taxpayer advocate service. I also support a truncated dispute resolution process for small disputes.
2. I support the establishment of a Deputy Ombudsman position with sole responsibility for complaints involving Inland Revenue and the proposed new Crown debt collection agency. Such a role should help preserve integrity in the tax system.
3. I consider establishing a permanent tax working group similar to the Australian Board of Taxation would be beneficial. It would build on the work of the Group and provide a forum for strategic tax policy advice for the Government and society at large in a non-political environment.

A. Taxpayer Advocate Service

1. I am pleased to see the Group recommend the establishment of a taxpayer advocate service and I agree with the suggestion that it report directly to the Minister of Revenue. I believe it will be important that the proposed service is properly resourced as it is likely demand for its services will increase as it becomes more widely known.
2. I believe a truncated disputes resolution process for small disputes involving say, under \$50,000 of tax, is appropriate. I consider such a process should be acceptable to Inland Revenue as enabling it to resolve disputes more speedily and better focus its resources. It would also help maintain the integrity of the tax system.

B. Tax Ombudsman

1. I welcome the recommendation to increase the skill of the staff of the Ombudsman's office, but I am disappointed that the report stops short of proposing a specifically dedicated tax ombudsman. As noted in the report I prepared for the Group in July, the worldwide trend is for the establishment of specific tax ombudsman.
2. I consider the existence of an independent arbiter with specific oversight of Inland Revenue is an important foundation in building trust between Inland Revenue and the public. Apart from this, I believe there are three major reasons for establishing a Deputy Ombudsman with specific responsibility for tax matters:
 - Changes from 1 April 2019 will mean more taxpayers will be engaging with the tax system;
 - A Deputy Ombudsman would buttress the role of the proposed taxpayer advocate service;
 - The potential impacts of greater data sharing by Inland Revenue.
3. At the time I prepared my report for the Group I had not had time to consider the implications of the proposals contained in the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Bill.¹ The proposed changes to be introduced from 1 April 2019 are expected to mean that an additional 750,000 tax refunds will be automatically generated for wage and salary earners. This will represent a significant increase in the numbers of taxpayers actively engaging with the tax system.
4. A specific Deputy Ombudsman would buttress the proposed tax advocacy service. As the Group proposes it would also have oversight of the new Crown collection agency which is likely to generate additional complaints once operational. I suggest that additional expertise should come from the private sector, rather than appears to be the case at the moment, seconded Inland Revenue staff. This should bring a different perspective to resolving disputes which would also build faith in the Ombudsman's office. (From discussions with Mr Ali Noroozi, the just retired Inspector-General of Taxation in Australia, he considered the value of his office was reinforced by public perceptions of its independence).
5. Every year the volume of data received and shared by Inland Revenue increases. According to its 2018 annual report, during the year the

¹ <http://taxpolicy.ird.govt.nz/news/2018-06-29-bill-introduced-to-modernise-and-simplify-nz-tax-system>

department received 520,561 “contact records” from the Department of Internal Affairs. During the same year the Ministry of Social Development (MSD) shared details with Inland Revenue relating to 94,378 child support and 7,041,500 student loan cases. Inland Revenue in return shared details with MSD relating to 1,373,489 Community Service Card holders, 402,047 child support cases as well as proactive information sharing for 743,346 benefits and student cases². In addition, from 1 April 2017 information regarding serious cases of non-compliance may be disclosed to credit reporting agencies.

6. I consider Inland Revenue has an exemplary record for maintaining the integrity of information entrusted to it. The recent Radio New Zealand story regarding incorrect details being sent to a third party is a rare example of a privacy breach³. Nevertheless, with such huge volumes of data being shared around mistakes are inevitable. It is therefore important that the public has trust in both Inland Revenue's internal complaints management service and ultimately in the Ombudsman's office as a scrutineer of Inland Revenue.
7. In this regard, I refer the Group to Inland Revenue's latest Four-Year Statement of Intent⁴ released on 18th October 2018. In its Te Kāhu Mataroa section page 11 of the SOI notes

“[Trust] is vital for motivating people to pay their taxes and for the successful implementation of policy. This trust has been eroding in many countries. The situation is not yet clear in New Zealand, but longer term it may mean Inland Revenue cannot rely on operating in an environment of high trust. There are already differing levels of trust in Inland Revenue and the wider public sector between different ethnic, socio-economic, and demographic groups.”

8. Against this backdrop of failing trust in institutions combined with greater data exchange and more taxpayers engaging with the tax system, I believe establishing a specific Deputy Ombudsman would be an important step in strengthening taxpayers' perceptions of the integrity of the tax system. It would also represent an increase in social capital consistent with Treasury's Living Standards Framework.
9. As a tax agent, I have had a number of clients who I consider had legitimate grounds for complaint with Inland Revenue over how their cases were handled. However, none chose to take the complaint forward for fear of

² Page 208 Inland Revenue Annual Report <https://www.ird.govt.nz/aboutir/reports/annual-report/annual-report-2018/>

³ <https://www.radionz.co.nz/national/programmes/ninetonoon/audio/2018668093/ird-privacy-breach-raises-data-handling-concerns>

⁴ <https://www.ird.govt.nz/aboutir/reports/soi/soi-2018-2022/soi-2018-index.html>

prompting investigation and further expense. Just as with the current tax disputes process where the cost of entering into the process acts as a barrier, the reticence of taxpayers to complain about potential maladministration may mean the level of dissatisfaction with Inland Revenue is being suppressed. If so, then this represents a threat to the integrity of the tax system. The combination of the Taxpayer Advocate Service and a Deputy Ombudsman with specific oversight of Inland Revenue should act to counter such concerns.

C. Tax Policy

1. I endorse the Group's commentary regarding the role of Treasury in developing tax policy and on the importance of maintaining senior tax technical expertise within Inland Revenue. I also support its recommendations regarding the principles which should be applied to public engagement.
2. I have been impressed by the Group's engagement and the quality of its output as it has dealt with a quite enormous workload. In my view the massive workload of the Group illustrates the need for some form of permanent Tax Commission/Tax Working Group sitting outside of Inland Revenue and Treasury. I note that Mr. David McClay, the last chair of the former Rewrite Advisory Panel made a similar recommendation in his submission to the Group.
3. As the Group notes, the current Generic Tax Policy Process is designed with the Government's economic and fiscal strategy together with its three-year revenue strategy in mind. Inland Revenue policy-making will then be driven by its responsibility for administering the tax system with a priority on responding to threats to the system's integrity. Overall, this is a shorter term, and by its nature, quite political process.
4. Currently, bigger scope and longer-term issues relating to the current and future structure of the tax system are only examined when the Government specifically tasks a Tax Working Group to do so. Such working groups have a limited life span and may also, such as the case for the Group, be restricted in scope. The expertise and institutional knowledge acquired during a working group's existence is lost once the group completes its review. Inevitably, this is a more pressured and political process which is not ideal when considering the tax system.
5. I suggest establishing a Tax Commission similar to the Australian Board of Taxation which consists of a mix of public and private sector tax specialists. Its role is to provide "*a business and broader community perspective to improving the design of taxation laws and their operation*⁵." An example of its role is key

⁵ <http://taxboard.gov.au/>

recommendations it made which resulted in the establishment of the office of the Inspector General of Taxation.

6. The proposed Tax Commission would have a specific focus on longer-term tax policy. It would build on the work of the Group and provide an opportunity for private sector input outside the shorter-term pressures of the current GTPP. The composition of the group should be structured to ensure as wide a range of sector interests are represented, particularly amongst groups such as small businesses which are not well resourced to have much, if any input, into the GTPP. As with the Australian Board of Taxation, the Ministers of Finance/Revenue could request it conduct research into an area of tax policy outside the normal GTPP timeline. Outside the time constraints of the GTPP or a short-term working group the Tax Commission could focus its research and recommendations on the longer-term implications of tax developments both in and outside New Zealand. Over time, the Tax Commission should be seen as a neutral voice in tax policy representing a broad cross-section of society.

I would be pleased to discuss any of the matters raised in this submission with members of the secretariat.

Yours sincerely
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