

In Confidence

Office of the Minister of Revenue

Chair, Cabinet

EXTENSION OF END DATE FOR TAX RELIEF FOR DONATIONS OF TRADING STOCK MADE BY BUSINESSES IN RESPONSE TO COVID-19

Proposal

1. This paper seeks the Cabinet's agreement to an Order in Council extending the end date of a tax relief measure for donations of trading stock. The extension is part of the Government's wider COVID-19 relief strategy and is likely to be the last extension unless there is a further resurgence of COVID-19.

Policy

2. The proposed Order extends a tax relief measure for trading stock donated by businesses in response to the COVID-19 outbreak, with the new end date being 31 March 2024.
3. As a relief measure, the Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Act 2021 provided time limited relief so that the Income Tax Act did not disincentivise businesses from donating trading stock to mitigate the economic and social impacts of COVID-19.
4. A donation of trading stock is deemed to be a disposal. A deemed income rule in the Income Tax Act effectively reverses the deduction that was claimed when the trading stock was purchased and imposes tax on a deemed profit.
5. Cabinet initially approved relief from the rule for a two-year period from 17 March 2020 to 16 March 2022 (CAB-21-MIN-0013.02 refers). Cabinet then approved relief for a further one-year period from 17 March 2022 to 31 March 2023 (DEV-22-MIN-0015 refers). As a result,
 - 5.1 when a business donates trading stock to a donee organisation or public authority, taxable income does not arise and a deduction is available; and
 - 5.2 when a business donates trading stock to a non-associated person (which are not public authorities or donee organisations) taxable income does not arise and a deduction is available if the disposal is made for a business purpose.
6. The current end date for this temporary relief measure is 31 March 2023.
7. This tax relief measure can be extended if people in New Zealand are likely to continue to be significantly adversely affected by COVID-19. While there is no longer a significant adverse impact for people collectively, there will be a significant adverse impact for a number of individuals and families (at any point in time, and over the course of a year). Proportionate measures such as this tax relief measure

are still necessary to protect the most vulnerable. Businesses, including large corporates and Federated Farmers, whose members donate livestock to various charities and community foodbanks, have asked for the relief to be extended.

Proposed Order in Council

8. The proposed Order, to be made under s 225ABA of the Tax Administration Act 1994, will extend the period of relief for certain disposals of trading stock. It will come into force on 1 April 2023 and extend the relief period so it ends on 31 March 2024.
9. I recommend this Order be made on the basis that the legal requirements of s 225ABA(4) of the Tax Administration Act have been met. In particular, I am satisfied that people in New Zealand are likely to continue, beyond the expiry of the existing period, to be significantly adversely affected by COVID-19. Stakeholders commented that the economic and social impacts of COVID-19 continue to impact for a number of individuals and families and this tax relief measure is a proportionate measure to support those groups.

Timing

10. The proposed Order will come into force on 1 April 2023.

Financial Implications

11. The estimated financial implications of extending the temporary relied period from the deemed income rule is shown in the table below. Over the forecast period 2022-23 to 2026-27 the estimated fiscal cost is \$2.5 million. This cost will be charged against the Tax Policy Scorecard.

| Vote Revenue | \$m – increase/(decrease) | | | | |
|--|---------------------------|--------------|--------------|--------------|--------------------|
| | 2022–23 | 2023–24 | 2024–25 | 2025–26 | 2026–27 & outyears |
| Crown Revenue and Receipts: Tax Revenue | (0.000) | (0.000) | (1.000) | (1.500) | (0.000) |
| Total change in Revenue | 0.000 | 0.000 | 1.000 | 1.500 | 0.000 |

Compliance

12. The order complies with:
 - 12.1 the principles of the Treaty of Waitangi;
 - 12.2 the rights and freedoms contained in the [New Zealand Bill of Rights Act 1990](#) and the [Human Rights Act 1993](#);

- 12.3 the principles and guidelines set out in the [Privacy Act 2020](#) (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
- 12.4 relevant international standards and obligations;
- 12.5 the [Legislation Guidelines](#) (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

13. Officials consider there are no grounds for the Regulations Review Committee to draw the Order to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

14. The Parliamentary Counsel Office has certified the Order as being in order for submission to Cabinet, provided that the Minister is satisfied that people in New Zealand are likely to continue, beyond the expiry of the existing period, to be significantly adversely affected by COVID-19.
15. The reasons that the Minister is satisfied on this point are outlined in paragraphs 7 and 9 of this Cabinet paper.

Impact Analysis

16. Treasury's Regulatory Impact Analysis team has determined that the extension of the end date for tax relief for donations of trading stock made by businesses in response to Covid-19 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has been addressed by existing impact analysis [CAB-21-MIN-0013 and [RIA Pack for Supplementary Order Paper No 23 to the Taxation \(Annual Rates for 2020–21, Feasibility Expenditure, and Remedial Matters\) Bill \(March 2021\) \(ird.govt.nz\)](#)].

Communications

17. I will issue a media statement once the Order in Council is made by the Executive Council.
18. Inland Revenue will publish an article about these changes in its *Tax Information Bulletin*.

Proactive Release

19. I propose to proactively release this Cabinet paper, associated minutes, and key advice papers with appropriate redactions within 30 working days of Cabinet making final decisions.

Consultation

20. In November 2021 officials consulted a group of interested stakeholders which included the Corporate Taxpayers Group, Chartered Accountants Australia New Zealand, Federated Farmers, Fonterra, EY, PwC, The New Zealand Law Society, and Auckland City Mission. This is the same group of stakeholders consulted on the introduction of the relief measures as a part of the Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Act 2021. All responses we received were in favour of an extension to provide certainty for businesses and donee organisations.
21. An extension of this relief was raised by the Corporate Taxpayers Group and Federated Farmers in 2022. In late 2022 officials discussed the matters raised in this report with the Ministry of Health, DPMC, the Prime Minister's Chief Science Advisor and Auckland City Mission.
22. The Treasury was consulted on extending the temporary relief and its fiscal implications.

Recommendations

The Minister of Revenue recommends that Cabinet:

1. **note** that the Taxation (Annual Rates for 2020-21, Feasibility Expenditure, and Remedial Matters) Act 2021 introduced temporary relief from a deemed income rule that is due to expire on 31 March 2023.
2. **note** that the Tax Administration Act 1994 allows the temporary relief from the deemed income rule to be extended by Order in Council.
3. **authorise** the submission to the Executive Council of the Tax Administration (Extension of Period of Relief for Certain Disposals of Trading Stock) Order 2023.
4. **note** that section 225ABA of the Tax Administration Act 1994 requires that the Minister of Revenue be satisfied that people in New Zealand are likely to continue, beyond the expiry of the existing period, to be significantly adversely affected by COVID-19.
5. **note** the advice of the Minister of Revenue that this requirement has been met.
6. **agree** that the proposed Order should come into force on 1 April 2023 and extend the period of relief until 31 March 2024.
7. **note** that agreeing to recommendations 3 and 6 has the following estimated fiscal costs, which will be charged against the Tax Policy Scorecard.

| Vote Revenue | \$m – increase/(decrease) | | | | |
|-----------------------------|---------------------------|---------|---------|---------|--------------------|
| | 2022–23 | 2023–24 | 2024–25 | 2025–26 | 2026–27 & outyears |
| Crown Revenue and Receipts: | (0.000) | (0.000) | (1.000) | (1.500) | (0.000) |

| | | | | | |
|--------------------------------|--------------|--------------|--------------|--------------|--------------|
| Tax Revenue | | | | | |
| Total change in Revenue | 0.000 | 0.000 | 1.000 | 1.500 | 0.000 |

Authorised for lodgement

Hon David Parker
Minister of Revenue