



**Policy and Regulatory Stewardship**  
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## Briefing note

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Reference: BN2023/006

Date: 17 January 2023

To: Revenue Advisor, Minister of Revenue – Jason Batchelor  
Private Secretary, Minister of Revenue – Nikki Chamberlain  
Revenue Advisor, Parliamentary Under-Secretary to the Minister of Revenue – Mila Maxon  
Revenue Advisor, Minister of Finance – Claire McLellan

From: Melissa Siegel and Natisha Jones

Subject: **Officials' report for the Financial Expenditure Committee for the Taxation (Annual Rates for 2022–23, Platform Economy and Remedial Matters) Bill (No 2)**

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1. This briefing note provides you with a draft copy of the officials' report to the Finance and Expenditure Committee (FEC) on the Taxation (Annual Rates for 2022–23, Platform Economy and Remedial Matters) Bill (No 2) (the Bill).
2. More than 800 submissions were received on the Bill and oral hearings of evidence were held on 9 November 2022, 7 December 2022 and 19 December 2022. Most of the submissions related to a public campaign by the Cycling Action Network to exempt bicycles from FBT (approximately 415 submissions), and the proposal to apply GST to certain types of services provided on digital platforms (310 submissions).
3. We previously reported to Ministers in November and December 2022 regarding our proposed recommendations to be included in the officials' report [IR2022/488, IR2022/538 and IR2022/542 refer]. These decisions are reflected in the attached draft officials' report.

### Further issues

#### *Imputation credit account returns for members of consolidated imputation groups*

4. In IR2022/488, the Minister of Revenue approved a change relating to the filing of imputation credit account (ICA) returns for members of a consolidated imputation group. This clarified that where a member's ICA had a nil balance at all times during the tax year, they were not required to file an ICA return. This was to reduce the compliance costs of filing nil ICA returns for taxpayers.
5. However, an incorrect application date was included in that recommendation. The Minister approved an application date of 2021–22 imputation year, however, we have been advised the issue also arises for the 2020–21 imputation year.
6. We propose to change that application date which will ensure that members of consolidated imputation groups who have not filed nil ICA returns will not be

policed for those returns. This will provide more certainty to the affected taxpayers and has no fiscal cost.

*Interest limitation: exemption for build-to-rent assets*

7. The Bill proposes an in-perpetuity exemption for “build-to-rent” developments from the interest limitation rules. The exemption would be administered by Te Tūāpapa Kura Kāinga - the Ministry of Housing and Urban Development (HUD).
8. Inconsistencies between the Residential Tenancies Act 1986 (RTA) and the proposed provision were raised by submitters. In August 2022, Cabinet agreed to a draft definition for build-to-rent [DEV-22-MIN-0163 refers]. As part of this definition, build-to-rent providers must offer tenants a 10-year fixed term tenancy with the ability for tenants to terminate the tenancy with 56 days’ notice. It has become apparent that the 56-day notice period is inconsistent with the RTA, as a fixed term tenancy cannot include a tenancy that is terminable by notice. In HUD2022-001095, the Minister of Housing approved a consequential amendment to the RTA to align the definition of a fixed-term tenancy with the build-to-rent tenancy requirement.
9. For Inland Revenue to apply the exclusion, it is necessary for information to be shared between Inland Revenue and HUD. In IR2022/542, the Minister approved a consequential amendment to the Tax Administration Act 1994 to insert a disclosure provision to allow for this.

**Consultation with Treasury**

10. Treasury was informed about this briefing note.

**Next steps**

11. HUD has requested that you provide a copy of the draft officials’ report to the Minister of Housing’s office.
12. The finalised report is due to the Committee no later than 2pm, 20 January 2023. This will allow the Bill to be progressed in line with the FEC’s current timetable. The Finance and Expenditure Committee’s report to the House and the revision-tracked version of the Bill are due by 2 March 2023.
13. As the Bill sets the annual income tax rates for 2022–23, the remaining Parliamentary stages should be completed by 31 March 2023. We will liaise with the relevant offices regarding speeches for the remaining stages and a flight plan for the Committee of the whole House debate.

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