Hon David Parker, Minister of Revenue

Information Release

Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Act 2023

June 2023

Availability

This information release is available on Inland Revenue's tax policy website at https://taxpolicy.ird.govt.nz/publications/2023/2023-ir-cab-perm2-bill

Documents in this information release

#	Reference	Type	Title	Date
1	IR2022/488	Policy report	Matters raised by officials in the officials' report on the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (No 2)	17/11/2022
2	IR2022/513	Policy report	Due date for R&D loss tax credit applications	17/11/2022
3	IR2022/500	Policy report	R&D Tax Incentive: Matters for consideration	24/11/2022
4	IR2022/538	Policy report	Summary of submissions and recommended changes for the officials' report for the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (No 2): remedial amendments	5/12/2022
5	IR2022/542	Policy report	Summary of submissions and recommended changes for the officials' report for the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (No 2): policy items	5/12/2022
6	BN2023/006	Briefing note	Officials' report for the Financial Expenditure Committee for the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (No 2)	17/01/2023
7	IR2023/077	Policy report	Supplementary Order Paper: North Island Floods	1/03/2023
8	CAB-23-SUB-0064	Cabinet paper		7/03/2023
9	CAB-23-MIN-0064	Cabinet minute	North Island Floods Supplementary Order Paper: Approval for Release	7/03/2023

Additional information

The first information release related to the Taxation (Annual Rates for 2022-23, Platform Economy, and Remedial Matters) Bill (No 2) covering key advice and cabinet papers can be found at: https://www.taxpolicy.ird.govt.nz/publications/2022/2022-ir-perm2-bill

The Cabinet paper *North Island Floods Supplementary Order Paper: Approval for Release* (CAB-23-MIN—0064) was considered by Cabinet on Tuesday 7 March 2023.

The attachment to IR2022/513, Cabinet paper – Tax Administration (Extension of Deadline for Research and Development Loss Tax Credit Statements) Order 2022, has been proactively released and is available at: https://www.taxpolicy.ird.govt.nz/publications/2023/2023-ir-cab-leg-22-sub-0238

Two further attachments were not included in this information release as they are publicly available:

- Departmental report: Taxation (Annual Rates for 2022- 23, Platform Economy, and Remedial Matters) Bill (No 2) – Officials' Report on the Bill: https://www.taxpolicy.ird.govt.nz/publications/2023/2023-or-perm2-bill
- Supplementary Order Paper 319: https://www.legislation.govt.nz/sop/government/2023/0319/latest/LMS821959.html

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified tat would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

9(2)(a) to protect the privacy of natural persons, including deceased people

9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions

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POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Matters raised by officials in the officials' report on the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2)**

Date:	17 November 2022	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/488

Action sought

	Action sought	**Deadline**
Minister of Finance	**Agree** to recommendations **Note** the contents of this report	8 December 2022
Minister of Revenue	**Agree** to recommendations **Note** the contents of this report	8 December 2022

Contact for telephone discussion (if required)

Name	**Position**	**Telephone**
Melissa Siegel	Bill Manager	s 9(2)(a)
Natisha Jones	Policy Advisor	

17 November 2022

Minister of Finance
Minister of Revenue

Matters raised by officials in the officials' report on the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2)

Executive summary

1. This report seeks your approval on issues that could be included as "matters raised by officials" in 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. The Bill is currently before the FEC, and the officials' report is due with the Committee by 20 January 2023.

3. While some of the issues outlined in this report are related to amendments in the Bill, others are unrelated to existing amendments in the Bill. These issues have recently been brought to our attention as requiring an urgent fix and cannot be delayed until the March 2023 omnibus bill.

4. While none of these amendments are material enough to require Cabinet approval, they require approval from the Minister of Revenue and, where there are fiscal implications, the Minister of Finance. Only two of the recommended changes have fiscal implications and these would be funded through the Tax Policy Scorecard.

5. None of these changes give rise to any material compliance or administration costs, or any significant systems or technology implications.

6. Treasury has been consulted on this report and agrees that the changes proposed in this report are consistent with Ministers' criteria for the Scorecard. There is no risk that the Scorecard may exceed its limits as a result of these changes.

Next steps

7. If you agree to the changes in this report, these will be drafted for inclusion in the officials' report. Subject to the FEC's agreement, these changes would be included in the revision-tracked version of the Bill to be reported back to the House in early March 2023.

8. Written submissions closed on 2 November 2022 and oral submissions commenced on 9 November 2022. Subsequent hearings of oral evidence are scheduled for 7 and 14 December 2022.

9. We will report to you on 1 December 2022 with a summary of submissions and our proposed recommendations to be included in the officials' report.

10. The finalised officials' report is due to the FEC no later than 20 January 2023. This will allow the Bill to be progressed in line with the FEC's current timetable, reporting back to the house by 2 March 2023. We will report to you with a draft version of the officials' report for noting in the week beginning 16 January 2023.

Recommended action

We recommend that you:

11. **indicate** in the body of this report where you agree or do not agree with the recommended amendment;

Indicated Indicated

12. **indicate** in the body of this report where you agree with the fiscal implications resulting from the recommended change;

Indicated Indicated

13. **agree** that the fiscal implications resulting from these changes will be managed through the Tax Policy Scorecard;

Agreed/Not agreed Agreed/Not agreed

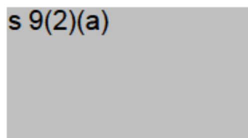
14. **note** the net fiscal impact of the proposed changes on the Tax Policy Scorecard is as follows:

	$m – increase/(decrease)				
	2022/23	**2023/24**	**2024/25**	**2025/26**	**2026/27 & outyears**
Impact on Tax Policy Scorecard	-	0.070	0.280	0.280	0.250

Noted Noted

15. **note** that agreed amendments will be included in the officials' report to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2).

Noted Noted


s 9(2)(a)

Melissa Siegel
Bill Manager
Inland Revenue

Hon Grant Robertson
Minister of Finance
/ /2022

Hon David Parker
Minister of Revenue
/ /2022

Background

16. The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) is currently being considered by the Finance and Expenditure Committee ("FEC"). The officials' report on submissions is due to the FEC no later than 20 January 2023**.**

17. This report sets out recommended changes that could be included as "matters raised by officials" in the officials' report to FEC as matters raised by officials. Many of these

18. We do not consider that the recommended changes in this report require Cabinet approval. Two changes in this report have fiscal implications and subject to your agreement, would be managed through the Tax Policy Scorecard.

Items with fiscal implications (Minister of Finance and Minister of Revenue)

Cost of vehicle for fringe benefit tax purposes part-funded by the State Sector Decarbonisation Fund

19. Fringe benefit tax (FBT) on a vehicle is calculated with reference to the "cost price" or the "tax value" of the vehicle to the employer or vehicle owner. The calculation is designed to reflect the average after-tax benefit an employee receives through not needing to purchase their own vehicle, which saves the employee finance, depreciation, maintenance and other running costs. FBT is designed to equate with the PAYE (pay as you earn) tax that applies to salary and wages. This promotes fairness between employees, whether they are paid in cash or in kind, and helps preserve the integrity of the employment income tax base.

20. The Public Sector Decarbonisation Fund is available to the state sector for updating their assets to less carbon intensive alternatives to reduce their carbon emissions. It is administered by the Energy Efficiency and Conservation Authority, Te Tari Tiaki Pūngao. The fund could be used to purchase vehicles that are subject to FBT.

21. s 9(2)(h)

22. s 9(2)(h) the general public does not have access to this fund, s 9(2)(h) overall purpose of the FBT regime and original policy intent, which is to tax the value of the benefit that the employee receives on the basis that it is equivalent to the payment of additional salary or wages.

23. We recommend an amendment to clarify that the "cost price" and "tax value" of a vehicle for the purposes of the FBT rules is the gross cost before any State Sector Decarbonisation Fund funding.

24. The amendment should apply prospectively for benefits provided from 1 April 2023.

25. The financial implication of this proposed remedial amendment is a revenue gain of approximately $0.28 million over the forecast period, with a corresponding impact on the operating balance and net debt.

Recommendations

Agree to amend the Income Tax Act 2007 to clarify that the "cost price" and "tax value" of a vehicle for FBT purposes is the gross costs of the vehicle to the employer or vehicle owner before any amount received from the State Sector Decarbonisation Fund reduces the price or value.

Agreed/Not agreed Agreed/Not agreed

Agree that this should apply for benefits provided from 1 April 2023.

Agreed/Not Agreed Agreed/Not agreed

Note the following changes to tax revenue as a result of the decisions above, with a corresponding impact on the operating balance and net debt:

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2022/23**	**2023/24**	**2024/25**	**2025/26**	**2026/27**
Crown Revenue and Receipts: Tax Revenue	-	0.070	0.080	0.080	0.050

Noted Noted

Agree that the fiscal implications resulting from this change will be managed through the Tax Policy Scorecard.

Agreed/Not Agreed Agreed/Not agreed

Tax debt write-off rules

26. The Tax Administration Act 1994 (TAA) requires that when a taxpayer has a tax debt written off, a corresponding tax loss should be extinguished if the taxpayer has accrued tax losses. This ensures that taxpayers who benefit from a debt write-off do not receive an undue advantage.

27. The Bill contains a proposal that would allow the Commissioner to extinguish a taxpayer's ring-fenced residential rental loss when they have tax debt written off, on the basis that these ring-fenced losses are not considered to form part of a taxpayer's "tax loss".

28. In finalising the systems and operational changes for this amendment, two issues relating to the tax debt write-off rules have arisen. The first issue has a fiscal impact and requires the agreement of both the Minister of Finance and Minister of Revenue. The second issue does not have a fiscal impact and only requires approval by the Minister of Revenue.

Extinguishing excess bright-line losses

29. When someone makes a loss under the bright-line test, that loss (referred to as excess deductions) is carried forward to a later year in which the taxpayer has bright-line income and/or income from land.

30. Similar to ring-fenced residential rental losses, excess bright-line deductions are not considered a "tax loss," and therefore cannot be extinguished when a taxpayer

has a tax debt written off. This does not align with the policy intent of the debt write-off rules.

31. We recommend that for the purpose of the tax debt write-off rules, the Commissioner should be able to extinguish bright-line losses. We recommend that this should apply in relation to tax debts written off on or after 1 April 2024. This is to allow sufficient time for the required system and annual return changes to be made.

32. Because the law does not currently provide for excess bright-line deductions to be extinguished when a tax debt is written off, the fiscal cost of this change is not reflected in current tax forecasts.

33. Officials recommend that you note the reduction in tax revenue and then agree to the proposed amendment to resolve the issue, restoring tax forecasts to their present track, but for a $200,000 cost in 2022/23 and 2023/2024. This is because the forecast change applies immediately, but the recommended amendment would only take effect for tax debts written off on or after 1 April 2024.

34. The fiscal cost of the issue is difficult to quantify because data on excess bright-line deductions is not currently collected. We therefore recommend adjusting tax revenue forecasts downwards from 2022/23 onwards by $200,000 per year, and likewise treating the proposed amendment as resulting in $200,000 of additional tax revenue per year.

35. The Treasury has advised that the fiscal impact of the proposed amendment, but not the forecasting change, should be managed against the Tax Policy Scorecard.

Recommendations

Note that excess bright-line deductions are not extinguished when a taxpayer's tax debt is written off.

Noted Noted

Note the following forecast adjustment for tax revenue, with a corresponding impact on the operating balance and net debt:

	$m – increase / (decrease)				
Vote Revenue Minister of Revenue	**2022/23**	**2023/24**	**2024/25**	**2025/26**	**2026/27 & Outyears**
Crown Revenue and Receipts: Tax Revenue	(0.200)	(0.200)	(0.200)	(0.200)	(0.200)

Noted Noted

Agree that a tax loss should include excess bright-line deductions for the purposes of the debt write-off rules.

Agreed/Not agreed Agreed/Not agreed

Agree that this amendment should apply to tax debts written off on or after 1 April 2024.

Agreed/Not agreed Agreed/Not agreed

Note the following changes to tax revenue as a result of the policy decisions above, with a corresponding impact on the operating balance and net debt:

	$m – increase / (decrease)				
Vote Revenue Minister of Revenue	**2022/23**	**2023/24**	**2024/25**	**2025/26**	**2026/27 & Outyears**
Crown Revenue and Receipts: Tax Revenue	-	-	0.200	0.200	0.200

Noted Noted

Items without fiscal implications (Minister of Revenue only)

Limiting tax loss extinguishment obligations to align with current practice

36. The TAA also requires some tax to be written off if it meets certain qualifying criteria (e.g., low-balance write-offs). Other tax is eligible to be written off, but not mandated. In practice, several of these tax write-offs occur via Inland Revenue's auto-calc process.[1]

37. Legally, there is a concern that the loss extinguishment rules apply to these types of write-offs. However, under current practice this process does not automatically extinguish taxpayers' corresponding tax losses.

38. These types of write-offs generally relate to small balances or to liabilities that arise through no fault of the taxpayer. Consequently, to extinguish losses in these cases would seem harsh and involve significant compliance and administration costs which would outweigh any benefit from the extinguishment of losses.

39. We recommend an amendment to ensure that write-offs occurring through the auto-calc process do not result in a tax loss extinguishment. This rule would apply to general tax losses, as well as ring-fenced residential rental property and bright-line losses.

40. The proposed change has no fiscal impact as current administrative practice is not to extinguish those losses, so this amendment would bring the legislation in line with existing administrative practice. This differs from the change for extinguishing bright-line losses above as that proposal would allow bright-line losses to be extinguished, which is currently not permitted. This change would align legislation with administrative practice and as result, would not impact revenue.

41. If instead of a legislative change, Inland Revenue amended the current administrative practice to align with the current law, there would be administrative and compliance costs that would outweigh any additional benefit.

42. This proposed amendment should apply retrospectively from the 2018–19 income year following the implementation of the auto-calc process.

Recommendations

Agree that tax write-offs currently included in the auto-calc process should not result in a tax loss extinguishment.

Agreed/Not Agreed

Agree that this should apply from the 2018–19 income year.

Agreed/Not Agreed

Imputation credit accounts

43. Companies have imputation credit accounts (ICAs) to keep track of company income tax paid on their income. They attach these imputation credits to dividends paid to shareholders to ensure there is no double taxation of income. ICA companies are required to file annual ICA returns (IR4J) accounting for their ICA balance.

[1] The auto-calc process is the process that automatically calculates the tax liabilities for those taxpayers who receive only income with tax deducted at source (e.g., salary and wages).

44. Under the Income Tax Act 2007 (ITA), a group of wholly-owned companies may form a consolidated imputation group. This group has one ICA, which consolidates any debits or credits that would have arisen in individual members' ICAs.

45. When a company is part of a consolidated imputation group, these individual company returns are likely to be nil.

Leaving a consolidated imputation group

46. A concern arises when a member of the consolidated imputation group leaves the group. There are no legislative provisions regarding the allocation of the group's imputation credits that are associated with departing member's tax payments yet to be used against a liability. All imputation credits remain in the consolidated imputation group's ICA.

47. A mismatch arises because even though the imputation credits remain in the group's ICA, tax payments made to the Inland Revenue or a tax pool intermediary by the departing member remain owned by that member. This means that if the departing member obtains a tax refund or transfers their entitlement in a tax pooling account, they would have insufficient imputation credits to cover the required debits to their account. If this occurs, the refund or transfer cannot be processed.

48. Conversely, the imputation group retains excess imputation credits, allowing it to impute more than it should be able to.

49. We recommend amending the ITA so that when a member departs a consolidated imputation group, a debit arises to the consolidated imputation group's ICA and a credit arises to the departing member's ICA. The size of the debit and credit should be equivalent to the size of income tax payments made by the departing member and credited to the group's ICA which have not yet been credited to a tax liability that has or will be assessed on the departing member.

50. The proposed amendment would have no fiscal cost as there would be no change in the number of imputation credits or a company's ability to generate new imputation credits.

51. The proposed amendment would apply for the 2021–22 and later imputation years.

Recommendations

Note that this amendment does not have fiscal implications.

Noted

Agree to amend the Income Tax Act 2007 so that when a member departs a consolidated imputation group a debit arises to the consolidated imputation group's ICA and a credit arise to the ICA of the departing member

Agreed/Not Agreed

Agree that this should apply for the 2021–22 and later imputation years.

Agreed/Not Agreed

ICA returns for members of consolidated groups

52. Under current legislation, taxpayers who are members of a consolidated imputation group are required to file an IR4J return no matter whether that return is nil or not.

53. Filing these nil ICA returns has significant compliance and administrative costs for no benefit. This is because generally most changes to ICAs occur at the consolidated group level and would be included in the group's IR4J. It is therefore the norm that the ICA return of an individual member of a consolidated ICA group would be nil. Members of a consolidated group have nil ICAs because once they are a member of the group, all debits and credits will arise in the group ICA and any balance they had in their individual ICA is likely to have been transferred to the group account over time.

54. To remove these unnecessary costs, we propose an amendment that would not require an ICA company who is a member of a consolidated imputation group to file an ICA with the Commissioner if the balance of that ICA is nil at all times during the imputation year.

55. We recommend this change apply retrospectively to the 2021–22 and later imputation years to validate those taxpayers who have not filed such returns.

Recommendations

Agree to amend the Tax Administration Act 1994 to not require an ICA company who is a member of a consolidated imputation group to file an ICA with the Commissioner if the balance of that ICA is nil at all times during the imputation year.

Agreed/Not Agreed

Agree that this change apply for the 2021–22 imputation year.

Agreed/Not Agreed

Inland Revenue's confidentiality provision and its application to staff from other government departments

56. Tax legislation requires that all Inland Revenue and other agency staff who have access to taxpayer information to keep that information confidential and to sign a confidentiality declaration before accessing the information. This was the position for both Inland Revenue and other agency staff up to 18 March 2019.

57. However, in March 2019, an unintended change was made which required other agency staff to keep all Inland Revenue information confidential, not just taxpayer information. "Inland Revenue information" is broad and includes information that could be in the public domain (e.g., the number of audit staff, which could be available in Inland Revenue's annual report). This was not the policy intent of the provision as it imposes a higher obligation on staff from other government departments than those from Inland Revenue.

58. We recommend that the confidentiality provision for staff from other government departments be amended to refer to only taxpayer information instead of all Inland Revenue information. This would mirror the provision that applies to Inland Revenue staff.

59. We recommend a retrospective application date of 18 March 2019, being when the provision was amended, to ensure that other agency staff are not disadvantaged by the unintended law change. We are not aware of any instances to date where other agency staff have been adversely impacted by this error.

Recommendations

Agree to amend the Tax Administration Act 1994 to require other agency staff to keep taxpayer information shared with them confidential, instead of all Inland Revenue information.

Agreed/Not Agreed

Agree that this should applyfrom 18 March 2019.

Agreed/Not Agreed

Meaning of "company" and application to foreign companies

60. Recent work undertaken by Inland Revenue's Tax Counsel Office found that a literal interpretation of the definition of "company" in the Income Tax Act 2007 (ITA) should be clarified to preclude unintended effects. The definition specifically excludes a partnership. However, the definition of a "partnership" under the Partnership Law Act 2019 means that a company incorporated outside of New Zealand is considered a "partnership" for tax purposes rather than a "company". Foreign companies are therefore excluded from the legal definition of a "company."

61. This interpretation means that foreign companies are not subject to portions of the ITA, including the foreign investment fund (FIF) or controlled foreign company (CFC) rules. This is contrary to the policy intent as the FIF and CFC rules were designed to apply to foreign companies.

62. We recommend an amendment to the definition of "company" to exclude a limited partnership rather than a partnership. This would enable the rules to function as intended.

63. The amendment should apply retrospectively from 1 April 2008, as this was the date that a partnership was excluded from the definition of a "company" in the ITA.

64. There is no fiscal cost associated with the proposal as the change would clarify legislation in accordance with existing practice and policy intent.

Recommendations

Agree to amend the Income Tax Act 2007 to exclude a limited partnership rather than a partnership from the definition of a "company".

Agreed/Not Agreed

Agree that this should apply retrospectively from 1 April 2008.

Agreed/Not Agreed

Interest limitation: Grandparenting variable loans for disallowed residential property

65. Under the interest limitation rules, interest deductions for residential property loans drawn down before 27 March 2021 are gradually phased out between 1 October 2021 and 31 March 2025 (referred to as grandparented loans and interest).

66. When a loan drawn down before 27 March 2021 relates to both disallowed residential property and allowed property, and the borrower cannot reasonably

trace between these purposes, there is a formula to effectively apportion between the two property types.

67. This formula is used to calculate what portion of interest can be grandparented and can continue to be deducted, rather than being fully disallowed.

68. There is an error in the formula used to calculate deductible interest on certain untraceable variable loans when one of the properties is sold. If a repayment is sourced from the sale proceeds of allowed property, there should be no change to the affected loan balance that is grandparented. However, the current law does not achieve this.

69. To correct this, we recommend an amendment to ensure that sales proceeds from allowed property do not impact the affected loan balance used to calculate deductible interest for untraceable loans.

70. This change should apply from 27 March 2021, to align with the introduction of the interest limitation rules.

Recommendations

Agree that the formula in the interest limitation rules for certain grandparented variable loans should be corrected to ensure that sales proceeds from allowed property do not impact the affected loan balance.

Agreed/Not Agreed

Agree that this should apply from 27 March 2021.

Agreed/Not Agreed

Investments in Australian unit trusts

71. The Bill contains proposed changes to the foreign investment fund (FIF) and controlled foreign company (CFC) rules to limit economic double taxation of New Zealand resident investors with indirect investments in certain FIFs. These issues were identified specifically in relation to investments in Australian unit trusts (AUT).

72. The proposed changes to the dividend rules would limit economic double taxation where an investor holds an interest in an AUT CFC, which in turn holds an interest in an AUT FIF. This double economic taxation can arise if the investor is taxed in relation to the AUT FIF (under the FIF rules), in relation to the AUT CFC (under the CFC rules) and when it receives a dividend from the AUT CFC. However, a similar economic double taxation issue can arise where an AUT CFC holds an interest in an ordinary (that is, non-AUT) FIF.

73. To address this economic double taxation, it is proposed that the changes in the Bill to the dividend rules be extended to include any situations where an AUT CFC holds an interest in a FIF that has been appropriately taxed under the FIF rules.

74. This proposed amendment would apply from 1 April 2023, in line with the proposed changes in the Bill.

75. There is no additional fiscal cost with this remedial, as it falls within the original costing of the related changes that are proposed in the Bill.

Recommendations

Agree that the proposed changes to dividends from an AUT CFC be extended to all FIFs in order to limit economic double taxation.

Agreed/Not Agreed

Agree that this should apply from 1 April 2023.

Agreed/Not Agreed

Document 2

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Due date for R&D loss tax credit applications

Date:	17 November 2022	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2022/513

Action sought

	Action sought	**Deadline**
Minister of Revenue	**Agree** to recommendations **Authorise** the lodgement of the attached Cabinet paper **Refer** a copy of this report to the Minister of Research, Science and Innovation	24 November 2022

Contact for telephone discussion (if required)

Name	**Position**	**Telephone**
Chris Gillion	Policy Lead	s 9(2)(a)
David Cuellar	Senior Policy Advisor	

17 November 2022

Minister of Revenue

Due date for R&D loss tax credit applications

Purpose

1. This report briefs you on an issue regarding the application deadlines for the R&D loss tax credit (R&DLTC) and seeks your agreement to our recommended solutions.

2. To resolve this issue, we recommend making amendments to the current due date settings in primary legislation. We also recommend making an Order in Council to extend the due date for applying for R&DLTCs for the 2021–22 tax year. We also seek authorisation to issue a drafting instruction to the Parliamentary Counsel Office to draft the Order.

3. Given tight timeframes, we have attached a draft Cabinet paper in advance of the Order in Council being drafted. This report seeks authorisation to lodge this Cabinet paper with the Cabinet Office.

4. This issue only relates to R&DLTCs and is not relevant to the R&D Tax Incentive, which is entirely separate.

Background

5. Under the R&DLTC regime, loss-making taxpayers undertaking R&D can "cash out" their losses. This provides a timing benefit only, as receiving R&DLTCs means the taxpayer cannot carry forward those cashed-out losses to lower their taxable income in future years (once they are profitable). However, R&DLTCs provide short-term cashflow assistance during the start-up phase of a business undertaking R&D.

6. A business must file a statement to apply for R&DLTCs each year. The current issue regards the due date for that statement. Under the existing law, the R&DLTC statement is due by the earlier of:

   6.1 The day a taxpayer files their income tax return; and

   6.2 The income tax return due date.

7. Under current settings, the due date for the R&DLTC statement is usually the date a taxpayer files their income tax return. This date can be well in advance of the due date for the return because taxpayers may file their returns and R&DLTC statements early so they can cash out their losses sooner.

8. This creates a problem when a taxpayer files their R&DLTC statement after their income tax return. Current law would require Inland Revenue to decline the taxpayer's application, even if both the return and the statement were filed well before the return due date.

9. s 9(2)(g)(i)

s

10. After identifying the issue in October 2022, Inland Revenue changed its administrative approach to be consistent with the law. However, this new approach means that some taxpayers will no longer receive R&DLTCs when they were expecting to, despite following the same filing process as in previous years.

11. Several external stakeholders have raised concerns with Inland Revenue's new approach and have called for flexibility and/or legislative solutions. These issues may be raised at the Chartered Accountants Australia and New Zealand conference on 24–25 November 2022.

12. The R&DLTC was introduced in the 2015–16 income year, so Inland Revenue has more familiarity with taxpayer behaviour now compared to when the rules were being developed. Given the recent change in administrative approach, it is timely to consider whether the current legislative settings are appropriate.

13. We recommend that changes are made to primary legislation in response to this issue, and that you also recommend an Order in Council to extend the due date for taxpayers currently affected. We set out these recommendations below.

Changes to primary legislation

14. The existing requirement to file an R&DLTC statement by the date a taxpayer files their income tax return is difficult and obscure. It is unusual to pin the deadline for doing something on the date that an income tax return is filed rather than the date that the return is due.

15. We recommend making the following changes:

    15.1 **Removing the requirement that a statement be filed before or on the date a taxpayer files their income tax return**. We recommend making this change retrospectively, to remove the legal uncertainty concerning R&DLTCs that have been incorrectly paid out to date.

    15.2 **Changing the due date for R&DLTC statements going forward, so that a taxpayer's R&DLTC statement is due 30 days after their income tax return due date.** We recommend making this change prospectively from the 2022–23 income year.

    15.3 **Changing the due date for R&DLTC statements in prior years to 31 March in the year following the relevant income year.** We recommend making this change retrospectively up until the 2021–22 income year. This would legitimise the previous losses cashed out to businesses for which their R&DLTC statements had been accepted after the income tax return due date but before the relevant 31 March date.

16. These amendments will make the due date settings for applying for the R&DLTC more intuitive and fairer for taxpayers, as well as giving certainty for taxpayers and Inland Revenue regarding losses already cashed out. The proposed due date going forward would also match the equivalent setting for the R&D Tax Incentive, which is more convenient for taxpayers. Many taxpayers are registered for both regimes.

17. We recommend that these amendments be included in the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2), which is currently being considered by the Finance and Expenditure Committee. This would mean the amendments would be in force as early as March 2023.

Order in Council

18. If changes to primary legislation are not enacted until March 2023, the current issue remains until that date. For the 2021–22 tax year, some taxpayers have now filed

their income tax returns without having filed their R&DLTC statements, despite intending to claim R&DLTCs for the year. In previous years, Inland Revenue would still have approved these applications, but now no longer will.

19. This R&DLTC regime is intended to encourage and incentivise R&D expenditure by businesses, including loss-making start-ups. Taxpayers that did not submit R&DLTC statements prior to filing their income tax returns for the 2021–22 tax year would fail on a minor procedural ground rather than a substantive requirement, which we consider undermines the policy intent of the regime.

20. The Tax Administration Act 1994 contains a broad power to extend the time for doing something under the Act. This would include extending the deadline for businesses to submit an R&DLTC statement.

21. To ensure taxpayers are not unexpectedly disadvantaged by Inland Revenue's change in administrative approach, we recommend that you make an Order in Council extending the deadline for submitting an R&DLTC statement for the 2021–22 tax year until 30 April 2023. This would allow businesses to still receive their R&DLTCs for the 2021–22 tax year even if they had failed the filing requirements on a minor procedural ground. Affected taxpayers would still be required to file a statement before being allowed R&DLTCs.

22. If this Order in Council is not agreed to, affected taxpayers will experience a delay in receiving R&DLTCs for the 2021–22 year, or will miss out altogether if the amendments to primary legislation are not enacted. This situation is exacerbated by the fact that Inland Revenue does not have any other discretion for accepting R&DLTC statements that are filed late. Consequently, denying applications for R&DLTCs when they previously would not have been denied would be (and already has been) controversial amongst stakeholders.

23. The attached Cabinet paper recommending the Order in Council seeks agreement to a waiver of the 28-day rule for Orders in Council coming into force. This waiver is sought on the grounds that not waiving the rule will:

    23.1 Cause frustration for R&D businesses that are seeking R&DLTCs as soon as possible but cannot have their R&DLTC statement approved for a further 28 days, resulting in the delayed receipt of those tax credits; and

    23.2 Increase the processing backlog for Inland Revenue, if it cannot fully process statements filed under the extended due date for a further 28 days.

Financial implications

24. The proposed amendments to primary legislation, and the Order in Council, would not have a fiscal impact.

25. The current due date settings are not designed to increase or decrease the number of eligible taxpayers for R&DLTCs. Changing the due date settings is intended to make it easier for businesses to access R&DLTCs but is not expected to result in an increase in claims, particularly as businesses had adjusted to Inland Revenue's original (incorrect) approach.

26. The Order in Council would only bring forward the disbursement of R&DLTCs within the same financial year.

Consultation

27. The Ministry of Business, Innovation and Employment, Callaghan Innovation, the Treasury, and the Department of the Prime Minister and Cabinet have been consulted on this report and the attached Cabinet paper.

28. This issue has been discussed with some (tax) external stakeholders, including individual taxpayers/advisors as well as groups including Chartered Accountants Australia and New Zealand.

Next steps

29. Subject to your agreement, we will prepare the amendments to primary legislation for inclusion in the officials' report on the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2).

30. If authorised, we will also issue a drafting instruction to the Parliamentary Counsel Office to draft an Order in Council giving effect to an extension of the filing deadline for R&DLTC statements for the 2021–22 tax year. We will provide this Order to your office in advance of the Cabinet Legislation Committee meeting that considers this Cabinet paper on either 8 December 2022 or 15 December 2022. We will also provide you with speaking notes to accompany consideration of the attached Cabinet paper.

31. The attached Cabinet paper should be authorised for lodgement to the Cabinet Office by 10am Thursday 1 December if the Cabinet paper is considered at the Cabinet Legislation Committee meeting on Thursday 8 December. Otherwise, lodgement should occur by 10am Thursday 8 December for consideration at the Cabinet Legislation Committee meeting on Thursday 15 December.

32. Subject to your agreement, we will communicate to external stakeholders and affected taxpayers that the primary legislation changes will be included in the officials' report to the Bill to change the current due date settings. We will also communicate that an Order in Council will be recommended to extend the current deadline for the 2021–22 tax year.

Recommended action

We recommend that you:

33. **agree** to remove the requirement to file a Research & Development loss tax credit (R&DLTC) statement before or on the date a taxpayer files their income tax return;

    Agreed/Not agreed

34. **agree** to amend the due date for filing an R&DLTC statement to the date that is 30 days after the due date for a taxpayer's income tax return;

    Agreed/Not agreed

35. **agree**, for historical cases, to amend the due date for filing a R&DLTC statement to 31 March in the year following the end of the relevant income year;

    Agreed/Not agreed

36. **agree**, with respect to application dates of the above recommendations, that:

    36.1 the requirement that R&DLTC statements be filed by the date that income tax returns are filed should be removed retrospectively from the 2015–16 income year;

    Agreed/Not agreed

    36.2 the new due date for R&DLTC statements going forward, which would be 30 days after a taxpayer's income tax return due date, should apply prospectively from the 2022–23 income year;

Agreed/Not agreed

36.3 the new due date for R&DLTC statements for historical cases, which would be 31 March in the year following the end of the relevant income year, should apply for income years up until the 2021–22 income year;

Agreed/Not agreed

37. **agree** to recommend these changes as matters raised by officials in the officials' report to the Finance and Expenditure Committee on the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2);

Agreed/Not agreed

38. **agree** to recommend an Order in Council that extends the deadline for filing an R&DLTC statement for the 2021–22 tax year to 30 April 2023;

Agreed/Not agreed

39. **authorise** Inland Revenue to issue a drafting instruction to the Parliamentary Counsel Office to draft an Order in Council that gives effect to this extension;

Authorised/Not authorised

40. **authorise** the lodgement of the attached Cabinet paper to the Cabinet Office;

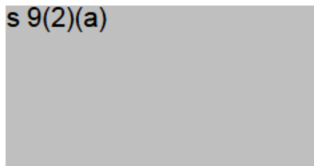
Authorised/Not authorised

41. **agree** that Inland Revenue be able to communicate the above decisions to external stakeholders;

Agreed/Not agreed

42. **refer** a copy of this report to the Minister of Research, Science and Innovation for their information.

Referred/Not referred



Chris Gillion
Policy Lead
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2022

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: R&D Tax Incentive: Matters for consideration

Date:	24 November 2022	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/500

Action sought

	Action sought	**Deadline**
Minister of Finance	**Agree** to recommendations	5 December 2022
Minister of Revenue	**Agree** to recommendations	5 December 2022
Minister of Research, Science and Innovation	**Agree** to recommendations	5 December 2022

Contact for telephone discussion (if required)

Name	**Position**	**Telephone**
Chris Gillion	Policy Lead	s 9(2)(a)
David Cuellar	Senior Policy Advisor	

24 November 2022

Minister of Finance
Minister of Revenue
Minister of Research, Science and Innovation

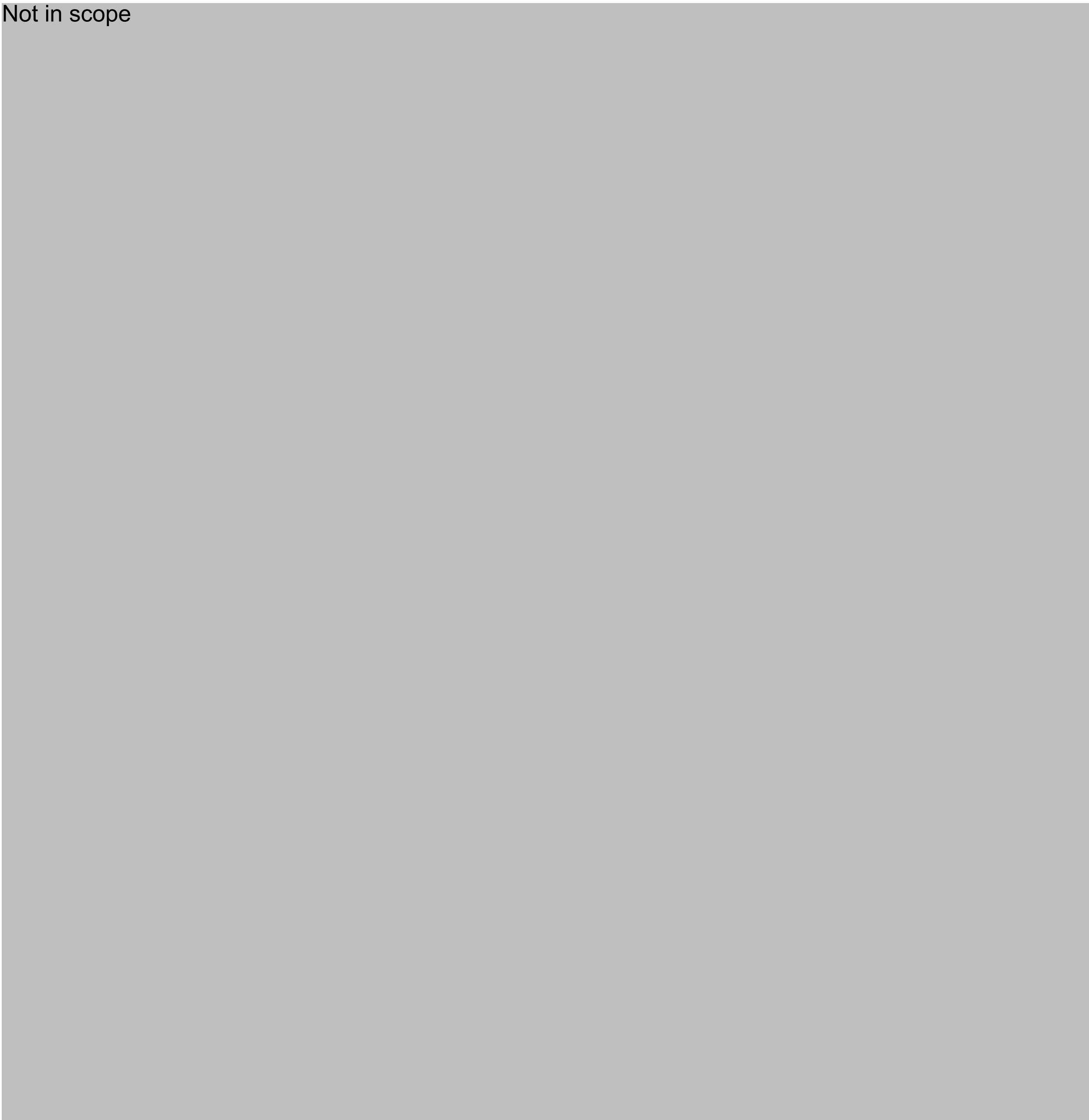
Executive summary

1. This report seeks joint decisions on three current tax matters in relation to the Research and Development Tax Incentive (RDTI). Those are:

   1.1 Not in scope

   1.2

   1.3 A technical amendment to the government grants exclusion due to the introduction of the New to R&D Grant.



Not in scope

Carve-out from government grants exclusion for the New to R&D Grant

12. R&D expenditure funded by government grants is generally excluded from being eligible for the RDTI as that expenditure does not require support provided by the RDTI to induce it.

13. The legislation provides for some carve-outs from this exclusion. For example, Callaghan Innovation Project Grants are carved out to the extent that R&D expenditure exceeds an amount contracted for under the Project Grant. This was intended to make any unexpected expenditure eligible for the RDTI given that amount is not supported by the Project Grant.

14. Project Grants have been phased out and the New to R&D Grant is being introduced in its place. The terms of the New to R&D Grant are similar to the Project Grant in that it provides for co-funding of up to 40% of the eligible R&D expenditure.

15. We recommend that a carve-out is made for the New to R&D Grant with respect to the RDTI government grants exclusion. This would be similar to the carve-out that was made for Project Grants. R&D expenditure by businesses that receive a New to R&D Grant would be carved out from the exclusion to the extent that their R&D expenditure exceeds the amount contracted for under the New to R&D Grant.

16. We estimate the fiscal impact of this amendment to be $75,000 per year. Baseline forecasts originally assumed R&D expenditure that was not eligible for other government grants would be eligible for the RDTI. Hence, agreeing to this amendment would have no fiscal impact, while not agreeing to this amendment would have a fiscal saving of $75,000 per year.

Recommended action

We recommend that you:

Not in scope

Not in scope

Carve-out from government grants exclusion for the New to R&D Grant

d) **agree** that the New to R&D Grant be carved out from the RDTI government grants exclusion to the extent that R&D expenditure exceeds the amount contracted for under the New to R&D Grant;

Agreed/Not agreed Agreed/Not agreed Agreed/Not agreed

e) **agree** to recommend the New to R&D Grant carve-out as a matter raised by officials in the officials' report to the Finance and Expenditure Committee on the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2);

Agreed/Not agreed Agreed/Not agreed Agreed/Not agreed

f) **agree** that the New to R&D Grant carve-out applies for the 2022–23 and later income years;

Agreed/Not agreed Agreed/Not agreed Agreed/Not agreed

g) **note** that baseline forecasts assumed this category of R&D expenditure would be eligible for the RDTI, and a rough estimate of the impact of not agreeing to the New to R&D Grant carve-out is a fiscal saving of $75,000 per year.

Noted Noted Noted

s 9(2)(a)

Chris Gillion
Policy Lead
Policy and Regulatory Stewardship

Hon Grant Robertson
Minister of Finance
/ /2022

Hon David Parker
Minister of Revenue
/ /2022

Hon Dr Ayesha Verrall
Minister of Research, Science and Innovation
/ /2022

Introduction

17. The Research and Development Tax Incentive (RDTI) operates as a 15% tax credit for eligible R&D expenditure on eligible R&D activities. R&D tax credits are processed after the end of the income year.

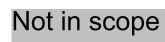
18. This report seeks joint decisions on three current matters in relation to the RDTI.

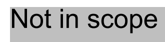
19.

20.

21. The third issue considers a technical amendment to the RDTI government grants exclusion due to the introduction of the New to R&D Grant. This is to ensure that amounts of R&D expenditure incurred by a business in excess of an amount the business has contracted for under the New to R&D Grant can still be eligible for the RDTI.

Not in scope




Not in scope

Not in scope

Carve-out from government grants exclusion for the New to R&D Grant

Background

48. The RDTI is available for eligible R&D expenditure on eligible R&D activities. Ineligible/excluded activities and expenditures are listed in the Income Tax Act 2007. One type of exclusion is expenditure or loss that is undertaken in conjunction with receipt of a government grant. Such expenditure is already being induced by a government grant and is occurring without RDTI support, so it is not necessary to allow R&D tax credits to encourage that expenditure.

49. The provision implementing this exclusion, however, unintentionally excludes from the RDTI some R&D expenditure that is not covered by those grants. As a result, that expenditure would not be eligible for either the government grant or the RDTI.

50. To correct this, the legislation provides some carve-outs to this exclusion. One example is Callaghan Innovation Project Grants, which are carved out from the exclusion to the extent that the business' R&D expenditure exceeds the amount contracted for under the Project Grant. This was intended to make any unexpected R&D expenditure eligible for the RDTI, given that amount is not supported by the Project Grant contract.

51. For example, a Project Grant contract for $500,000 would require the business to spend $300,000 and the grant would provide $200,000. If the project ended up costing $900,000, then the business will have spent an extra $400,000 to complete the project but that amount would not be covered by the Project Grant contract. However, the $400,000 would be ineligible for RDTI support due to the government grants exclusion. Carving out Project Grants from that exclusion to the extent that the overall expenditure ($900,000) exceeds the Project Grant contract amount

($500,000) ensures that the additional $400,000 of R&D expenditure can still be supported by the RDTI.

Carve-out from government grants exclusion for the New to R&D Grant

52. Project Grants have been phased out and New to R&D Grants have been introduced in their place. The New to R&D Grant encourages new businesses and businesses that are new to R&D to establish an R&D programme. They may then move onto the RDTI in the future.

53. The terms of the New to R&D Grant are similar to the Project Grant in that they provide for co-funding of 40% of the eligible R&D expenditure. The amount of government funding allocated to the grant is similar (approximately $22.5 million).

54. Unlike the Project Grant, which covered expenditure for particular R&D projects, the New to R&D Grant covers expenditure over two years up to a specified maximum amount. It Is also limited to businesses that have not performed a significant amount of R&D in the past and do not have R&D capabilities to begin with.

55. We have concluded that R&D expenditure incurred by a New to R&D Grant recipient beyond the maximum amount specified in a contract could be impacted by the government grants exclusion in a similar way that equivalent amounts under a Project Grant would have been if not for the carve-out. This means that some R&D expenditure that is not supported by the New to R&D Grant will be excluded from the RDTI.

56. We recommend that a carve-out to the RDTI government grants exclusion is made for the New to R&D Grant, similar to the carve-out that was made for Project Grants. R&D expenditure by businesses that receive a New to R&D Grant would be carved out from the exclusion to the extent that R&D expenditure exceeds the maximum amount covered in the New to R&D Grant contract.

57. This will ensure that R&D expenditure continues to be supported in cases where the business' R&D expenditure during the grant period exceeds the amount that is covered by the New to R&D Grant. This will make it easier for businesses to transition to the RDTI at the conclusion of their New to R&D Grant. The carve-out does not allow an amount of R&D expenditure to be subsidised by both the New to R&D Grant and the RDTI.

Fiscal implications

58. This carve-out is unlikely to have a significant impact on the cost of the RDTI because:

    58.1 Only a small number of New to R&D Grant recipients are likely to exceed the maximum amount of R&D expenditure permitted within the maximum two-year period allowed under a New to R&D Grant contract;

    58.2 To the extent that a recipient's R&D expenditure does exceed the maximum amount, the excess amount (that would be covered by the exclusion) is likely to be small; and

    58.3 The New to R&D Grant contract can be drafted to make clear that the grant only applies to R&D expenditure up to the maximum specified amount and does not apply to R&D expenditure incurred by the recipient in excess of that amount.

59. As the New to R&D Grant has not yet been introduced, there is no data we can use to accurately estimate the cost of this carve-out. Instead, we make the following assumptions using information currently available to provide a rough estimate:

59.1 To receive the maximum grant amount, a recipient would have to spend between $500,000 and $1,000,000[1] on R&D over the two-year period of the grant. Callaghan Innovation is currently expected to issue approximately 100 grants per year. We assume that only one (i.e., 1% of the total) will exceed the maximum grant amount in a given year.[2]

59.2 We assume that, on average, the one New to R&D Grant recipient per year whose R&D expenditure exceeds the maximum grant amount does so by $500,000.

60. Based on these assumptions, we estimate this amendment would impact $500,000 of R&D expenditure per year. With a tax credit rate of 15%, this corresponds to a fiscal impact of $75,000 per year.

61. It is important to note that baseline forecasts assumed that R&D expenditure that was not eligible for other government grants would be eligible for the RDTI (consistent with the original intent). This means that agreeing to this amendment would effectively have no fiscal impact, while not agreeing to this amendment would have a fiscal saving of $75,000 per year.

Consultation

62. MBIE, Callaghan Innovation, and the Treasury have been consulted on this report.

63. Not in scope

64.

65.

Next steps

66. Not in scope

[1] The Minister of Research, Science and Innovation has set the maximum grant amount at $400,000. This means that the maximum RDTI-eligible expenditure that could be covered is $1,000,000 (given a co-funding rate of 40%). However, up to half of the grant may be used to cover R&D setup costs that are not necessarily eligible for the RDTI.

[2] According to the 2021 R&D Survey results, 810 out of 2,346 R&D-performing businesses spent above $500,000 on R&D and 468 spent above $1,000,000 in the 2021 financial year. However, in almost all cases, these are well-established R&D-performing businesses. Due to the steep learning curve that the New to R&D Grant is specifically designed to alleviate, the probability of a business that qualifies for the New to R&D Grant reaching this threshold within its first two years of R&D activity is very low.

67. Not in scope

68. If you agree to the New to R&D Grant being carved out from the RDTI government grants exclusion, we will progress this amendment as a matter raised by officials in the officials' report to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2). The amendment would then apply for the 2022–23 and later income years.

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Summary of submissions and recommended changes for the officials' report for the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2): remedial amendments**

Date:	5 December 2022	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/538

Action sought

	Action sought	**Deadline**
Minister of Revenue	**Endorse** the agreement of the Parliamentary Under-Secretary to the Minister of Revenue to the recommendations in this report	15 December 2022
Parliamentary Under-Secretary to the Minister of Revenue	**Agree** to the recommendations **Refer** a copy of this report to the Minister of Revenue	15 December 2022

Contact for telephone discussion (if required)

Name	**Position**	**Telephone**
Melissa Siegel	Bill Manager	s 9(2)(a)
Natisha Jones	Policy Advisor	

5 December 2022

Minister of Revenue
Parliamentary Under-Secretary to the Minister of Revenue

Recommended changes for remedial amendments in the officials' report on the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2): remedial amendments

Executive summary

1. This report seeks your approval on recommendations to be included in 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. The Bill is currently being considered by the FEC, and the officials' report is due with the Committee by 20 January 2023.

3. The Bill received approximately 800 written submissions. Oral hearings of evidence commenced on 9 November 2022 and are scheduled to continue on 7 and 19 December 2022.

4. Most of the recommendations in this report are in response to issues raised by submitters. Subject to your approval, we will include these recommendations in the officials' report.

5. The items in this report relate to remedial amendments proposed in the Bill. A separate report relating to the policy proposals has been provided to the Minister of Finance and Minister of Revenue (IR2022/542 refers).

6. None of these proposed amendments are significant enough to require Cabinet approval.

7. None of the recommendations in this report have fiscal implications. These recommendations require approval by the Parliamentary Under-Secretary to the Minister of Revenue and endorsement by the Minister of Revenue. These recommendations are set out in the body of the report.

8. None of these changes give rise to any material compliance or administration costs, or any significant systems or technology implications.

9. Treasury has been consulted on this report.

Next steps

10. Subject to your agreement, recommendations outlined in this report will be drafted for inclusion in the officials' report. Subject to the FEC's agreement, these changes would be included in the revision-tracked version of the Bill to be reported back to the House by 2 March 2023.

11. The finalised officials' report is due to the FEC no later than 20 January 2023. We will report to you with a draft version of the officials' report for noting in the week beginning 16 January 2023.

Recommended action

We recommend that you:

Recommendations	Minister of Revenue	Parliamentary Under-Secretary to the Minister of Revenue
12. **indicate** in the body of this report where you agree or do not agree with the recommended amendment;	N/A	Indicated
13. **note** that agreed amendments will be included in the officials' report to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2);		Noted
14. **refer** a copy of this report to the Minister of Revenue		Referred
15. **endorse** the Parliamentary Under-Secretary to the Minister of Revenue's agreement to the recommendations made above;	Endorsed	N/A
16. **note** that the final version of the officials' report on the Bill will be sent to your office in the week beginning 16 January 2022 and then to the Finance and Expenditure Committee no later than 20 January 2023.	Noted	Noted

s 9(2)(a)

Melissa Siegel
Bill Manager
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue

/ /2022

Dr Deborah Russell
Parliamentary Under-Secretary
to the Minister of Revenue

/ /2022

Background

17. The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) is currently being considered by the Finance and Expenditure Committee ("FEC"). The officials' report on submissions is due to the FEC no later than 20 January 2023 to enable the Committee to report back to the House by 2 March 2023.

18. Written submissions on the Bill closed on 2 November 2022. The first hearing of oral evidence was held on 9 November 2022 and subsequent hearings are scheduled for 7 and 19 December 2022. A submitter's oral submission should align with their written submission, so we do not anticipate new issues to arise at the two remaining hearings. However, if new issues do arise, we will co-ordinate with your offices to seek your approval where appropriate.

19. Approximately 800 written submissions were received. In addition to submissions by stakeholders such as law and accounting firms, most of the submissions relate to either the proposed exemption from FBT for public transport or the proposal to require digital platforms to collect GST on certain accommodation and transport services.

20. This report sets out recommended changes that could be included in the officials' report to the FEC. The items in this report relate to remedial amendments proposed in the Bill. A separate report relating to the policy proposals has been provided to the Minister of Finance and Minister of Revenue (IR2022/542 refers).

21. None of the proposed amendments in this report have a fiscal impact and require approval by the Parliamentary Under-Secretary to the Minister of Revenue and endorsement by the Minister of Revenue.

22. We do not consider that the recommended changes in this report require Cabinet approval.

GST proposals which allow suppliers to rely on certain commercial information to determine if their customer is non-resident or GST registered

23. The Bill proposes to reduce compliance costs by allowing more businesses to use certain commercial information (proxies) to help them determine if their customer is non-resident or a GST-registered person.

24. PwC and the Corporate Taxpayers Group submitted that many suppliers may already have existing systems or processes for applying the relevant GST rules which may collect more accurate information than the proxies (such as directly asking if the customer is non-resident or a GST registered person). Accordingly, they consider that the proxies should be optional to use.

25. We agree with the submitters because this allows such suppliers to continue with their existing systems and processes, while other suppliers which would benefit from the proposed proxies can choose to use them to reduce their own compliance costs. This would not have a fiscal cost as it would either provide the affected taxpayers with the same GST outcome as the existing proposal in the Bill or allow them to continue with their current tax practices which are in the revenue baselines.

Recommendation

Agree that the proposed amendments in the Bill (to allow more businesses to use certain commercial information to help them determine if their customer is non-resident or a GST registered person) should be optional for these suppliers to apply.

Agreed/Not agreed

Method of calculating provisional tax

26. The proposed amendment clarifies which method of standard uplift is to be used when a taxpayer files a tax return for the prior year when calculating provisional tax (i.e., either 105% or 110%). It also clarifies the position when the due date for an instalment falls on a non-working day.

27. Submissions were generally supportive of the change, although two submissions suggested that application date of the provision may retrospectively impose penalties and interest on taxpayers who have been charged with penalties and interest on a different basis. This was not intended.

28. To avoid this outcome, we propose inserting a savings clause into the application of the provision so that if a taxpayer has been charged penalties and interest on a different basis than that set out in the proposed amendment, the proposed amendment will not apply to them.

29. There are no fiscal implications to this amendment as this change does not alter the liability of a taxpayer just, potentially, the timing of payment within the year.

Recommendation

Agree to insert a savings provision to the proposed amendments relating to the method of calculating provisional tax to preserve the position if any taxpayer has been charged with penalties and interest on a different basis than the proposed amendments.

Agreed/Not agreed

Income of deceased persons

30. The proposed amendment allows taxpayers to include in their tax return to date of death any reportable income paid to the deceased person up to 28 days after their date of death to save the compliance costs of filing an estate tax return.

31. Submissions were generally supportive of the change, although one submission suggested that the scope of the provision should be extended beyond 28 days and include all types of income. Such an extension is out of scope and will need further policy work as the work programme permits. This submission will be declined but noted for potential further work.

32. After reviewing the provision, a wording change is required to the proposed amendment to make the treatment optional on the taxpayer – if they would prefer to continue filing two returns then they should be able to do that.

33. There are no fiscal implications to this amendment as this change only alters the particular form that an amount of income is returned in, not the taxation of the income.

Recommendation

Agree to allow taxpayers the option of returning reportable income received by the deceased person either in the taxpayer's return to date of death or in the tax return of the estate.

Agreed/Not agreed

Non-active trusts and estates

34. The proposed amendment in the Bill would ensure that trusts and estates that derive small amounts of income are not required to file a tax return and therefore not required to comply with the new trust disclosure requirements. We received several submissions on this remedial and intended to recommend the following changes below.

35. None of these changes have fiscal implications because these changes only relate to whether a taxpayer is required to file a tax return. The underlying income in that return is either already subject to withholding tax (as with reportable income) or is currently not taxable in any case (the under $200 non-reportable income exemption). Neither of these changes is likely to alter the net amount of tax paid by the trust or estate.

Proposed changes

Administration fees threshold

36. The proposed amendment in the Bill allows trusts or estates which have incurred less than $1,000 of administrative fees to still be considered non-active. This was an increase from the current $200.

37. One submitter suggested this should be increased to $1,500. We agree with this change as it does not materially increase the threshold but does give some additional leeway to smaller trusts to maintain their non-active status.

Threshold for distributions from testamentary trusts

38. In developing the proposals for these amendments, we undertook some targeted consultation with industry representatives on the requirements for testamentary trusts and estates to be permitted not to file a tax return. During that consultation, one of the parties suggested that a limit on the distribution amount from a trust be included within the provision.

39. The proposal in the Bill reflected that suggestion and required testamentary trusts who made distributions over $100,000 to file a tax return. Some submissions on the Bill indicated that this is an onerous requirement that could include a number of trusts that are simply distributing assets from a will.

40. There is no distribution requirement for other trusts, so we recommend accepting the submission and removing the threshold for distributions from a testamentary trust from the Bill.

Transactions with other parties

41. A trust cannot be considered non-active if it has been a party to transactions with assets of the trust or estate that results in income in any person's hands or gives rise to a fringe benefit to an employee.

42. The Bill did not propose a change to this rule, however, several submitters pointed out that this rule is particularly wide and makes a number of trusts that generate no income file a tax return.

43. An example would be a trust that owns a family house but has no income. If they install a heat pump, they would have to file a return in that year because the purchase and installation of the heat pump would result in income to the installer's hands.

44. We agree that this test is set too wide and recommend an adjustment to target the requirement at higher-risk transactions related-party transactions.

45. We propose partly agreeing with the submission and amending the test to allow taxpayers who have transactions with non-related parties to not have to file a tax return but require those trusts who have transactions with parties related to the trust to file.

Submissions to be declined

Reportable income threshold

46. The Bill proposes that trusts or estates that earn less than $1,000 of reportable income (essentially income with tax deducted at source) could still be considered non-active.

47. One submitter suggested this should be increased to $5,000 in line with the proposal for testamentary trusts. We consider there is a still a distinction that should be maintained between testamentary trusts and other trusts and recommend declining the submission.

Recommendations
Note there are no fiscal implications to these amendments
Noted
Agree to allow trusts and estates who incur less than $1,500 of administrative and bank charges to remain non-active or non-filing trusts.
Agreed/Not agreed
Agree that the threshold for reportable income for a non-filing trust that is not a testamentary trust be set at $1,000 as proposed in the Bill.
Agreed/Not agreed
Agree that the threshold for distributions from a testamentary trust be removed from the Bill and allow testamentary trusts to not file a tax return no matter the level of distributions from the trust.
Agreed/Not agreed
Agree that trusts or estates who have transactions with non-related parties which give rise to income in those parties' hands to not have to file a tax return if they meet the other requirements not to file.
Agreed/Not agreed

Tax treatment of distribution networks

48. The proposals in the Bill identify utilities distribution network operators and confirm that for tax purposes their assets are the component assets of their network rather than the network themselves.

49. Two submissions considered that the drafting is overly prescriptive and were concerned it would provide less flexibility for network operators already applying a component items approach. We discussed these concerns with the submitters before the Bill was introduced. We continue to consider that this approach to be appropriate and will not lead to the concerns they have suggested.

50. To provide additional certainty, we recommend that an additional definition be added to confirm that, for the purpose of these proposals, the term "goods and services" includes electricity, telecommunications services, gas and water.

51. This change should apply from 1 April 2008 to align with the earliest application date of the proposals.

52. There is no fiscal implication associated with this change as it is only a clarification of an item that is already included in the Bill.

Recommendations
Agree that for the purpose of these proposals, the term "goods and services" includes electricity, telecommunications services, gas and water.
Agreed/Not agreed
Agree that this change should apply from 1 April 2008.
Agreed/Not agreed

Updating the insurance tax provisions following the adoption of IFRS 17

53. The current accounting standard, NZ IFRS 4, will be replaced by NZ IFRS 17 from 1 January 2023. General insurers will continue to use the accounting standard, while life insurers will use the Income Tax Act 2007 (ITA) for their Outstanding Claims Reserve (OCR) methodology. The Bill includes proposed amendments to update existing section references for insurers.

54. In response to submissions on the Bill, we recommend some minor amendments to clarify the operation of the provisions. These changes do not have any fiscal or operational implications as the remedials are clarificatory in character and do not give rise to costs.

55. In addition, you previously agreed to the inclusion of a grandparenting provision for existing spreading arrangements entered into under NZ IFRS 4 for financial life insurance (IR2022/255 refers). This grandparenting provision was not included in the Bill at introduction and we will recommend in the officials' report that it be inserted.

Treatment of the changes to the general insurance contracts outstanding claims reserve income during the year of transition

56. Currently, a transitional provision provides a rule for when a general insurance OCR is eligible for a deduction. However, there is no mirroring provision to prescribe the method to apply when an insurer receives OCR income. We recommend this be rectified and a mirroring provision be inserted.

Life insurers must use the same discount rate as accounting when determining the present value of contracts for life and general insurance

57. While general insurers will use NZ IFRS 17 to determine their OCR, life insurers will continue to use the valuation method prescribed by the ITA for contracts of both life and general insurance. Life insurers will continue to use the same discount rate for calculating present value as they use in their financial statements. We recommend this be clarified.

Recommendations

Agree to include an OCR income provision for general insurance contracts to mirror the OCR allowable deduction provision in the transitional year for IFRS 17.

Agreed/Not agreed

Agree to clarify that life insurers should continue to use the same discount rates as used in their financial statements to determine present values within the OCR for both life and general insurance.

Agreed/Not agreed

Agree that these should apply for the 2023–24 and later income years.

Agreed/Not agreed

Financial arrangements – debt equity swaps

58. The proposed amendment would apply when an insolvent company issues shares for consideration and all or part of that consideration is used to make a payment for a financial arrangement. The amendment would treat the payment as being the market value of the shares.

59. Two submitters were concerned that the proposals would increase the compliance costs for valuing shares and would be an impediment for start-ups that were experiencing financial distress from raising additional capital. We accept that these transactions may be commercially motivated, but the lender will be subscribing for shares in an insolvent issuer for an overvalue (compared with a third party that would pay very little for those shares) and would only do so where the overvalue is used to repay debt that would not otherwise be repaid.

60. We agree with a submitter that the definition of an insolvent company in the Bill can be clarified to use the solvency test in the Companies Act 1993.

61. This change should apply from the day after the date the Bill receives the Royal asset to be consistent with the underlying proposed change.

62. There are no fiscal implications associated with this change as this is only a clarification of a point that was already included in the Bill.

Recommendation

Agree that the test for insolvency should be based on the solvency test in the Companies Act 1993.

Agreed/Not agreed

Interest rate swaps held by multi-rate Portfolio Investment Entities (PIEs)

63. Submitters were supportive of the proposed amendment to allow multi-rate PIEs to elect to follow the spreading method in Determination G27 for their interest rate swaps. This determination is available under the financial arrangements rules but cannot currently be used by PIEs.

64. We agree with a submitter that a mechanism is required for an existing PIE to transition to this election. We recommend that this election apply only to swaps entered into on or after the date of the election with the previous method continuing to apply to swaps entered into before this date until they subsequently mature.

65. This change should apply from the 2023–24 income year to align with the underlying proposed change.

66. There is no fiscal implication associated with this change as all spreading methods return the correct amount of tax over the term of the arrangement and there is no way of predicting in advance which method will accelerate or decelerate tax relative to the other methods.

Recommendations

Agree that when a PIE chooses to apply determination G27 to its swaps this should apply only to swaps entered into on or after the date they made that choice.

Agreed/Not agreed

POLICY AND REGULATORY STEWARDSHIP

Tax policy report:	Summary of submissions and recommended changes for the officials' report for the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2): policy items

Date:	5 December 2022	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/542

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to the recommendations	15 December 2022
Minister of Revenue	**Agree** to the recommendations	15 December 2022

Contact for telephone discussion (if required)

Name	Position	Telephone
Melissa Siegel	Bill Manager	s 9(2)(a)
Natisha Jones	Policy Advisor	

5 December 2022

Minister of Finance
Minister of Revenue

Summary of submissions and recommended changes for the officials' report for the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2): policy items

Executive summary

1. This report seeks your approval on recommendations to be included in 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. The Bill is currently being considered by the FEC, and the officials' report is due with the Committee by 20 January 2023.

3. The Bill received approximately 800 written submissions. Oral hearings of evidence commenced on 9 November 2022 and are scheduled to continue on 7 and 19 December 2022.

4. Most of the recommendations in this report are in response to issues raised by submitters. Subject to your approval, we will include these recommendations in the officials' report.

5. In addition to the specific policy and remedial changes outlined in this report, we seek your approval to recommend drafting changes to the Committee where the Bill as introduced does not achieve the policy intent or where the drafting could be improved or clarified.

6. None of these proposed amendments are significant enough to require Cabinet approval.

7. One proposed change, relating to the proposal to exempt public transport from fringe benefit tax, has a fiscal cost

8. None of these changes give rise to any material compliance or administration costs, or any significant systems or technology implications.

9. Treasury has been consulted on this report.

Next steps

10. Subject to your agreement, recommendations outlined in this report will be drafted for inclusion in the officials' report. Subject to the FEC's agreement, these changes would be included in the revision-tracked version of the Bill to be reported back to the House by 2 March 2023.

11. The finalised officials' report is due to the FEC no later than 20 January 2023. We will report to you with a draft version of the officials' report for noting in the week beginning 16 January 2023.

Recommended action

We recommend that you:

Recommendations	Minister of Finance	Minister of Revenue
12. **indicate** in the body of this report where you agree or do not agree with the recommended amendment;	Indicated	Indicated
13. **agree** to minor and technical changes to proposals in the Bill to improve the drafting of provisions or to give effect to the policy intent;	N/A	Agreed/ Not agreed
14. **note** that agreed amendments will be included in the officials' report to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2);	Noted	Noted
15. **note** that the final version of the officials' report on the Bill will be sent to your office in the week beginning 16 January 2022 and then to the Finance and Expenditure Committee no later than 20 January 2023.	Noted	Noted

s 9(2)(a)

Melissa Siegel
Bill Manager
Inland Revenue

Hon Grant Robertson
Minister of Finance

/ /2022

Hon David Parker
Minister of Revenue

/ /2022

Background

16. The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) is currently being considered by the Finance and Expenditure Committee ("FEC"). The officials' report on submissions is due to the FEC no later than 20 January 2023 to enable the Committee to report back to the House by 2 March 2023.

17. Written submissions on the Bill closed on 2 November 2022. The first hearing of oral evidence was held on 9 November 2022 and subsequent hearings are scheduled for 7 and 19 December 2022. A submitter's oral submission should align with their written submission, so we do not anticipate new issues to arise at the two remaining hearings. However, if new issues do arise, we will co-ordinate with your offices to seek your approval where appropriate.

18. Approximately 800 written submissions were received. In addition to submissions by stakeholders such as law and accounting firms, most of the submissions relate to either the proposed exemption from FBT for public transport or the GST platform economy proposal.

19. Around 415 submissions were received on the proposed exemption from FBT for public transport which were largely connected to a campaign launched by the Cycling Action Network in early October. Many of these submissions submit that clause 6 of Hon Julie Anne Genter's Income Tax (Clean Transport FBT Exclusions) Amendment Bill should be adopted to exempt bicycles from FBT. The Income Tax (Clean Transport FBT Exclusions) Amendment Bill is a Member's Bill that has not yet been drawn from the ballot.

20. 310 submissions were received on the proposal to apply GST to certain types of services provided on digital platforms. Many of these were from individuals following an email from Airbnb to them encouraging them to submit against the proposal in the Bill. Most of these submitters opposed the proposal for different reasons, including being worried about the compliance costs associated with GST registration (though, we note that under the proposals in the Bill, hosts would not need to register for GST unless they were above the $60,000 registration threshold and this is the status quo) and being concerned about the impact of GST on demand for their accommodation.

21. This report sets out recommended changes that could be included in the officials' report to the FEC.

22. Only one recommended change has a fiscal impact and requires approval by the Minister of Finance and Minister of Revenue. The recommendation relates to the proposed fringe benefit tax exemption for certain public transport fares.

23. None of the other proposed amendments in this report have a fiscal impact and require approval by the Parliamentary Under-Secretary to the Minister of Revenue and endorsement by the Minister of Revenue.

24. We do not consider that the recommended changes in this report require Cabinet approval.

Fringe benefit tax exemption for certain public transport fares

25. The Bill proposes an exemption from fringe benefit tax (FBT) for public transport fares that are subsidised by an employer mainly for the purpose of their employees travelling between their home and place of work. The proposal seeks to produce a more neutral FBT outcome between two modes of transport between home and work:

- by car, with an FBT exemption currently in place for employer-provided on-premises car parks, and
- by more environmentally friendly public transport, which is currently subject to FBT.

26. The proposal received more than 400 submissions, with most relating to a campaign launched by the Cycling Action Network to include bicycles. Overall, submitters supported the proposal to exempt public transport from FBT. However, one submitter pointed out that the proposal added a distortion to the tax system relative to other fringe benefits and another submitted that the proposal would be a move away from the principle that home-to-work travel is a private expense.

27. Some suggested that coverage of the "public transport" exemption should be clarified or extended to include on-demand services, transport covered by the Total Mobility Scheme, and all public transport beyond the home-to-work commute. As noted above, the majority of submitters suggested an FBT exemption for bicycles. Some also suggested additional FBT exemptions to encourage environmentally desirable behaviours, such as electric vehicles (EVs), e-scooters, ridesharing, and bike locks.

28. Several submissions suggested an equivalent exemption for employers reimbursing or paying an allowance towards their employees' public transport fares. These would not be covered by the proposed FBT exemption but would be taxed as salary and wages under PAYE system and therefore subject to income tax.

29. Submitters considered that guidance for employers needs to be published on the boundary between fringe benefits and PAYE payments, particularly in the context of the proposed FBT exemption. We agree with this and will include guidance in the relevant Tax Information Bulletin item on the Bill following enactment.

Proposed changes

30. Based on submissions, we recommend two changes to the FBT exemption proposal:

- including the Total Mobility Scheme in the proposed exemption, and
- confirming on-demand services are covered by the proposed exemption.

Total Mobility Scheme (Minister of Finance and Minister of Revenue approval required)

31. The Total Mobility Scheme is a nationwide scheme administered by regional councils and Waka Kotahi to support people who cannot use public transport all or some of the time. Total Mobility customers pay 50% of the cost of travel (for example, by shuttle with a wheelchair hoist) up to a regional cap and any additional cost that is over the regional cap. Their regional council reimburses the transport operator directly for the remaining 50% of the cost.

32. Subject to your agreement, we will recommend that employer-provided fringe benefits for travel between home and work that are part funded by the Total Mobility Scheme should be covered by the proposed FBT exemption. While the original policy intent of the exemption focused on environmental and neutrality concerns, including this situation within the exemption addresses equity concerns. It would ensure that employers are able to provide fringe benefits for transport part funded by the Total Mobility Scheme for employees with impairments without attracting FBT.

33. The impact of the proposed change is hard to quantify. There is no data available on how many Total Mobility card holders are employed and how many Total Mobility

trips are for work purposes (as the purpose of the trip does not need to be specified).

34. The proposed amendment is likely to have a very small fiscal cost. For this reason, we have estimated a nominal revenue loss of approximately $0.2 million a year, with a corresponding impact on the operating balance funded through the Tax Policy Scorecard:

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2022/23**	**2023/24**	**2024/25**	**2025/26**	**2026/27 & outyears**
Crown Revenue and Receipts: Tax Revenue	-	(0.200)	(0.200)	(0.200)	(0.200)

On-demand services

35. On-demand services are increasingly being offered by public transport providers in areas of lower demand. These public transport services are booked and service a set area, rather than having a set timetable and route. Standard public transport fares apply.

36. Based on the current wording of the provision, on-demand services may not be covered by the proposed exemption.

37. We agree with submitters that this service forms part of the public transport network. We recommend clarifying that on-demand services are included in the proposed FBT exemption, where the service is part of a public transport provider's network and is subject to a public transport fare.

Submissions to be declined

Widening the proposed public transport exemption to all transport, not just commuting

38. Some submitters suggested extending the exemption to all public transport, not just commuting, would further encourage environmentally desirable behaviour. However, we think that limiting the exemption to between home and work travel would best achieve the policy objective of improving neutrality in the FBT rules. Widening the proposed exemption would increase distortions and further reduce coherence and neutrality in the tax system.

Additional exemption for bicycles

39. Submitters suggested that bicycles should be exempt from FBT to increase the number of people commuting by bicycle, as this has positive effects on the environment as well as on wellbeing and health.

40. The proposed public transport FBT exemption seeks to achieve a more neutral FBT outcome between travelling to and from work by car and parking in an employer-provided car park (currently FBT exempt) and travelling by the main alternative transport for that commute (i.e., public transport). This is in line with the specific Tax Working Group recommendation.

41. New Zealand's tax system uses a broad-base framework. This means that taxes are applied neutrally with few exemptions and subsidies, which minimises the distortion of economic activity. There is a high threshold to depart from this neutrality approach and there are few exemptions from FBT. Where exemptions are provided, the scope of the exemption is important in managing the potential distortion. The proposed FBT exemption for public transport and the existing FBT exemption for car parks share a similar focus that manages this risk. Both exemptions relate to providing access rather than funding or enabling the purchase of an underlying asset, such as a bicycle or EV.

42. Further FBT exemptions, particularly for underlying assets, would increase the distortion between the taxation of transport benefits and other fringe benefits. This would reduce the overall fairness of the tax system. While many other employer-provided benefits could also provide socially desirable outcomes, introducing additional exemptions would further reduce the coherence and neutrality of the tax system.

43. We therefore do not recommend an FBT exemption for bicycles.

Equivalent income tax exemption for public transport reimbursements and allowances

44. Some submitters were concerned that the application of the proposed FBT exemption will be administratively difficult for employers, resulting in a low usage of the exemption.

45. Submitters considered that it would be more effective to provide an income tax exemption for allowances for, or reimbursements of, public transport costs to encourage environmentally friendly outcomes. Allowances and reimbursements are not covered by the proposed FBT exemption but are subject to income tax through the PAYE system. Submitters emphasised this was important given recent announcements about the new National Ticketing Solution project (to be piloted in Canterbury in 2024 and expanded to other regions by 2026) which would allow for the use of debit or credit cards and other digital payment methods on public transport.

46. The existing neutrality issue the exemption tries to address does not arise in relation to reimbursements and allowances. This is because reimbursements and allowances for both car parks and public transport costs are subject to income tax. Integrity concerns also arise for tax free allowances, which means that there are very few tax-free employer allowances in the income tax rules. Existing tax-free allowances are mostly limited to unusual work circumstances that cause additional costs, such as certain additional transport costs when there is no adequate public transport for the place of work, or short out-of-town secondments and conferences.

47. We have talked to some large public transport providers that are in the process of developing products that may address some of the administrative difficulties of providing these fringe benefits. They also stated that, while the national ticketing solution is in the initial stages of development, they understand that specific public transport ticketing solutions will be available alongside the ability to use debit, credit cards and other digital payment methods.

48. We do not recommend an equivalent income tax exemption for allowance or reimbursements relating to public transport costs.

Recommendations

Agree to include Total Mobility Scheme fringe benefits for between home and work travel in the proposed exemption for public transport from fringe benefit tax.

Agreed/Not agreed Agreed/Not agreed

Note the following changes to tax revenue as a result of the policy decision above, with a corresponding impact on the operating balanced and net debt:

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2022/23**	**2023/24**	**2024/25**	**2025/26**	**2026/27 & outyears**
Crown Revenue and Receipts: Tax Revenue	-	(0.200)	(0.200)	(0.200)	(0.200)

Noted Noted

Agree that the fiscal implications resulting from this change will be managed through the Tax Policy Scorecard.

Agreed/Not agreed Agreed/Not agreed

Agree to clarify that on-demand public transport services are covered by the proposed FBT exemption, where it is part of the public transport provider's network and charges a public transport fare.

Agreed/Not agreed Agreed/Not agreed

Agree that there should be no FBT exemption for bicycles.

Agreed/Not agreed Agreed/Not agreed

Agree that no equivalent income tax exemption should be proposed for employer reimbursements and allowances towards their employees' public transport costs.

Agreed/Not agreed Agreed/Not agreed

Platform Economy

49. The Bill contains proposals that would:

- **Implement an information reporting and exchange framework designed by the Organisation for Economic Co-operation and Development (OECD).** The information reported and exchanged would relate to taxpayers' income-earning activities on digital platforms. It is estimated to raise an additional $11 million to $22 million per annum through improved income tax collection arising from Inland Revenue having more information about taxpayers' incomes. This would apply from the 2024 calendar year; and

- **Require digital platforms to collect and return GST on supplies of short-term accommodation, ridesharing, and food and beverage delivery services.** These changes are estimated to raise an additional $47 million per annum in GST revenue. This would apply from 1 April 2024.

50. We have provided the Minister of Revenue's office with a more detailed overview of submissions on the Bill (BN2022/530 refers). Other than the change recommended below, we are not recommending any substantive or material changes to the Bill that would require Ministerial or Cabinet approval. The other changes we intend to recommend in the officials' report will be of a technical and minor nature, focused on detailed aspects of the proposals and ensuring there is sufficient clarity and guidance available within the rules.[1]

Proposed changes: recent developments at the OECD on the reporting rules

51. At the November 2022 OECD meeting, the digital platform information reporting requirements were discussed. At that meeting, the European Commission provided an update on the interaction between their rules (DAC7, which applies to digital platforms based in Europe) and the OECD's reporting rules.

52. The European Commission confirmed that European jurisdictions would be able to exchange information with jurisdictions outside of Europe that had "partial equivalence" with DAC7. This means that New Zealand could receive information from tax authorities in Europe on income earned by New Zealand taxpayers through European-based digital platforms in relation to accommodation and personal services.

53. This also means we would no longer be required to implement the "full" reporting rules that would require digital platforms in New Zealand to report to Inland Revenue regarding income earned by non-residents operating through New Zealand platforms from the sale of goods and vehicle rentals. The downsides to not implementing the "full" reporting rules are still being considered in consultation with affected New Zealand digital platforms, but these include:

- New Zealand not receiving information from foreign tax authorities about income earned by New Zealand tax residents from the sale of goods and vehicle rentals facilitated by foreign digital platforms; and

- New Zealand-based digital platforms would have to report to foreign tax authorities in respect of income earned by non-residents in relation to the sale of goods and vehicle rentals (as opposed to New Zealand digital platforms instead reporting only to Inland Revenue, which would then share information with foreign tax authorities). It is possible that digital platforms would prefer to report this information to Inland Revenue for exchange purposes as it means they do not need to navigate foreign laws and processes. This is something we are exploring with them.

54. Since these implications are still being worked through, subject to your agreement, we intend to recommend to the FEC that the extended reporting rules (which covers the sale of goods and vehicle rentals) be brought into force by Order in Council at some point within the next three years (otherwise, the extended reporting rules would not be given legislative effect in New Zealand). This provides the Government with an opportunity to implement the rules if it is considered desirable, but also provides sufficient time for us to work with New Zealand-based digital platforms to determine the implications of the sale of goods reporting requirements and their preferences.

[1] For example, some submitters sought additional guidance and clarity on aspects of the reporting rules and the GST proposals through further legislative amendments (for example, including definitions within the Bill instead of leaving it to supplementary guidance).

55. This decision does not have financial implications because the original decision to implement the OECD's extended reporting rules covering the sale of goods and vehicle rentals did not affect the estimated additional revenue. The $11 million to $22 million of additional revenue was based on income earned from accommodation rental and personal services only.

Submissions to be declined

Implementation should be delayed

56. Submitters considered that both proposals should be delayed providing more time for affected digital platforms to consider and implement the required changes.

57. We note that the OECD's information reporting and exchange framework is being implemented in Canada and the United Kingdom on the same timeline as is proposed for New Zealand, and in Europe from 2023. The proposed GST changes would also come into force 12 months following the expected enactment of the Bill, which is what digital platforms signalled was sufficient development time for changes of this scale. For these reasons, we do not recommend deferring implementation of either change proposed in the Bill.

    Submitters also said that the proposals should not be implemented in New Zealand until there was clearer evidence that this was direction being headed in by other jurisdictions.

58. We do not agree with these submissions. The information reporting and exchange framework is being implemented by approximately two-thirds of OECD members on a faster, or comparable, timeframe as is proposed in New Zealand. We consider there are strong arguments for implementing the GST changes, and do not agree that there are benefits in waiting to see what other jurisdictions decide to do in this area.

Scope of the rules

59. A common concern raised by submitters is that under the reporting rules, New Zealand digital platforms would be required to report to Inland Revenue by 31 January in relation to the preceding calendar year. Submitters have suggested this date be deferred because staff will be on annual leave.

60. While we understand submitters' concerns, the due date for this information is driven by the desire of foreign tax authorities to use the information from the exchange for pre-populating tax returns of their tax residents. Under the rules, Inland Revenue would need to share information with foreign tax authorities by the end of February. We are therefore unable to shift the 31 January platform to Inland Revenue reporting date of without compromising Inland Revenue's ability to fulfil New Zealand's obligations under the OECD's rules.

61. We do, however, intend to work with affected digital platforms to provide them with additional time where practical. We also note that, as the OECD's rules require information to be broken down into quarterly periods, 75% of the information could be collated well in advance of the 31 January reporting date. This means that digital platforms with a reporting obligation would only need to verify information for the last quarter of the calendar year before reporting by 31 January.

Recommendations

Agree that the application date for implementation of the OECD's information reporting and exchange framework for accommodation rental and personal services remains 1 January 2024.

Agreed/Not agreed Agreed/Not agreed

Agree that the application date for the GST changes requiring digital platforms to collect GST on short-term rental accommodation, ridesharing, and food and beverage delivery services remains 1 April 2024.

Agreed/Not agreed Agreed/Not agreed

Note that deferring the implementation date of either of these proposals would have a fiscal cost equal to the estimated additional revenue which would be foregone.

Noted Noted

Agree to defer implementation of the OECD's extended reporting rules (covering the sale of goods and vehicle rentals) until such time that an Order in Council, made on recommendation of the Minister of Revenue, brings them into force.

Agreed/Not agreed Agreed/Not agreed

If you agree to the recommendation above, **agree** that the extended reporting rules would not be given legislative effect in New Zealand unless brought into force by Order in Council within three years following enactment of the Bill.

Agreed/Not agreed Agreed/Not agreed

Cross-border workers

62. The Bill contains proposals which seek to clarify and modernise the administrative aspects of the rules applying to cross-border workers and to reduce the cost of complying with New Zealand's pay as you earn (PAYE), fringe benefit tax (FBT) and employer's superannuation contribution tax (ESCT) and non-resident contractor tax (NRCT) rules.

63. Submitters broadly welcomed reform to the tax settings that apply to employers of cross-border employees and payers of NRCT. Submitters made helpful suggestions to improve the implementation of the policies.

64. Some submitters felt that the proposals could have gone further. One common concern raised by submitters relates to practical difficulties in obtaining an IRD number. These submitters felt that legislative change was required to simplify the process for cross-border workers and non-resident employers. We acknowledge this concern but changes to IRD number requirements are out of scope of the current project and would be better addressed through operational change or as part of wider reforms.

Proposed changes

65. Two proposals attracted widespread comment:

- the proposal to introduce an NRCT reporting requirement, and
- the proposal to transfer FBT and ESCT obligations to an employee where the employer does not have a sufficient presence in New Zealand to be subject to New Zealand employment-related tax obligations.

NRCT reporting and the "single payer" view

66. The rationale behind the proposed reporting requirement is that it would support the proposed simplification of the NRCT withholding thresholds (the "single payer" view). Submitters were concerned that the information required was broad and likely to require manual intervention to prepare and submit reports. Further, the information requirements were out of balance to the purpose of supporting the proposed NRCT reforms or the cost of compliance.

67. Subject to your agreement, we intend to recommend in the officials' report that proposals relating to the "single payer" view of the NRCT withholding thresholds and NRCT reporting be removed from the Bill. We consider that these proposals require further consideration and consultation before reintroduction in a future tax bill.

68. This change does not have a fiscal impact because it would be a postponement of an administrative measure that does not have a fiscal impact.

Transfer of FBT and ESCT obligations to an employee

69. Submitters were concerned that FBT and ESCT are ordinarily paid by employers and the transfer of these obligations to the employee may cause the employee cashflow difficulties. In addition, the calculation of these taxes requires information that may not be readily available to the employee.

70. Conversations with submitters indicate that the most common fringe benefits received by remote employees are employer contributions to foreign superannuation schemes and the payment of insurance premiums. One submitter had seen company vehicles used by remote employees.

71. Subject to your agreement, we will recommend that a de minimis for fringe benefits be introduced for employees managing their employment-related tax obligations. We propose that the de minimis be set at $2,500 per income year. Domestic employers are entitled to a de minimis threshold of $1,200 per income year per employee for unclassified benefits (subject to conditions). The higher proposed de minimis for remote employees recognises that, in these limited circumstances, the employee bears the tax cost and compliance burden.

72. This means that an employee would not be required to report or pay tax on fringe benefits if their total taxable benefits per income year was $2,500 or less. Where fringe benefits provided exceed this amount, the benefits would be taxed in full.

73. We consider that this FBT change has no fiscal impact as the original fiscal impact was small and unquantifiable. As such, it falls within the costing of the original proposal.

74. We do not recommend a similar de minimis for employer contributions to foreign superannuation schemes. Employer contributions to foreign superannuation schemes may be a valuable element of an employee's total remuneration. A meaningful ESCT de minimis for remote workers would not be possible without creating a significant gap between the treatment of non-resident employers (who do not have a sufficient presence in New Zealand) and their employees, and New Zealand employers and employees.

Drafting clarifications

75. We will recommend a clarification to ensure any tax due on fringe benefits is paid via PAYE at the employee's marginal tax rate. This is necessary for the payment of the tax to be processed correctly by Inland Revenue's systems. This will result in a small under-taxation of the benefit compared to the employer paying FBT. FBT is paid at a grossed-up tax rate (63.93% for an individual on the top income tax rate of 39%), but the employer can claim the tax paid as a deduction from its own income. This reduces the tax paid from the headline rate to an effective rate that is close to but lower than the employee's marginal tax rate. Inland Revenue will monitor taxpayer behaviour and may recommend further policy changes if taxpayers begin to exploit this difference.

76. We will also recommend a further drafting clarification to reflect that the employer superannuation contributions to foreign schemes should be subject to ESCT. ESCT enables the contribution to be excluded income for certain purposes, such as entitlement to Working for Families. Under existing rules, an employer and employee may, in some circumstances, opt out of ESCT and choose taxation under PAYE instead. This option will be preserved as it enables employers and employees to agree the appropriate treatment for their circumstances.

77. There are no fiscals associated with these clarifications because the original fiscal impact was small and unquantifiable. As such, it falls within the costing of the original proposal.

Submissions to be declined

Commencement date

78. Submitters considered that all proposals which apply to employers and cross-border employees should have a consistent application date of 1 April 2023.

79. The proposals to address PAYE, FBT and ESCT integrity measures would apply from 1 April 2023. The later application date for other proposals allows time for the development of systems and guidance by Inland Revenue for employers and tax advisors. We consider that having different commencement dates for different proposals remains appropriate.

Shadow payroll rule

80. The existing shadow payroll rule applies where an employee works in New Zealand but remains on the employer's payroll system in a different jurisdiction. The rule treats the income as being derived 20 days after payment to ensure that employers of cross-border workers have sufficient time to collate and report information to Inland Revenue. The Bill proposes to rationalise the legislation by relocating the shadow payroll rule to a new section for cross-border employees.

81. Submitters suggested that the current shadow payroll rule should be changed from a deeming rule to a rule which better aligns with the employee's actual payment date.

82. From a policy perspective, we do not oppose the submission, but it is outside the scope of the current Bill and would require significant systems changes. This would require further work and would be better suited for a future tax bill.

Annual PAYE arrangement

83. Two submitters did not support an annual payment basis for PAYE in special circumstances because of the risk of non-compliance.

84. We do not consider non-compliance to be a material risk. Employers who engage with Inland Revenue (which is required to access the annual payment basis) are more likely to be seeking to lower their compliance burden than to avoid their tax obligations.

Payroll subsidies

85. Two submitters thought that the Government should reinstate payroll subsidies considering the proposals to transfer FBT and ESCT obligations to an employee who manages their own employment taxes.

86. We do not recommend the reintroduction of payroll subsidies. We do not provide them for other taxpayers, and we do not consider it appropriate to make an exception for cross border workers as it would undermine the coherence of the tax system.

Longer period for retroactive NRCT exemptions

87. The Bill proposes a period of 92 days for retroactive NRCT exemptions. We do not support extending this period as this may reduce the incentive to apply for an exemption or conflate the exemption with a reclaim of overpaid tax via a tax return. We think that 92 days is sufficient to enable a contractor to obtain an exemption on a timely basis which covers the relevant contract payments.

Exemption from NRCT withholding for GST-registered persons

88. GST-registered non-resident contractors are already able to obtain an NRCT withholding exemption. Exemptions are available based on a good compliance history. GST registration is only part of that picture. Further, GST registration is not indicative of tax residence or presence in New Zealand. They may be registered for GST to claim input tax. This does not signify the kind of connection with the New Zealand tax system required to reduce the integrity risk which NRCT seeks to address.

Recommendations

Agree to remove the "single payer" view and the non-resident contractor's tax reporting requirement from the current Bill for further consultation.

Agreed/Not agreed Agreed/Not agreed

Agree to include a $2,500 de minimis where an employee is responsible for paying fringe benefit tax.

Agreed/Not agreed Agreed/Not agreed

Agree to Inland Revenue officials informing affected submitters of these changes to minimise impacts on stakeholders' systems and processes.

Agreed/Not agreed Agreed/Not agreed

GST apportionment and adjustment rules

89. The Bill proposes a package of changes to the GST apportionment and adjustment rules to reduce the compliance costs they impose on businesses and better align them with current taxpayer practices. These changes include:

    - introducing a principal purpose test for goods and services acquired for $10,000 or less (GST exclusive) that would allow a registered person to claim a full GST input tax deduction for taxable use instead of applying the apportionment rules, and
    - allowing GST-registered persons to elect to treat certain assets that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use.

90. Submissions supported the GST apportionment proposals and suggested some small changes to make the proposals easier for the affected taxpayers to comply with.

Proposed changes

91. We intend to recommend that the FEC accept most, but not all, of the changes suggested by submitters. The main submissions we agree with are described below. None of these submissions would have a fiscal cost as they either provide the affected taxpayers with the same GST outcome as the existing proposal in the Bill or allow them to continue with their current tax practices which are in the revenue baselines.

92. Other suggested changes that we do not support were because they would undermine the policy intent, may not be effective at reducing overall compliance costs, or could have a fiscal cost.

Principal purpose test: optionality for GST registered persons

93. Deloitte and PwC submitted that the proposed principal purpose test for goods and services acquired for $10,000 or less should be optional for GST-registered persons. We agree that this could reduce compliance costs for some businesses, as it would mean they would not need to apply a different method for goods or services depending on whether they were acquired for $10,000 or less. However, as most businesses will face lower compliance costs under the proposed principal purpose test, we expect that few businesses would be likely to opt out in practice. To prevent "cherry picking," we recommend that the registered person (or GST group if relevant) would be required to "opt out" of applying the principal purpose test for all goods or services they acquire for $10,000 or less for a minimum period such as 24 months.

Private use election: change from exempt to non-taxable supplies

94. The Bill proposes some new rules which would allow GST-registered persons to elect to treat certain assets that have mainly private or exempt use, such as dwellings, as if they only had private or exempt use. The current Bill provisions would achieve this by making the sale of these assets an exempt supply. Chartered Accountants Australia and New Zealand submitted it would be better to make the sale of the assets a non-taxable supply.

95. We agree this would be more intuitive (as goods used for private purposes are generally non-taxable supplies) and could prevent some unintended complexity (as other rules can apply when a person makes exempt supplies).

Use of agreed apportionment methods

96. The Goods and Services Act 1985 (GST Act) allows registered persons or industry associations to apply to the Commissioner to agree an apportionment method as an alternative to applying the general apportionment rules. The scope of these alternative methods is being widened in the Bill. Deloitte submitted that registered persons should be able to adopt an alternative apportionment method that Inland Revenue have published (if it is appropriate for the registered person's situation).

97. We agree that providing an ability for the Commissioner to publish acceptable methods could reduce compliance costs as the affected persons would not have to develop and agree their own bespoke methods with the Commissioner.

98. We also agree with a submission from KPMG that businesses that are members of an industry association which has agreed an alternative apportionment method with Inland Revenue should be able to choose whether they either apply the method agreed by the industry association or the general apportionment rules.

Recommendations

Agree that the proposed principal purpose test for goods and services acquired for $10,000 or less should be optional for GST-registered persons to use.

Agreed/Not agreed Agreed/Not agreed

Agree that the proposal to allow GST-registered persons to treat certain assets that have mainly private or exempt use as an exempt supply when sold, should be amended to make the sale of these assets a non-taxable supply instead.

Agreed/Not agreed Agreed/Not agreed

Agree to expand the existing ability whereby registered persons or industry associations can apply to the Commissioner to agree an apportionment method, so the Commissioner can also publish acceptable methods that the relevant registered persons can then choose to use.

Agreed/Not agreed Agreed/Not agreed

Agree that businesses that are members of an industry association which has agreed an alternative apportionment method with Inland Revenue should be able to choose whether they either apply the method agreed by the industry association or the general apportionment rules.

Agreed/Not agreed Agreed/Not agreed

Build-to-rent exclusion from interest limitation

99. The Bill proposes to exempt large-scale "build-to-rent" assets from the interest limitation rules for residential investment properties in perpetuity. The Bill defines this new asset class as 20 or more dwellings in a single development. Tenants must also be offered a 10-year tenancy under the Residential Tenancies Act 1986 (RTA) with the ability for the tenant to exit the lease with 56 days' notice and personalisation policies that set out the alterations a tenant can make under the RTA.

100. Feedback on the build-to-rent exclusion has generally supported the introduction of a defined asset class and in-perpetuity exclusion from the interest limitation rules for build-to-rent developments. Submitters who did not favour the policy were concerned that it was unfair to give tax breaks to large wealthy investors, and not to small-scale developers or landlords who were still increasing housing supply.

101. Submitters requested clarification on some aspects of the policy, for example, what the term 'contiguous land' covered, what was required in a personalisation policy, and whether the term 'single ownership' allowed for business structures such as joint ventures and limited partnerships.

102. In addition to the proposed changes outlined below, Te Tūāpapa Kura Kāinga has reported separately to the Minister of Housing regarding an issue with the RTA. The RTA does not explicitly permit landlords to offer fixed term tenancies that can be terminated with 56 days' notice. An amendment to the RTA is required to ensure the build-to-rent exclusion operates as intended. Subject to the Minister of Housing's agreement, this will be raised as a matter raised by officials in the officials' report. A copy of that report will be referred to the Minister of Revenue.

Proposed changes

Information sharing between Inland Revenue and Te Tūāpapa Kura Kāinga

103. A register of assets is required to be set up and maintained by Te Tūāpapa Kura Kāinga to enable Inland Revenue to correctly apply the exclusion to eligible taxpayers. Setting up and maintaining the register requires taxpayer information to be shared between Te Tūāpapa Kura Kāinga and Inland Revenue. This would include:

- a reactive information share where Inland Revenue requests information from Te Tūāpapa Kura Kāinga for auditing purposes, and
- a proactive information share from Inland Revenue to inform Te Tūāpapa Kura Kāinga that an asset no longer meets the build-to-rent requirements and should be removed from the register.

104. Information would only be shared if it is necessary for the administration of the build-to-rent exclusion from interest limitation.

105. We recommend inserting a disclosure provision into the Tax Administration Act 1994 to allow Inland Revenue to share the necessary information with Te Tūāpapa Kura Kāinga. This provision would apply from 1 April 2023.

106. The proposed change has no impact on the costing of the policy as it simply allows for the sharing of information between Inland Revenue and Tūāpapa Kura Kāinga.

Other minor changes

107. Following submissions on the Bill, we will recommend to the FEC minor technical amendments to ensure the language better reflects the original intent of the policy. For example, some submitters raised the concern that the term 'contiguous land' applied too narrowly and would bar certain build-to-rent configurations (such as mixed tenure developments that also contain owner-occupied dwellings) from qualifying. We agree that the term 'contiguous land' is not consistent with the policy intent and recommend that a project-based requirement should be used instead.

Submissions to be declined

No 20-unit dwelling requirement

108. Several submitters considered that the proposed exclusion should be available to anyone increasing housing supply and the requirement for the development to consist of at least 20 dwellings should be removed.

109. We do not agree with this submission as the intent of the proposal to encourage the development of new housing supply at scale. The minimum requirement was chosen to reflect both the international standards for build-to-rent, and the New Zealand context. Small-scale investors who contribute to new housing supply already benefit from the 20-year new build exemption from interest limitation, and the five-year new build bright-line test.

Application of 20-dwelling requirement to all properties owned by a person

110. Other submitters considered that the 20-dwelling requirement should not be restricted to properties in one location. Instead, submitters suggested that as long as the person owns at least 20 properties in any location, the requirement should be satisfied.

111. The exemption targets build-to-rent accommodation which is a specific model of housing that delivers quality rental housing at pace and scale in a given location, rather than having a wider application to accommodation generally. Build-to-rent also provides tenant benefits that are associated with the configuration of the development including professional asset and tenancy management, shared amenities and increased sense of community generated by medium-high density housing.

112. We do not consider it appropriate to extend the proposed exemption to a landlord who simply owns 20 dwellings around New Zealand as it would not be in line with the goal of build-to-rent to provide cohesively managed developments that encourage a sense of community.

Removal of the requirement to offer personalisation policies

113. Submitters consider that the requirement to offer personalisation policies should be removed because the protections are already afforded under the RTA, and it would create confusion and lead disputes between tenants and landlords. Many submitters were also unclear on what a personalisation policy had to allow, and whether they could require a tenant to rectify or "make good" any alterations at the end of the tenancy.

114. The requirement for landlords to offer personalisation policies to tenants is intended to ensure that tenants are aware of their right to make certain alterations as set out under the RTA. This will likely mitigate the likelihood of disputes between landlords and tenants.

115. The level of personalisation set out in the policy can, but does not have to, go beyond what is already afforded under the RTA. It does not prohibit the use of "make good" penalties. We will propose minor drafting changes to clarify these points.

Removal of "same person" requirement

116. Some submitters considered the requirement that the development be owned by a single owner should be removed as it is not necessary given the other build-to-rent requirements (such as the requirement for 20 dwellings to be on contiguous land).

117. This requirement ensures that assets accessing the build-to-rent exclusion are cohesive developments.

118. Some submitters were also concerned that the current drafting would exclude joint ventures and limited partnerships. The term is not intended to exclude joint ventures or limited partnerships.

Use of other policy tools to encourage build-to-rent developments

119. Submitters in the build-to-rent industry suggested that other policy tools should be used to encourage build-to-rent developments. Examples included the reinstatement of depreciation deductions, an exclusion from the bright-lines rules, or changes to the Overseas Investment Act 2005.

120. We recommend these submissions be declined for reason of being outside the scope of the Bill.

Recommendations

Agree to amend the Tax Administration Act 1994 to allow Inland Revenue to share build-to-rent provider information with Te Tūāpapa Kura Kāinga.

Agreed/Not agreed Agreed/Not agreed

Dual-resident companies *(Minister of Revenue only)*

121. The recommendations in this section do not require approval by the Minister of Finance.

122. The Bill contains proposals that:

- Amend the loss grouping, consolidation, and imputation credit account (ICA) rules to ensure New Zealand resident companies can continue to access certain beneficial tax regimes that are not ordinarily available to dual-resident companies, and

- Amend the domestic dividend exemption and corporate migration rules to ensure companies within a wholly-owned group can no longer shift income out of New Zealand without the anticipated New Zealand income tax by changing their tax residence and obtaining relief from taxation under a double tax agreement (DTA).

123. Submitters welcomed the amendments to the loss grouping, consolidation, and ICA rules. Several submitters suggested the ICA amendments should be extended beyond Australia. However, this would be a significant change to the overall imputation credit regime and would require substantial further policy analysis.

124. Submitters raised several concerns with the integrity proposals, mainly focused on the risk of overreach of the rules for taxpayers that may inadvertently change their residence under a DTA but continue to pay tax as if they were New Zealand DTA resident. Submitters suggested changes that would reduce the risk of overreach and compliance costs, while still ensuring that aggressive tax planning arrangements are prevented.

Proposed changes

125. Both the dividend integrity and corporate migration integrity proposals received extensive comments from submitters.

126. Submitters were concerned that the dividend integrity proposal would impose additional compliance costs. The proposal may result in companies conducting tax residence checks when a dividend is paid between members of the same wholly-owned group to determine whether the recipient is potentially a dual-resident company. Where a dividend has not been on-paid by a dual-resident company to a non-resident, and where New Zealand has not lost its taxing rights or non-resident withholding tax (NRWT) has been assessed, then these dividends should not be subject to the proposed dividend integrity rules.

127. Submitters were also concerned that the corporate migration proposals will impose significant risk on some companies inadvertently falling into the integrity rules. This would result in the company being liable for income tax based on a deemed liquidation. This would be the case even where the company has not deliberately sought to undermine the integrity of the New Zealand tax base. For many companies, this tax liability may be significant. Consequently, in response to this risk, many companies would incur additional compliance costs, including making permanent changes to their corporate structure (for example, using a branch structure).

128. In response to these concerns, we propose several changes to the proposals. The proposed changes would have the same application date as the underlying integrity proposals (30 August 2022). There is no change to the fiscal costing associated with the recommended changes to the proposals. This is because the initial fiscal costing had a nominal annual benefit (about $200k per annum) and the recommended changes would still capture the arrangements that give rise to integrity concerns.

Dividend integrity

Exclusion of dividends paid to companies that are dual resident in Australia and New Zealand

129. We recommend the dividend integrity rules should exclude dividends paid to companies that are dual resident in Australia and New Zealand. We believe this will reduce the compliance costs for many companies, while ensuring the integrity rules achieve their intended purpose. This is because New Zealand retains its taxing rights under the Australia/New Zealand DTA on New Zealand sourced dividends paid by dual resident companies whose residence tie-breaks to Australia, so the risk to the New Zealand tax base is minimal.

On-payment of fully-imputed dividends

130. Where a dividend has been on-paid by a DTA non-resident company to a non-resident company, to the extent the dividend is fully imputed (that is, imputation credits attached to the dividend), it does not pose any integrity risk because company income tax has been paid. We recommend that fully-imputed dividends paid by a DTA non-resident company should be excluded from the proposed integrity rules.

Retrospective imputation credit attachment

131. Under the existing proposal, dividends paid to a DTA non-resident company that are fully imputed are excluded from the proposed dividend integrity rules. This is because New Zealand income tax has effectively already been paid on this income at the company level. There is a concern that some companies may pay an unimputed dividend believing they are a New Zealand resident company, whereas it is later found the taxpayer was actually DTA non-resident and the dividend is subject to NRWT.

132. In this situation, we recommend that the company should be able to retrospectively impute the dividend, provided sufficient imputation credits were available at the time the dividend was paid. There is legislative precedent for allowing retrospective attachment of imputation credits.

Reinstatement of New Zealand residence where dividends have not been on paid

133. The proposed changes allow for the NRWT liability to be eliminated if the dividend recipient is treated as New Zealand resident under the relevant DTA within a two-year period of the dividend payment, assuming the recipient has not paid a dividend to its shareholders. However, if the recipient has only on-paid a portion of the dividend it received and then becomes resident in New Zealand under the DTA, New Zealand would have taxing rights on any future dividend payments by the company.

134. For this reason, we suggest a change to the proposals so that that NRWT is only imposed on the payer to the extent the DTA non-resident company pays a dividend while it is DTA non-resident.

Corporate migration

Limit application of corporate migration integrity rules

135. Several submitters have suggested that the scope of the integrity rules should be narrowed so they only apply in circumstances where the company is aware they are

DTA non-resident. Based on these submissions, we recommend that the integrity rules should apply at the earlier of either:

- The company files a return claiming relief under a DTA on the basis it is DTA non-resident; and
- Two years after the company has received a competent authority determination it is DTA non-resident, and it has not reverted their tax residence back to New Zealand for the purposes of the relevant DTA.

136. While this approach would be a substantial shift away from what is currently proposed, we believe there is merit in the approach suggested by submitters. It would ensure that significant consequences from the corporate migration rules will not apply to inadvertent residence changes but integrity risks will still be addressed.

Retrospective attachment of imputation credits to deemed dividends

137. Any tax resulting under the proposed rules from a DTA residence migration should be the same as under the current domestic law for a formal corporate residence migration. We believe a taxpayer should be able to retrospectively attach imputation credits against a deemed dividend arising from the application of the proposed DTA corporate migration rules, provided imputation credits were available at the time the dividend was paid. The existing corporate migration rules already allow for retrospective imputation credit attachment, so this would be an extension of that approach.

Submissions to be declined

Extension of imputation credit changes beyond Australia

138. Some submitters suggested that the ICA changes should be extended beyond Australia. The rationale for the ICA changes being limited to Australia is because Australian-resident companies can already elect to maintain an ICA (known as an Australian ICA company). The proposed amendments allow a New Zealand resident company to automatically carry over its accumulated imputation credits at the point of becoming Australian tax resident, rather than having to make an election. This will prevent the forfeiture of a company's ICA balance if it inadvertently becomes Australian tax resident and has not made an election to be an Australian ICA company.

139. Our view is that expanding the imputation credit regime beyond what was proposed would be a significant change to the overall imputation credit regime and would require substantial further policy analysis.

Income tax treatment of dual-resident look-through companies

140. One stakeholder was concerned that the existing criteria for New Zealand look-through companies excludes dual-resident companies – including New Zealand companies that have inadvertently become dual resident in Australia. This submission is out of the scope of the proposals in the Bill.

141. Our view is that the issue will be resolved if, as expected, Australia enacts legislation with retrospective effect to revert to the prior corporate tax residence interpretation. If Australia does not achieve this, then we will consider whether the criteria for look-through companies requires amendment.

Two-year grace period for the dividend integrity proposal

142. The proposed two-year grace period provides time for the company to undertake due diligence to determine its tax residence if there is some doubt about the tax residence of the dividend recipient. Submitters suggested a number of changes to the two-year grace period for the dividend integrity proposals, including that the Commissioner of Inland Revenue should have the discretion to extend the period, that the period should begin following a competent authority residence decision (rather than the payment of the dividend), and that the integrity rule should only apply if the dividend is then on-paid within two years following a competent authority residence decision.

143. We do not agree with these submissions.

144. Given the company will be aware of relevant dividend transaction and has control when the dividend will be paid, we do not consider it necessary to extend the period.

145. We believe the two-year period should commence at the time the dividend is paid, which is a clear transaction at which time an assessment can made of the tax residence of the recipient company. There is no guarantee the payer of the dividend will subsequently be informed that the recipient is DTA non-resident, especially if the respective companies are no longer commonly owned. In most circumstances, the recipient company will have up to two years to revert to New Zealand tax residence under a DTA before the integrity rules will apply and NRWT must be paid.

146. Providing a two-year period to change a company's residence only after a competent authority residence determination has been provided would significantly increase the period from which the dividend is paid to any potential NRWT liability is due. This is undesirable and would give rise to additional risks (e.g., that the payer may not be informed of the residence determination, the payer may no longer have the capacity to meet the NRWT obligation).

Recommendations *(Minister of Revenue only)*

Agree to amend the dividend exemption integrity proposal by excluding dividends paid to companies that are dual resident in Australia and New Zealand.

Agreed/Not agreed

Agree to allow imputation credits to be retrospectively attached to dividends where the proposed changes to the domestic dividend exemption or corporate migration rules apply.

Agreed/Not agreed

Agree that where a recipient of dividends reinstates its New Zealand residence under the relevant DTA within the two-year grace period, the dividend integrity proposal should apply only to the extent of the amount of non-fully imputed dividends paid by that company while it was DTA non-resident.

Agreed/Not agreed

Agree to amend the corporate migration integrity proposals so they only apply at the earlier of a DTA non-resident company claiming tax relief under a DTA in a return, or once two years have passed since the company received a competent authority determination that it is DTA non-resident, and it has not become New Zealand resident for the purposes of the relevant DTA.

Agreed/Not agreed

Agree the recommendations above apply from 30 August 2022, in line with the application date for the integrity measures in the Bill.

Agreed/Not agreed

Housing: remedial amendments *(Minister of Revenue only)*

147. The recommendations in this section do not require approval by the Minister of Finance.

148. The Bill proposes remedial amendments to the rollover relief provisions introduced in the previous omnibus bill for the bright-line test and interest limitation rules. Submitters were generally supportive of the proposed amendments, although a few submitters commented that the legislative drafting could be made clearer and suggested refinements.

149. Several commented on the application date (being date of enactment of the Bill) and stated that the amendments should be retrospective to 27 March 2021, with application for the purposes of the bright-line test to transfers occurring on or after 1 April 2022. We note that most of the amendments were intended to apply retrospectively, which the Minister of Revenue agreed to in July 2022 (IR2022/293 refers). We intend to recommend the submissions be accepted except where a specific amendment is intended to apply prospectively because it would be a change in policy.

Proposed changes in response to submissions

150. Based on submissions, we propose the changes below to the rollover relief amendments in the Bill.

151. The changes recommended to the rollover relief and changes in co-ownership provisions do not have any fiscal implications as they are mere clarifications of the policy intent or, in the case of our suggested amendment at paragraph 159, would ensure that an existing proposal in the Bill works as intended.

Permissible charitable beneficiaries

152. Submitters suggested that for discretionary family trusts, the class of permissible charitable beneficiaries should be expanded.

153. At present, permissible charitable beneficiaries are limited to charities registered under the Charities Act 2005. However, most discretionary trusts in New Zealand (many of which are family trusts) have a standard clause in their trust deeds that defines a charitable/non-profit beneficiary class very broadly, beyond entities registered under the Charites Act 2005. As a result, transfers to or from these discretionary trusts are never eligible for rollover relief, which was not intended.

154. We recommend amending the definition of 'close family beneficiary' to include the types of organisations listed in the standard discretionary trust clause.[2]

155. We consider the potential integrity risk to be low as rollover relief does not apply to distributions to beneficiaries. This means that if residential land is transferred to a beneficiary, then the transfer would be subject to the bright-line test if relevant.

156. However, we do recommend inserting a criterion that there is at least one natural person beneficiary (other than the principal settlor, if there is just one principal settlor) who is a close family associate of the principal settlor. This would limit the amendment's scope to discretionary trusts that are family trusts and thus avoid

[2] The standard clause includes within the beneficiary class any association, club, institution, society, organisation or trust not carried on for the private profit of any person whose funds are to be applied wholly or principally to any civic, community, charitable, philanthropic, religious, benevolent or cultural purpose, whether within New Zealand or elsewhere.

making the rules inappropriately broad in their application. We recommend an effective date of 27 March 2021.

Relevant bright-line test settings for recipient

157. Submitters suggested that clarification is needed to ensure that when rollover relief applies to a transfer, the recipient is subject to the same bright-line settings or bright-line test length as the original transferor. Amendments in the Bill would address most of these situations, but there are two examples that submitters have raised that are not currently addressed by the Bill. This includes when inherited property is transferred by a settlor of a family trust to the trust. Inherited property is exempt from the bright-line test, but at present the trustee in this situation would be taxed under the bright-line test on a subsequent transfer of the property if it occurs within 10 years of the date it was inherited by the settlor. An effective date of 27 March 2021 is recommended for this change.

Proposed changes: matters raised by officials

158. The Minister of Revenue previously agreed that the rollover relief provision applying to a transfer of residential property from an eligible family trust to a settlor of the trust should be clarified to ensure that rollover relief applies in the situation where a settlor previously made cash settlements on the trust or guaranteed its obligations to enable it to acquire the property (IR2022/293 refers).

159. Subject to your agreement, we will also recommend further amendments so that the proposed new rule would only apply in limited circumstances when the settlor receiving the property from the trust was not the original owner of the property. This is in line with the purpose of the amendment. If the settlor was the original owner of the property, then the pre-existing rule for transfers to settlors would apply to determine whether the transfer qualifies for rollover relief. We recommend this change apply from the date of enactment.

160. We also propose further drafting changes to clarify the provisions that apply to changes in co-ownership of residential property. While submitters did not submit on the proposed amendments to these provisions, we have had some discussion with stakeholders about remaining errors and ambiguities in these provisions that ought to be fixed. This includes making these changes retrospective to 1 October 2015, the date the original two-year bright-line test applied from.

Submissions to be declined

A rollover relief provision providing for transfers between spouses, civil union, and de facto partners

161. The law provides rollover relief when residential property is transferred on a settlement of relationship property. There is nothing that requires the transaction to occur as part of a separation or relationship breakup, so the law already applies broadly. We do not consider there to be a convincing case for having rollover relief apply in situations where, for example, a person transfers a 50 percent interest in their property to their new partner without there being a formal relationship agreement providing for this.

Look-through companies (LTCs) and partnerships

162. Several submitters commented on the application of the rollover reliefs for LTCs and partnerships. They suggested that rollover relief should be available for:

- transfers of shares in a land-rich LTC from an individual to a family trust,
- transfers of residential property to partners/LTC owners on the dissolution of the partnership or liquidation of the LTC, and
- extending rollover relief to deemed transfers arising on the cessation of an LTC.

163. The intent of the rollover relief rules is to provide rollover relief for the most common and straightforward ownership change scenarios where economic ownership of residential property is unchanged.

164. The rollover relief rules explicitly prevent relief from applying for the transfer of shares in a land-rich LTC to a trust. This provision was added out of concern that providing rollover relief might incentivise holding assets in a trust structure, which could lead to unintended outcomes and raise integrity concerns.

165. The partnership and LTC rules have specific rules concerning the transfer of assets upon the dissolution of the partnership, or liquidation or cessation of an LTC and provide that these are treated as disposals occurring at market value. These rules have wider application than just the bright-line rules and apply to assets other than residential property. As such, there is a clear policy intention for these events to trigger a taxable event with the amount of tax calculated on the market value of the property. The purpose is to ensure there is not a permanent avoidance of tax on partnership or LTC assets held on revenue account.

166. Submitters consider the rollover relief rules should address the issue of latent tax liabilities for dual-resident LTCs that, following a change in interpretation by the Australian Tax Office, have ceased to meet the definition of LTC because they are now treated as not resident in New Zealand for the purposes of the Australia—New Zealand DTA. We note that the previous Australian Government announced in 2020 that remedial changes would be made to Australia's corporate tax residence test with retrospective application. The problem the submitter has raised would be resolved if the announced changes proceed.

Residential property transfers between mirror trusts or to a newly resettled unified trust

167. Mirror trusts, while not commonly used today, were common in the 1990s and early 2000s. According to the submitter, there are many mirror trusts still in existence. A typical structure was for one spouse to settle a trust with the other spouse and their children as beneficiaries, and for the second spouse to also settle a trust of their own with the first spouse and the children as beneficiaries. The first spouse would not be a beneficiary of their own trust, and likewise, the second spouse would also not be a beneficiary of the trust they settled for the benefit of the first spouse and the children.

168. The issue is that, in their current form, the rollover relief provisions do not apply when a property is transferred from one mirror trust to the other, as may occur when one settlor dies. While we consider there is a case for providing rollover relief in this scenario, given the complexities in drafting a rule that does not give rise to an integrity risk and the amount of time available, we think it would be better to consider this issue further with a view to including any resulting amendment in the next tax bill, rather than make a change to this Bill at the Select Committee stage.

Recommendations *(Minister of Revenue only)*

Agree to expand the class of permissible charitable beneficiaries for a discretionary family trust for the purpose of the rollover relief provisions to include the types of organisations listed in the standard discretionary trust clause.

Agreed/Not agreed

Agree that rollover relief should only apply for a transfer to or from a family trust if there is at least one natural person beneficiary, other than the principal settlor, who is a close family associate of the principal settlor.

Agreed/Not agreed

Agree to remedial changes to ensure that, when rollover relief applies to a transfer of residential property, the recipient is subject to the same bright-line settings or bright-line test length as the transferor in all instances.

Agreed/Not agreed

Agree that the proposal expanding the circumstances in which rollover relief applies to a transfer from a family trust to a settlor should only apply when the settlor receiving the residential property from the trust is not the original owner of the property.

Agreed/Not agreed

Agree to further clarify the legislative provisions applying to changes in co-ownership of residential property.

Agreed/Not agreed

Policy and Regulatory Stewardship
Kaupapa me te Tiaki i ngā Ture
55 Featherston Street
PO Box 2198
Wellington 6140
New Zealand

T. 04 890 1500

Briefing note

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.

Melissa Siegel
Bill Manager
Policy and Regulatory Stewardship
s 9(2)(a)

Natisha Jones
Policy Advisor
Policy and Regulatory Stewardship
s 9(2)(a)

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Supplementary Order Paper: North Island floods**

Date:	1 March 2023	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2023/077

Action sought

	Action sought	**Deadline**
Minister of Revenue	**Agree** to recommendations	2 March 2023

Contact for telephone discussion (if required)

Name	**Position**	**Telephone**
Peter Frawley	Policy Lead	s 9(2)(a)
Bary Hollow	Principal Policy Advisor	
Carl Harris	Senior Policy Advisor	

1 March 2023

Minister of Revenue

Supplementary Order Paper: North Island floods

Summary

1. This report seeks your agreement to include legislative amendments in the Taxation (Annual Rates for 2022—23, Platform Economy, and Remedial Matters) Bill (No 2) ("the Bill") by Supplementary Order Paper ("SOP"). The recommended legislative amendments would provide relief in response to the recent North Island flood events.

2. These amendments provide relief from income tax and fringe benefit tax for cash and benefits provided by employers to employees who have been adversely affected by the North Island flood events, as well as those employees who relocate to the affected areas to assist with the rebuild and recovery.

3. We recommend that the SOP also includes several minor technical amendments to existing measures in the Bill, which are all consistent with the policy intent.

4. We also recommend extending the final date for eligibility for the Cost of Living payment to ensure that individuals do not miss out on the payment because their ability to file their tax return has been impacted by the North Island flooding events.

Supplementary Order Paper items that require Cabinet approval

5. In response to the recent North Island flooding events, we recommend including legislative amendments in the Bill to provide relief for employees who relocate to the affected areas to assist with the rebuild and recovery, and exemptions from income tax and fringe benefit tax (FBT) for cash and benefits provided by employers to employees who have been adversely affected by the flooding events.

6. The proposed tax relief provisions will apply to a "North Island flood event" which essentially covers the geographical districts and regions that were affected by:

   6.1 Cyclone Hale, which crossed the North Island of New Zealand during the period starting on 8 January 2023 and ending on 12 January 2023;

   6.2 the heavy rainfall starting on 26 January and ending on 3 February 2023; and

   6.3 Cyclone Gabrielle, which crossed the North Island of New Zealand during the period starting on 12 February 2023 and ending on 16 February 2023.

Tax relief for accommodation expenditure for employees working on limited duration projects

7. To remove some of the adverse impacts of employees relocating to assist in the Christchurch rebuild project, the Government provided tax relief in respect of accommodation provided to employees where their employment duties required them to work on a limited duration project relating to the rebuilding or recovery. This included the repair and reconstruction of land, infrastructure, and other property in greater Christchurch as a result of the Canterbury earthquakes.

8. This extended the standard period that accommodation could be provided to employees who were working on limited duration projects from three years to up to five years depending on when the employee relocated. It was limited to relocations to a workplace in the greater Christchurch region.

9. We consider it appropriate to replicate this provision for the regions affected by the North Island flood events to remove a tax barrier to employers relocating staff to assist in the rebuilding and recovery of those areas.

10. We recommend that the definition of limited duration project be extended for an initial period of five years where the employee relocates to an area affected by a North Island flood event within six months after the first event.

11. However, given the unknown duration that a rebuild programme may take in the affected areas, we also recommend providing for an ability for the Minister of Revenue to extend or modify that period by Order in Council. This will add flexibility to the relief as work commences and more accurate assessments of the duration of the rebuild can be made.

Tax relief for employers' welfare contributions and accommodation provided to employees

12. Under existing tax law (with a few limited exclusions), payments made from an employer to an employee are taxable as monetary remuneration.

13. Following the major Christchurch earthquakes in 2010–11, a number of employers made ex-gratia welfare contributions of cash to their earthquake-affected employees. A legislative provision was inserted to provide that income (which could include accommodation benefits) derived by an employee from an employer was exempt income if:

    13.1 it was provided by the employer for the purpose of relief of employees from the adverse effects of the Canterbury earthquakes;

    13.2 it would have otherwise been taxable income;

    13.3 it was derived in the eight weeks after each of the two earthquakes;

    13.4 it was not paid in substitution for salary or wages;

    13.5 the amount provided did not depend on the seniority of the employee;

    13.6 the employee was associated with the employer, then the payment was also available to an unrelated full-time employee; and

    13.7 the employer elected to treat the income as being exempt income of the employee.

14. This exemption covered most accommodation benefits and, in relation to each of the two major earthquakes, the first $3,200 paid to each employee (other than accommodation benefits).[1]

15. We recommend this provision be updated and enacted with reference to the North Island flood events. We recommend the amount of $3,200 be increased to account for inflation and the scale of the damage in the North Island flood events.

16. Adding pure wage inflation since 2011 would bring the amount to $4,731 but we recommend rounding this to $5,000. We also recommend that the time-limited

[1] This allowed total payments of $6,400 to be made as there were two events.

application of eight weeks be retained, as this would seem an appropriate period to allow any such payments to be made or benefits to be provided.

Tax relief for certain fringe benefits provided to employees

17. Fringe benefits provided to an employee are generally subject to FBT. After the Christchurch earthquakes, a number of employers provided benefits to employees or to recovery centres where employees may have received benefits. In response to the Christchurch earthquakes, the Government also introduced an FBT exemption where a benefit was provided to an employee and:

    17.1 it was provided by the employer to employees for the purpose of relief of employees from the adverse effects of the Canterbury earthquakes;

    17.2 it would have otherwise been a fringe benefit;

    17.3 it was received by the employee in the eight weeks after each of the two earthquakes;

    17.4 it was not provided in substitution for wages and salary;

    17.5 its provision and amount did not depend on the seniority of the employee;

    17.6 if the employee was associated with the employer, the benefit was also available to an unrelated full-time employee; and

    17.7 the employer elected to treat the benefit as not being a taxable benefit.

18. This exemption covered all "sundry benefits" – for example, benefits that were provided at a drop-in centre. This is because in these cases the employer may not know which employee had received which benefit and thus the employer cannot estimate the value of the benefit.

19. The exemption also covers benefits where the value can be estimated to the extent that the remuneration exemption noted above has not also been paid (i.e., the employer can provide an amount up to $5,000[2] in cash or in benefits but not both).

20. As employers are likely to provide benefits to their employees affected by the North Island flood events, we recommend that this temporary FBT exemption be replicated with reference to those recent events. We recommend that this relief be subject to similar restrictions to the provision enacted for the Canterbury earthquakes.

Financial implications

21. There is no fiscal cost to these proposed exemptions. This is because any revenue in the absence of the exemptions would be "windfall" revenue that has not been forecasted. Therefore, the amendments would not affect fiscal baselines.

Administrative implications

22. These proposals would have no systems or administration costs for Inland Revenue. Inland Revenue would communicate the changes to taxpayers and update staff and online content.

[2] $3,200 in respect of the Canterbury earthquakes

Supplementary Order Paper items that do not require Cabinet approval

Technical amendments to the Bill

23. We recommend including in the SOP several minor technical amendments to the Bill, such as corrections to commencement dates and cross-references. The amendments relate to the platform economy, cross-border workers, tax debt write-off rules and ring-fenced losses, and the financial arrangements taxation proposals in the Bill, and are all consistent with the policy intent.

Donated trading stock

24. Recent Orders in Council have provided tax relief for donated trading stock. We recommend including in the SOP a retrospective technical amendment to ensure this relief applies as intended.

Cost of Living payment: amendment to final date to be considered for eligibility (non-legislative change)

25. The Cost of Living payment was implemented to cover a particular time period and there is a set timeframe for individuals to have their payment approved. Individuals will not be considered for eligibility if they file their tax return after the final date.

26. The last date for eligibility is currently 31 March 2023. This aligns with the final date for all individual income tax returns to be filed for the 2021–22 tax year.[3]

27. Inland Revenue has decided to defer imposing late filing penalties until 31 May 2023, as part of its North Island flood response. We recommend that the final eligibility date for the Cost of Living payment also be extended to 31 May 2023. This would ensure that individuals intended to be eligible for the payment do not miss out because their ability to file on time has been impacted by the North Island floods.

28. Amending the final date for eligibility for the Cost of Living payment would require Cabinet approval but does not require legislative change. This is because the eligibility criteria for the Cost of Living payment are not set in legislation, but instead were agreed by Cabinet and are published on the Inland Revenue website (CAB-22-MIN-0130 refers). Without the amendment to the criteria, Inland Revenue will not be able to assess eligibility to the Cost of Living payment for anyone who files their tax return after 31 March 2023, regardless of the reason.

Financial implications

29. Extending the Cost of Living payment eligibility period has no fiscal implications as it relates to a timing change within the same fiscal year. The appropriation is expected to cover all remaining payments.

Administrative implications

30. Extending the final date would require a moderate level of system change to ensure we can assess eligibility for the Cost of Living payment for returns filed up to 31 May. We would also need to update both internal and external information sources, such as Inland Revenue's website to explain the change. We also expect an increase in contacts from customers and their agents, via both web and phone, as people query their eligibility and the impact of filing after 31 March. These increased contacts are expected to occur from April to August which is our peak busy period when we are finalising income tax assessments for the 2021–22 tax year. This will increase pressure on our frontline staff.

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[3] Eligibility Cost of Living payment is based on an individual's income for the 2021/22 tax year.

Consultation

31. The Treasury were consulted on these proposals.

Next steps

32. The attached Cabinet paper should be lodged with the Cabinet Office as soon as possible in order to be considered by Cabinet on 6 March 2023.

33. The proposed SOP would be released, in consultation with the Leader of the House, prior to the Committee of the whole House stage of the Bill, currently scheduled for 14 March 2023.

Recommended action

We recommend that you:

Supplementary Order Paper items that require Cabinet approval

a) **agree** to extend the time limit for accommodation provided to employees working on limited duration projects (to the extent those projects are related to the rebuild and recovery from a North Island flood event) to five years for employees who relocate within six months after the date of the first event.

Agreed/Not agreed

b) **agree** to include the ability for the Minister of Revenue to extend or modify the time limit for the limited duration project exemption in respect of a North Island flood event by Order in Council.

Agreed/Not agreed

c) **agree** to include an exemption from income tax, subject to the same restrictions as the previous exemptions made for the Canterbury earthquakes, for employees for:

i. all accommodation provided by their employer; and

ii. amounts paid by their employer that do not exceed $5,000.

Agreed/Not agreed

d) **agree** to include an exemption from fringe benefit tax, subject to the same restrictions as the previous exemptions made for the Canterbury earthquakes, for employees for:

i. all "sundry benefits" provided by their employer; and

ii. benefits provided by their employer that do not exceed $5,000 (or such lesser amount considering any cash paid to the employee and subject to the tax exemption in recommendation (c)) and are provided within eight weeks from the day of a North Island flood event.

Agreed/Not agreed

Supplementary Order Paper items that do not require Cabinet approval

e) **agree** to include several minor technical amendments to existing measures in the Bill.

Agree/Not agreed

f) **agree** to include a retrospective technical amendment to ensure that tax relief for donated trading stock applies as intended.

Agreed/Not agreed

Non-legislative change that requires Cabinet approval

g) **agree** that the final date to be considered for eligibility for the Cost of Living payment be extended to 31 May 2023.

Agreed/Not agreed

Financial implications

h) **note** that recommendations (a) to (h) have no fiscal implications.

Noted

Legislative implications

i) **agree** that legislative amendments to give effect to recommendations (a) to (f) should be included in a Supplementary Order Paper to the Taxation (Annual Rates for 2022—23, Platform Economy, and Remedial Matters) Bill (No 2).

Agreed/Not agreed

j) **note** that the Supplementary Order Paper will be released, in consultation with the Leader of the House, on Tuesday 14 March 2023 prior to the Committee of the whole House stage of the Taxation (Annual Rates for 2022—23, Platform Economy, and Remedial Matters) Bill (No 2).

Noted

Next steps

k) **authorise** the lodgement of the attached Cabinet paper with the Cabinet Office as soon as possible for Cabinet to consider at its meeting on 6 March 2023.

Authorised/Not authorised

l) **refer** a copy of this report to the Minister of Finance and Associate Minister of Revenue for their information.

Referred/Not referred

s 9(2)(a)

Peter Frawley
Policy Lead
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2023

In Confidence

Office of the Minister of Revenue

Chair, Cabinet

NORTH ISLAND FLOODS SUPPLEMENTARY ORDER PAPER – APPROVAL FOR RELEASE

Proposal

1 This paper seeks Cabinet's approval to policy proposals that would provide temporary tax relief in response to the recent North Island flood events. It also seeks approval to delegate authority to the Minister of Revenue to release a Supplementary Order Paper (SOP) to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) ("the Bill") to give effect to the proposals. The SOP also includes several minor technical amendments to existing measures in the Bill, which are all consistent with the policy intent.

2 Cabinet approval is also sought to extend the eligibility of the Cost of Living payment. The proposed extension would align with Inland Revenue's decision to defer imposing late filing penalties until 31 May 2023, as part of its North Island floods response. This would ensure that individuals intended to be eligible for the payment do not miss out because their ability to file on time has been impacted by the North Island floods. This would not require a legislative change.

Relation to Government Priorities

3 The proposals in this paper are focused on keeping communities safe following recent weather events in the North Island and the cost of living.

4 I propose providing limited tax relief for accommodation for employees working on limited duration projects assisting with the rebuild and recovery of areas affected by the North Island flooding events. I also propose introducing limited tax relief measures will remove tax barriers for employers seeking to provide a range of welfare benefits to their employees to help them cope with the recent weather.

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5 Budget 2022 included a Cost of Living payment to help New Zealanders with the rising costs of inflation. The payment is administered by Inland Revenue and is based on individuals that earned $70,000 or less in the 2021–22 tax year. The last date for eligibility for the payment is currently 31 March 2023 (being the last date for tax returns to be filed for that tax year). I propose extending the final eligibility date until 31 May 2023 to ensure that individuals do not miss out on the Cost of Living payment because their ability to file their tax return has been impacted by the North Island flooding events.

Executive summary

6 To support the recovery of the North Island from recent weather events, I propose providing tax relief for accommodation expenditure for employees working on limited duration projects relating to rebuilding or recovery of affected areas. The proposal would extend the standard period that accommodation can be provided to employees who are working on limited duration projects from three years up to five years.

7 Under existing law, payments made from an employer to an employee and fringe benefits provided to an employee are generally taxable, either as monetary remuneration or by way of fringe benefit tax (FBT). I propose providing limited tax exemptions for employers and their employees for employer welfare contributions related to the recent North Island flooding events. This will support employees who have been adversely affected by the flooding events.

8 I recommend that the above tax relief measures be included in a SOP to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) . The SOP also includes several minor technical amendments to existing measures in the Bill, which are all consistent with the policy intent. The Bill has a category 1 priority on the 2023 Legislation Programme (must be enacted before the general election as a matter of law), and is expected to be enacted before the end of March 2023.

9 The last date for filing tax returns for the 2021–22 tax year is 31 March 2023. Inland Revenue has exercised its operational discretion to defer imposing penalties on taxpayers who file late tax returns until 31 May 2023, as part of its North Island floods response. The eligibility for the Cost of Living payment is linked to income tax returns filed for the 2021–22 tax year. I recommend that the final eligibility date for the Cost of Living payment is also extended to 31 May 2023. This would ensure that individuals intended to be eligible for the payment do not miss out because their ability to file on time has been impacted by the North Island floods.

Background

10 In response to the Christchurch earthquakes in 2010–11, limited tax relief was provided for accommodation of employees relocated to work on limited duration projects assisting with rebuilding and recovery of affected areas, and welfare payments and benefits provided by employers to employees affected by the earthquakes.

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11 The proposed amendments for inclusion in an SOP would mirror some of the tax relief measures provided in response to the Christchurch earthquakes. These measures would provide relief from income tax and fringe benefit tax for cash and benefits provided by employers to employees who have been adversely affected by the North Island flood events, as well as those employees who relocate to the affected areas to assist with the rebuild and recovery.

12 Inland Revenue officials are developing advice on other tax relief measures that could be introduced in response to the recent North Island flood events. These potential measures are expected to mainly relate to assets that have been damaged or destroyed (plant, equipment, buildings, and other land improvements). This advice will consider the nature and extent of the damage caused by the recent weather events and stakeholders' perspectives and concerns. This advice is less urgent because taxpayers using tax agents have about 12 months before they need to file a tax position in relation to damaged or destroyed assets (31 March 2024 for the 2022–23 tax year).

Supplementary Order Paper

13 The proposed SOP will include limited tax measures to provide relief in response to the recent North Island flood events and minor technical amendments to the Bill. The SOP is necessary as amendments to existing legislation are required to implement the proposed policy changes in a timely manner.

14 I recommend that the proposed tax relief provisions relating to accommodation and employer's welfare contributions apply to a "North Island flood event", which would be defined as the geographical districts and regions that were affected by:

14.1 Cyclone Hale, which crossed the North Island of New Zealand during the period starting on 8 January 2023 and ending on 12 January 2023;

14.2 the heavy rainfall starting on 26 January and ending on 3 February 2023; and

14.3 Cyclone Gabrielle, which crossed the North Island of New Zealand during the period starting on 12 February 2023 and ending on 16 February 2023.

Tax relief for accommodation expenditure for employees working on limited duration projects

15 To remove some of the adverse impacts of employees relocating to assist in the Christchurch rebuild project, the Government provided tax relief in respect of accommodation provided to employees where their employment duties required them to work on a limited duration project relating to the rebuilding or recovery. This included the repair and reconstruction of land, infrastructure, and other property in greater Christchurch as a result of the Canterbury earthquakes.

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16 This extended the standard period that accommodation could be provided to employees who were working on limited duration projects from three years to up to five years depending on when the employee relocated. It was limited to relocations to a workplace in the greater Christchurch region.

17 I recommend that the definition of limited duration project be extended for an initial period of five years where the employee relocates to an area affected by a North Island flood event within six months after the first event.

18 Given the unknown duration that a rebuild programme may take in the affect areas, I also recommend introducing an ability for the Minister of Revenue to extend or modify that period by Order in Council. This will provide flexibility to the proposed relief as work commences and more accurate assessments of the duration of the rebuild can be made.

Tax relief for employers' welfare contributions and accommodation provided to employees

19 Under existing law (with a few limited exceptions), payments made from an employer to an employee are taxable as monetary remuneration. Following the major Christchurch earthquakes in 2010–11, a number of employers made ex-gratia welfare contributions of cash to their earthquake-affected employees. A legislative provision was inserted to provide that income (which could include accommodation benefits) derived by an employee from an employer was exempt income if:

19.1 it was provided by the employer for the purpose of relief of employees from the adverse effects of the Canterbury earthquakes;

19.2 it would have otherwise been taxable income;

19.3 it was derived in the eight weeks after each of the two earthquakes;

19.4 it was not paid in substitution for wages or salary;

19.5 the amount provided did not depend on the seniority of the employer;

19.6 the employee was associated with the employer, then it was also available to an unrelated full-time employee; and

19.7 the employer elected to treat the income as being exempt income of the employee.

20 The exemption covered most accommodation benefits and in, in relation to each of the two major earthquakes, the first $3,200 paid to each employee other than accommodation benefits.

21 I recommend introducing a provision along the same criteria with reference to the North Island flood events. I also recommend that the amount of $3,200 be increased to $5,000 to account for inflation and the scale of the damage from the recent flooding events. This will help employers support their employees that have been affected by the recent weather events.

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Tax relief for certain fringe benefits provided to employees

22 Fringe benefits provided to an employee are generally taxable by way of FBT. After the Christchurch earthquakes, a number of employers provided benefits to employees or to recovery centres where employees may have received benefits. The Government provided an exemption from FBT where a benefit was provided to an employee and:

22.1 it was provided by the employer to employees for the purpose of relief of employees from the adverse effects of the Canterbury earthquakes;

22.2 it would have otherwise been a fringe benefit;

22.3 it was received by the employee in the eight weeks after each of the two earthquakes;

22.4 it was not provided in substitution for wages and salary;

22.5 its provision and amount did not depend on the seniority of the employee;

22.6 if the employee was associated with the employer, then it was also available to an unrelated full-time employee; and

22.7 the employer elected to treat the benefit as not being a taxable benefit.

23 This exemption covered all “sundry benefits” – for example benefits that were provided at a drop-in centre. This is because in these cases the employer may not know which employee had received what benefits and thus the employer cannot estimate the value of the benefit.

24 I recommend introducing a similar temporary relief provision with reference to the North Island flood events. The exemption would also cover benefits where the value can be estimated to the extent that the remuneration exemption noted above has not also been paid (i.e., and employer can provide an amount up to $5,000 in cash or in benefits but not both).

Cost of Living payment eligibility

25 The Cost of Living payment was implemented to cover a particular time period and there is a set timeframe for individuals to have their payment approved. Individuals will not be considered for eligibility if they file their tax return after the final date.

26 The last date for eligibility is currently 31 March 2023. This aligns to the final date for all individual income tax returns to be filed for the 2021–22 tax year.

27 Inland Revenue has exercised its operational discretion to defer imposing late filing penalties until 31 May 2023, as part of its North Island flood response. I recommend that Cabinet also extend the final eligibility date for the Cost of Living payment to 31 May 2023. This would ensure that individuals intended to be eligible for the payment do not miss out because their ability to file on time has been impacted by the North Island floods.

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28 Without amending the criteria, Inland Revenue would not be able to assess eligibility to the Cost of Living payment for anyone who files their tax return after 31 March 2023, regardless of the reason.

Financial implications

29 There are no fiscal implications of the proposed tax relief measures as tax revenue in the absence of the proposed exemptions would be "windfall" gains in tax revenue that have not been forecasted.

30 Extending the Cost of Living payment eligibility period has no fiscal implications as it relates to a timing change within the same fiscal year. The appropriation is expected to cover all remaining payments.

Administrative implications

31 The proposed limited tax relief measures will have no systems implications for Inland Revenue, and other administrative implications (such as guidance) will fall within Inland Revenue's existing change capacity.

32 The change to the Cost of Living payment eligibility will require a moderate level of system change to ensure Inland Revenue can assess eligibility for the Cost of Living payment for tax returns filed up to 31 May 2023. Inland Revenue will update both internal and external information sources, such as Inland Revenue's website to explain the change. Inland Revenue expects an increased level of contacts from taxpayers and their agents, via both web and phone, as people query their eligibility and the impact of filing after 31 March 2023. These increased contacts are expected to occur from April to August which is Inland Revenue's peak busy period when income tax assessments for the 2021–22 tax year are finalised. This will increase pressure on Inland Revenue's frontline staff.

Legislative implications

33 Implementing the proposed tax relief measures will require changes to the Income Tax Act 2007. I propose to include the necessary legislative changes in a SOP to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) prior to the Committee of the whole House stage.

34 The Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) holds a category 1 priority on the 2023 Legislation Programme (must be enacted before the general election as a matter of law) and is expected to be enacted by the end of March 2023.

35 The change to the Cost of Living payment eligibility period does not require a legislative amendment. The Cost of Living payment criteria was not set in legislation, but was agreed to by Cabinet and published on Inland Revenue's website [CAB-22-MIN-0130 refers].

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Impact Analysis

Regulatory Impact Assessment

36 The Treasury's Regulatory Impact Analysis team has determined that the proposed tax relief in response to Cyclone Gabrielle and the Auckland Anniversary flooding is exempt from the requirement to provide a Regulatory Impact Statement. This is granted on the grounds that the proposals are intended to manage the direct actions taken to protect the public in response to a declared emergency event and required urgently to be effective (making a complete, robust and timely Regulatory Impact Statement unfeasible).

37 The Treasury's Regulatory Impact Analysis team has determined that the proposed extension of the eligibility date for Cost of Living payments is exempt from the requirement to provide a Regulatory Impact Statement, as it is intended to temporarily defer or extend legislative deadlines where a declared emergency has made compliance with the existing legislative requirements impossible, impractical, or unreasonably burdensome.

Climate Implications of Policy Assessment

38 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to these proposals as the threshold for significance is not met.

Population

39 Due to the urgency of the response to the recent weather events, Inland Revenue officials have been unable to determine how many taxpayers would be impacted by the proposed limited tax relief measures.

40 As of 26 February 2023, Inland Revenue estimated that a further 290,000 individual income tax returns are due to be filed for the 2021–22 tax year. Officials estimate that about 50 percent of these individuals may be eligible for the Cost of Living payment based on their income. It is unclear how many of these returns will be filed during the proposed extended eligibility period.

Human Rights

41 The proposals comply with the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

Relevant Government Departments or Other Public Bodies

42 Inland Revenue consulted the Treasury and informed the Department of the Prime Minister and Cabinet of the proposals.

Relevant Private Sector Organisations and Public Consultation Processes

43 Inland Revenue officials have sought input from key stakeholders on potential tax relief measures in response to the North Island flooding events.

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44 No public consultation has been undertaken on the proposal to extend the Cost of Living Payment eligibility criteria.

Communications

45 I will work with Inland Revenue on communicating the proposed changes to taxpayers.

46 Inland Revenue will include details of the new legislation in a *Tax Information Bulletin* after the Bill is enacted.

Proactive Release

47 I propose to proactively release this Cabinet paper and associated Cabinet minute in full shortly after the proposed release of the SOP.

Recommendations

The Minister of Revenue recommends that Cabinet:

1 **agree** to extend the time limit for accommodation provided to employees working on limited duration projects to the extent those projects are related to the rebuild and recovery from a North Island flood event to five years for employees who relocate within six months after the date of the first event.

2 **agree** to include the ability for the Minister of Revenue to extend or modify the time limit for the limited duration project exemption (outlined in recommendation 1) in respect of a North Island flood event by Order in Council.

3 **agree** to include an exemption from income tax, subject to the same restrictions as the previous exemptions made for the Canterbury earthquakes, for employees for:

3.1 accommodation provided by their employer; and

3.2 amounts paid by their employer that do not exceed $5,000.

4 **agree** to include an exemption from fringe benefit tax (FBT), subject to the same restrictions as the previous exemptions made for the Canterbury earthquakes, for employees for:

4.1 all sundry benefits provided by their employer; and

4.2 benefits provided by their employer that do not exceed $5,000 (or such less amount taking into account any cash paid to the employee and subject to the tax exemption in recommendation 3).

5 **agree** that the final date to be considered for eligibility for the Cost of Living payment be extended to 31 May 2023.

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Financial implications

6 **note** that recommendations 1 to 5 have no fiscal implications.

Legislative implications

7 **agree** to authorise the Minister of Revenue, in consultation with the Leader of the House, to release a Supplementary Order Paper to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) prior to its Committee of the whole House stage, containing the measures in recommendations 1 to 4.

Authorised for lodgement

Hon David Parker

Minister of Revenue

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Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

North Island Floods Supplementary Order Paper: Approval for Release

Portfolio **Revenue**

On 6 March 2023, Cabinet:

1 **agreed** to extend the time limit for accommodation provided to employees working on limited duration projects, to the extent those projects are related to the rebuild and recovery from a North Island flood event, to five years for employees who relocate within six months after the date of the first event;

2 **agreed** to include the ability for the Minister of Revenue to extend or modify the time limit for the limited duration project exemption (outlined in paragraph 1) in respect of a North Island flood event by Order in Council;

3 **agreed** to include an exemption from income tax, subject to the same restrictions as the previous exemptions made for the Canterbury earthquakes, for employees for:

3.1 accommodation provided by their employer;

3.2 amounts paid by their employer that do not exceed $5,000;

4 **agreed** to include an exemption from fringe benefit tax (FBT), subject to the same restrictions as the previous exemptions made for the Canterbury earthquakes, for employees for:

4.1 all sundry benefits provided by their employer;

4.2 benefits provided by their employer that do not exceed $5,000 (or such less amount taking into account any cash paid to the employee and subject to the tax exemption in paragraph 3);

5 **agreed** that the final date to be considered for eligibility for the Cost of Living payment be extended to 31 May 2023;

Financial implications

6 **noted** that paragraphs 1 to 5 have no fiscal implications;

Legislative implications

7 **authorised** the Minister of Revenue, in consultation with the Leader of the House, to release a Supplementary Order Paper to the Taxation (Annual Rates for 2022–23, Platform Economy, and Remedial Matters) Bill (No 2) prior to its Committee of the whole House stage, containing the measures outlined in paragraphs 1 to 4.

Rachel Hayward
Secretary of the Cabinet