Hon Barbara Edmonds, Minister of Revenue

Information Release

Taxation Principles Reporting Bill

September 2023

Availability

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

Documents in this information release

#	Reference	Type	Title	Date
1	IR2021/407	Report	Establishing a reporting framework in a Tax Principles Act	24 September 2021
2	IR2022/099	Report	Further advice: Establishing a reporting framework in a Tax Principles Act	28 March 2022
3	IR2022/295	Report	Cabinet paper and Discussion document - Establishing a reporting framework in a Tax Principles Act	3 June 2022
3.1	CBC-22-SUB-0041	Cabinet paper	Establishing a Reporting Framework in a Tax Principles Act: Release of Discussion document	15 August 2022
3.2	CBC-22-MIN-0041	Minute	Establishing a Reporting Framework in a Tax Principles Act: Release of Discussion document	15 August 2022
	Attachment	Discussion document	A Tax Principles Act: a reporting framework informed by tax principles - A Government discussion document	August 2022
4	IR2023/070	Report	Draft Cabinet paper - Establishing a reporting framework in a Tax Principles Act	28 February 2023
4.1	DEV-23-SUB-0067	Cabinet paper	Establishing a reporting framework in a Tax Principles Act	03 May 2023
4.2	DEV-23-MIN-0067	Minute	Establishing a reporting framework in a Tax Principles Act	03 May 2023
5	IR2023/136	Report	Tax Principles Bill: additional advice	18 April 2023

#	Reference	Type	Title	Date
6	IR2023/144	Report	Draft Cabinet Legislation Committee paper: Establishing a reporting framework in a Tax Principles Act	26 April 2023
6.1	LEG-23-SUB-0054	Cabinet paper	Taxation Principles Reporting Bill: Approval for introduction	11 May 2023
6.2	LEG-23-MIN-0054	Minute	Taxation Principles Reporting Bill: Approval for introduction	11 May 2023
7	IR2023/195	Report	Summary of submissions and recommended changes for the officials' report for the Taxation Principles Bill	20 June 2023
8	IR023/119	Report	Reassessment of Bill Bids for the 2023 Legislation Programme	12 April 2023
			Attachment to IR2023/119	12 April 2023
9	IR2022/476	Report	Draft Submission to Cabinet Legislation Committee for bids on the 2023 Legislation Programme	09 November 2022
			Bill ranking list	November 2022
		Cabinet paper	Tax Principles Bill: request for Priority in the 2023 Legislation Programme	November 2022

Additional information

The Cabinet paper Establishing a Reporting Framework in a Tax Principles Act was considered by the Cabinet Business Committee on 15 August 2022 and confirmed by Cabinet on 22 August 2022.

The Cabinet paper Establishing a Reporting Framework in a Tax Principles Act was considered by the Cabinet Economic Development Committee on 3 May 2023 and confirmed by Cabinet on 8 May 2023.

The Cabinet paper Taxation Principles Reporting Bill: Approval for Introduction was considered by the Cabinet Legislation Committee on 11 May 2023 and confirmed by Cabinet on 15 May 2023.

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 that 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

Some information has also been withheld as ‘Not in scope’ as the information does not relate to the Taxation Principles Reporting Bill.

Accessibility

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Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

TE TAI ŌHANGA
THE TREASURY

Tax policy report: Establishing a reporting framework in a Tax Principles Act

Date:	24 September 2021	**Priority:**	Medium
Security level:	Sensitive	**Report number:**	IR2021/407 T2021/2404

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations **Indicate** preferred options **Direct** officials to prepare a Cabinet paper	15 October 2021
Minister of Revenue	**Agree** to recommendations **Indicate** preferred options **Direct** officials to prepare a Cabinet paper	15 October 2021

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor, Inland Revenue	s 9(2)(a)
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Minister of Finance
Minister of Revenue

Establishing a reporting framework in a Tax Principles Act

Executive summary

Introduction

1. The Minister of Revenue requested advice on developing and establishing a new Tax Principles Act (TPA) which would provide a reporting framework informed by a set of tax principles. We understand the main objective is to increase the public's understanding of the tax system and improve the quality of debate surrounding its key features. This includes distributional outcomes, particularly for very high income and wealth individuals. We also understand the Minister of Revenue wishes for a TPA to be an enduring part of New Zealand's tax policy landscape.

2. We do not recommend enacting statements of principle within legislation by themselves (e.g., "the tax system must be progressive"). However, we think there is value in creating a reporting framework which provides a consistent source of information on the tax system, and is informed by a set of tax principles. The focus of reporting could also be guided by the Government's annual Revenue Strategy. The resulting information could be used to inform future Governments' priorities, the Tax and Social Policy Work Programme and future tax advice. This report seeks your agreement to the development of a legislated reporting framework based on generally accepted tax principles, within a TPA.

3. Provided you agree, the next step would be for officials to prepare a paper which seeks Cabinet's agreement to proceed with the development of a legislated reporting framework and to consultation.

Principle-based reporting

4. A principle-based reporting framework has precedent in New Zealand. Current examples include the Public Finance Act 1989 (PFA) and the Child Poverty Reduction Act 2018 (CPRA).

Opportunities and benefits

5. Among other things, the reporting framework would increase the amount of readily available information about the tax system. This would help inform the public and would raise the quality of public debate. More tax relevant information would also better inform decision making.

6. A reporting framework would also complement Inland Revenue and the Treasury's tax stewardship role and increase our understanding of how the tax system operates against tax principles. Inland Revenue and the Treasury would benefit from the development of an enduring and credible source of information. This would help inform the long-term development of the tax system.

Costs and risks

7. However, as with any initiative, the framework would also carry costs and risks. These include:

7.1 *Drafting:* Care will need to be taken in drafting the legislation to ensure that the ongoing development of reporting measures and tax policy is supported, and the reporting becomes enduring and robust. We would also need to ensure the legislation cannot serve as the basis of a legal action against the Government, and will not alter the responsibilities of Agencies under other pieces of legislation.

7.2 *Resourcing:* The framework is likely to require dedicated resourcing to ensure the necessary data collection and information reporting occurs. We also expect that it will take time to fully realise the reporting framework's benefits. We will assess if this would require a change in baseline funding as the work progresses.

Choice of approach to the reporting framework

8. While the PFA and the CPRA both require the Government and officials to report on specific issues within a legislative framework, the approaches which they take differ. Where the PFA requires the Government to prepare financial information according to widely accepted accounting measures (which adapt over time), the CPRA's reporting measures are closely prescribed within the legislation itself.

Reporting options

9. In our view, a TPA could take either of the two following forms:

Option 1: High level principles with flexible reporting requirements.

9.1 This would set up a statement of general principles in legislation, with a legislated requirement for the government to issue a guiding statement. Officials would be required to independently report on relevant information and measures. Officials would have the flexibility to choose the most appropriate information and adapt their reporting over time.

9.2 Option 1 would follow a similar approach to the PFA. It would offer a set of tax principles and require the government to provide additional reporting guidance through a regular statement (e.g., the Revenue Strategy). This would allow the government to request information about specific issues of interest (e.g., high wealth individuals).

Option 2: A set of detailed principles and defined measures in legislation with officials reporting according to those defined criteria.

9.3 Option 2 would more closely follow the format of the CPRA. The TPA could require officials to report on, for example, the progressivity of the tax system according to a series of closely defined metrics. However, as we explain within the body of this report (below), this restricts the framework's ability to adapt as new measures are developed over time and may not be as widely accepted. It would also take longer to develop the legislation under Option 2 because the defined measures would need to be developed in advance.

Officials recommend Option 1

10. Both options would achieve your objective of providing greater information on the tax system.

11. However, we believe that Option 1 is the most achievable and that it provides greater flexibility. This means it is more likely to be an enduring part of New Zealand's tax policy landscape. Option 1 would involve building a neutral, open,

fact-driven approach to information collection which could be developed and improved over time. This approach would allow the Tax Principles Act to have flexibility to reflect different governments' views on distributional outcomes and priorities.

12. It would allow officials to learn from past reporting and improve subsequent reporting without the need to amend the authorising legislation. We consider that allowing both the information produced by the TPA to reflect the views of successive governments and officials to develop their reporting measures over time will be essential ingredients in ensuring framework's longevity and success.

13. Option 1 is also less likely to require extensive consultation than Option 2. This is as reference to generally accepted tax principles is less challenging from a design perspective than enacting detailed principles and measures. This means that Option 1 could be set-up and "underway" comparatively quickly. Option 1 would also reduce the risk of the reporting becoming a "pass/fail" assessment of the current tax system.

Detailed design questions

Selection of principles

14. The selection of appropriate tax principles is the most important design question. Ideally, the selected principles would complement New Zealand's existing tax and revenue framework and draw on the work of previous tax working groups. Drawing upon the familiar and accepted principles of taxation would capitalise on existing analytical frameworks.

15. We acknowledge that the selection of principles can be challenging. There is also debate as to whether principles overlap or involve trade-offs with one another. However, both the 2009 and 2018 Tax Working Groups included the following principles in assessing the design of the tax system:[1]

    15.1 *Efficiency:* The principle of efficiency seeks to raise tax at the least cost to domestic residents.

    15.2 *Fairness/Equity:* The principle of equity is typically divided into its horizontal and vertical components.

    15.3 *Revenue integrity:* The Revenue system should be sustainable over time and minimise opportunities for tax avoidance.

    15.4 *Compliance and administration cost:* The tax system should be as simple and low cost as possible for taxpayers to comply with, and for Inland Revenue to administer.

16. Reasonable arguments could also be made for the including the principles of certainty and flexibility within the reporting framework.[2]

17. We will need to ensure that the selected principles in the legislation cannot form the basis of legal proceedings against the Crown, and that they do not alter the responsibilities of agencies under other pieces of legislation.

[1] Both Working Groups also included the value of coherence (i.e., that individual reform options should make sense in the context of the system as a whole).
[2] Discussed further, below.

Government statement

18. Other important design questions include:

    18.1 *Role of a government statement:* The framework could include the ability for governments to offer non-legislative direction on the desired focus of the reporting (e.g., through the issue of a government statement). This would allow governments to commission information to support their specific priorities without compromising the independence of the reporting framework. This could be done using the existing Revenue Strategy process. A Revenue Strategy is a requirement of the PFA. Officials could explore whether the obligation to provide a Revenue Strategy could be shifted to the TPA.[3] This would ensure the obligation to issue a Revenue Strategy is sourced within the Inland Revenue Acts and aligned with tax principles.

    18.2 *Frequency of reporting:* We recommend that any reporting has sufficient time for analysis (such as reporting on a 3-year cycle). We consider that this would enable higher quality insights and reporting. Shorter periods (e.g., annual reporting) would likely result in lower quality analysis and it is likely that each year's information would not be significantly different.

Next steps

19. Taking the project forward will require decisions on the extent and nature of consultation and the legislative timeline. More specifically:

    19.1 *Consultation:* We recommend that there is public consultation prior to the enactment of legislation (in keeping with the Generic Tax Policy Process (GTPP). This could occur after the preparation of a Cabinet paper (i.e., before final decisions are made and legislation is drafted). While consultation would extend the project's timeframe, it would align with the GTPP and is likely to result in a better and more enduring product. Consultation could occur through the release of a short discussion document and targeted discussions with key stakeholders.

    19.2 *Timeline:* Introducing legislation before year's end will be very challenging as Inland Revenue's resources are currently invested in other projects and are affected by the disruption of COVID-19 restrictions. We suggest introducing legislation after the enactment of the 2021 Annual Rates' Bill.

    19.3 *Example TPA:* We will provide an example of a TPA and the types of information that could be reported on the tax system informed by the tax principles.

20. *Resourcing:* We are working through the resourcing requirements of a Tax Principles Act including which agencies will be responsible for reporting. It is possible that resourcing of the initiative will require a budget bid. We will report back on potential administrative costs and whether these can be met from within baselines (taking into account wider departmental cost pressures).

[3] Section 26G(1)(e) of the PFA requires the government to have regard to efficiency and fairness, including the predictability and stability of tax rates.

Recommendations

1. We recommend that you:

Model selection

1.1 **Indicate** whether you prefer:

1.1.1 **Option 1 (officials' recommendation)**: A statement of general principles in legislation, with a legislated requirement for a government guiding statement and for officials to independently report on relevant information; or

Agree/Disagree Agree/Disagree

1.1.2 **Option 2:** A set of detailed principles and measures in legislation with officials reporting according to defined criteria.

Agree/Disagree Agree/Disagree

Principles

1.2 **Indicate** the principles which you wish to include in draft legislation:

1.2.1 Efficiency

Yes/No Yes/No

1.2.2 Fairness/Equity (i.e., horizontal equity and progressivity)

Yes/No Yes/No

1.2.3 Revenue Integrity

Yes/No Yes/No

1.2.4 Compliance and Administration costs

Yes/No Yes/No

1.2.5 Certainty and predictability

Yes/No Yes/No

1.2.6 Flexibility and adaptability

Yes/No Yes/No

Frequency of reporting

1.3 **Indicate** preference at this stage for following design choices:

1.3.1 Reporting once every three years (officials' recommendation); or

Yes/No Yes/No

1.3.2 More frequent reporting.

Yes/No Yes/No

Cabinet paper and discussion document

1.4 **Direct** officials to:

1.4.1 prepare a Cabinet paper for Cabinet Economic Development Committee seeking agreement to the development of a TPA framework; and

Directed/Not directed Directed/Not directed

1.4.2 (if preparation of a Cabinet paper is agreed to, above), prepare a short discussion document for public consultation.

Directed/Not directed Directed/Not directed

Consultation

1.5 **Agree** to:

1.5.1 Public consultation following the preparation of a Cabinet paper; or

Agreed/Not agreed Agreed/Not agreed

1.5.2 Targeted consultation with key tax policy stakeholders.

Agreed/Not agreed Agreed/Not agreed

Further advice to come

1.6 **Note** officials to provide you with further advice on:

1.6.1 the reported information and measures which could be included in reporting on the features of New Zealand's tax system against these principles;

1.6.2 a high-level example of a Tax Principles Act;

1.6.3 whether additional operational funding would be required for ongoing reporting; and

1.6.4 possible timeframes for the enactment of legislation.

Noted Noted

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Purpose

1. The Minister of Revenue asked officials to provide advice on developing and establishing a reporting framework informed by a set of tax principles. These principles are to be set out in a Tax Principles Act (TPA). This project has been included on the Government's current Tax Policy Work Programme, and this report:

   1.1 Outlines the benefits and risks of enacting a TPA at a high-level (page 7);

   1.2 Seeks your decision on the reporting framework for a TPA (page 9); and

   1.3 Seeks your decision on the principles to include in a TPA and further design and process issues (page 12).

2. Provided you agree, the next step would be for officials to prepare a Cabinet paper for you seeking Cabinet's agreement to proceed with developing a legislated reporting framework.

3. Consultation with stakeholders could take place following Cabinet approval on a public or targeted basis and could be accompanied by the release of a short discussion document.

Benefits and risks of a Tax Principles Act at a high-level

Objectives

4. We understand the main objective of a Tax Principles Act is to increase the public's understanding of the tax system and improve the quality of debate surrounding its key features.

5. To support this objective, the Minister of Revenue has proposed the enactment of a Tax Principles Act. This Act would:

   5.1 contain a set of generally accepted tax principles;

   5.2 create a reporting framework which would offer regular information on how New Zealand's tax system is operating in light of these principles.

6. A key focus of this reporting framework would be on the distributional outcomes of the tax system (particularly for very high income and wealth individuals). There are related projects looking at this area and being reported separately.

7. We also understand that another objective is for a TPA to remain an enduring feature of New Zealand's tax policy landscape.

Overseas experience

8. Legislation similar to the proposed Tax Principles Act have been enacted overseas. For example, Article 53 of Italy's Constitution explicitly requires that the Italian tax system be progressive.[4]

9. However, the key insight we can draw from the constitutions of these countries is that enacting a set of abstract principles *alone* is unlikely to materially inform or influence tax policy.

10. This is because statements of principle on their own can be interpreted in quite different ways. Such statements require the tax system to display a particular characteristic without defining what it means or explaining how it is to be applied.

[4] Similar provisions exist in the constitutions of Spain and Portugal.

This means that tax systems with quite different outcomes could potentially lay equal claim to bearing out the same principle in practice.

11. We do not recommend the enactment of tax principles on their own, and support having any principles supported by a reporting framework. We consider that ongoing reporting on the tax system informed by the tax principles will be crucial to delivering on your objectives.

Opportunities and benefits

12. The development of a reporting framework informed by tax principles would offer a range of potential benefits. Looking at examples such as the Public Finance Act and the Child Poverty Reduction Act these include:

12.1 *Improved tax-relevant information:* A reporting framework informed by core tax principles would increase the amount of available information on these aspects of the tax system. This likely to improve the public's understanding of the tax system and its role in society, and produce more informed public debate on tax, economic and social issues. The greater availability of tax information could also contribute positively to the quality of discussions among decision makers (and therefore to shorter-term policy outcomes);[5]

12.2 *Increased institutional value of Inland Revenue and the Treasury:* A high quality, enduring reporting framework would provide an increasing body of insight within Inland Revenue and the Treasury about how the tax system operates in regard to these tax principles. This would increase agencies' ability to provide best advice on changes to maintain and improve the integrity of the tax system, as well as the ability of the tax system to meet longer-term social, fiscal and economic objectives. It would complement work on Long-term Insight Briefings.

Potential risks

13. A reporting framework informed by legislated tax principles would carry some risks and face challenges in achieving its objectives. These include the following:

13.1 *Resourcing:* Implementing a reporting framework would require regular data collection and analysis, often in connection with topics that are not well understood (or which remain subject to academic debate). Implementing the framework will require specialist knowledge and resourcing.[6] This may reduce tax policy resources available to deliver other government priorities. We will consider further how any reporting could be delivered and whether reporting agencies will require additional funding.

13.2 *Endurance and flexibility:* If the principles and reported information are too narrow or rigid they may not receive broad acceptance and therefore not be useful for informing tax policy. Expressing the principles in generally accepted terms would retain widespread support and allow the framework to adapt to developments in tax scholarship, promoting its durability. This is discussed further below.

13.3 *Determining the right measures:* Not all principles readily lend themselves to quantitative analysis. For example, it is unlikely that the adaptability of the tax system (i.e., its ability to respond to new developments) could be measured directly. However, officials could seek to address the issue

[5] Inland Revenue would continue to report on performance measures as part of an accountability framework. In this sense, the reported information and measurement in the TPA would not be used as a means of accountability but as a way to learn about complex systems and their impact on people and entities. This would help the tax system to adapt and improve over time.

[6] This could be funded from either existing baselines, or through an increase in reporting agencies' operating baselines.

indirectly (e.g., by offering information about income reporting among self-employed members of the "gig" economy, or by surveying the tax community more broadly). This would allow us to provide some information on the tax system's ability to meet new challenges.

13.4 *Risk of misinterpretation:* There is the risk that the data provided by the framework could be misunderstood. This risk could be addressed through the clear and concise explanation of reported information.

A reporting framework for a Tax Principles Act

14. In our view, a TPA that sets out tax principles and a reporting framework could take one of two forms:

14.1 *Option 1:* High-level principles with flexible reporting requirements; or

14.2 *Option 2:* Closely defined principles and detailed reporting requirements

15. Option 1's high-level approach is similar to the framework set out in the Public Finance Act 1989 (PFA). The more detailed character of Option 2 is closer to the approach taken by the Child Poverty Reduction Act 2018 (CPRA).

Option 1: High-level principles with flexible reporting requirements

16. This would require a statement of general principles in legislation, with a legislated requirement for a government statement and officials' reports. Officials would develop measures and independently report on relevant information. Officials would have the flexibility to choose the most appropriate information and adapt measures over time as understanding of best practice in measurement grows and more data becomes available.

17. If, for example, the principle of fair and equitable taxation were to be included, the Government's Revenue Strategy could request the reporting framework focus on specific issues, such as horizontal equity, or the degree of progressivity in the income tax rules and indicate how the government might focus on that issue in its work programme. This approach has precedent. For example, in 2021, the Revenue Strategy referred to the introduction of the 39% top tax rate as a measure the Government used to increase the progressivity of the tax system. Officials were also resourced and directed to look specifically at the effective tax rate of high wealth individuals and the integrity of the tax system from introducing the new rate.

18. We consider that allowing officials the flexibility to develop their information and measures over time would be essential to the framework's success. Reporting definitively on some principles will be a difficult task. However, in some cases these could be addressed indirectly.

19. For example, efficiency is typically defined by economists in terms of minimising the economic cost of the revenue raised to taxpayers. Although it would be extremely difficult to assess the overall efficiency of the system directly, we would expect efficiency to be supported by broad and neutral taxes. Officials could therefore provide information about the neutrality and breadth of the tax system and thereby offer some indirect information on the likely efficiency of the tax system overall.

20. This approach is similar to that used in the PFA, which requires the Government to issue statements and public sector entities to prepare financial information according to widely accepted and independently audited accrual accounting concepts and measures.[7]

[7] The Treasury, *A Guide to the Public Finance Act* (26 November 2019).

Option 2: Detailed principles and reporting

21. Requiring detailed principles and reporting would more closely follow the format of the CPRA. The CPRA requires officials to provide detailed reporting against a series of closely defined measures which are set out in the legislation. For example, the CPRA requires officials to prepare an annual report which includes the percentage of children living in households in the financial year with a given proportion of disposable household income.[8]

22. While the accounting measures behind the PFA are well established, the child poverty measures are less so and were the cause of some debate. Both the academic literature and the work of the Expert Advisory Group on Solutions to Child Poverty assisted in determining the most appropriate measures.

23. Under Option 2, the TPA could require officials to report on, for example, the progressivity of the tax system according to a series of closely defined metrics. However, as we explain below in Box 1, this approach would present significant challenges for officials.

Other options considered

24. We have also considered options that would create a reporting framework without the tax principles (or the requirement to report) being prescribed by legislation. This would represent a less formal approach and could include Cabinet directing officials to report against a set of government agreed principles.

25. However, within government, resourcing is regularly reprioritised to deal with fundamental concerns and emerging issues. This means that legislated obligations usually take priority over those which are non-legislated. There is the risk that a Cabinet-agreed reporting requirement would not prove enduring and any resource devoted to it would become reprioritised in time. Additionally, under a non-legislated approach, any future government would be able to stop reporting without public notice.

Recommendation on reporting framework

Both options would provide greater information and transparency

26. We believe both Option 1 and Option 2 could be designed to provide you with greater information about specific aspects of New Zealand's tax system. Even with high-level principles, the use of a government statement would allow you to request information about areas of the tax system which are of particular interest to you. In each case, officials would disclose the data, assumptions and definitions underlying their measures.

But they differ in their flexibility

27. You have indicated that you want the Tax Principles Act to be enduring. We believe that achieving this will require the Tax Principles Act to have flexibility to reflect different governments' views on distributional outcomes and priorities.

28. In addition, flexibility will allow us to change our measures in response to academic developments and improved data. This will help ensure the measures are robust and remain relevant over time.

Option 1 with high level principles would provide flexibility

29. We consider Option 1 will better achieve the Minister of Revenue's objectives. It would involve a building up a neutral, fact-driven approach to information collection and analysis that can evolve over time in response to feedback. This adaptable and

[8] Section 31 of the CPRA 2018.

apolitical approach could increase the likelihood of the framework receiving broad cross-party support and interest from stakeholders. This would support the longevity of the Tax Principles Act.

30. The information and measures reported could be revised as the body of literature produced by the reporting framework grows. This would enable officials to learn and report new and improved measures over time, including as new data becomes available, without the need to amend the legislation.

31. Allowing flexibility in the information that is reported will allow governments to emphasise (via the Revenue Strategy) different aspects of the tax principles they wish to see in the reporting requirements as the economy changes (e.g., information on the taxation of global firms or adaptation to future of work).

Option 2 does not provide as much flexibility

32. In contrast, Option 2 would require detailed measures to be defined and fixed within the legislation itself. This would likely make cross-party support more challenging.

33. Although the use of fixed measures would produce a consistent information stream whose results could be easily compared across the years, the quality of the information itself may not be as useful for tax policy development over time. This is because the measurement of tax principles (e.g., progressivity) is not an established science and would require many assumptions to be made by officials. Under Option 2, these assumptions would be more inherent in the legislation (although could also be highlighted in the reporting itself).

34. If these assumptions are built into the measure which is required to be reported, it would allow critics to challenge the TPA and its reporting if the assumptions do not withstand sustained scrutiny or have become outdated by subsequent scholarship. This could result in the framework producing data that is difficult to interpret or is even misleading. This would undermine the integrity of the reporting framework (Box 1 below outlines some of the issues with taking detailed measures and the difficulties that legislating detailed principles would create).

Pass/fail assessment

35. Option 2 would also risk a "pass/fail" judgment *being inferred* of the New Zealand tax system's consistency with various tax principles. Owing to the uncertainty associated with such an assessment of these principles and the undesirability of officials inserting themselves on arguably political questions, we do not think this "pass/fail" assessment would be desirable.

Timeframes to implement

36. The Minister of Revenue has indicated that he wishes to introduce legislation for a Tax Principles Act as a priority.

37. The enactment of detailed principles and measures under Option 2 is likely to require greater consultation on what those measures should be than the enactment of more general principles with a flexible reporting framework under Option 1. This would require us to reassess the next steps and timeframes which we have suggested below.

Box 1: Fairness and Progressivity

The principle that the tax system must be fair and equitable is often expressed in terms of how progressive a tax system is. For an income tax to be progressive, the percentage of income paid in tax rises with the amount of income earned over a given period. However, determining the progressivity of a tax system requires the consideration of a range of factors, including the:

Definition of income: Defining the income which is received by the taxpayer is a necessary pre-requisite to determining the proportion of tax which is paid on that income. Questions related to the definition of income include whether it should be assessed in economic terms (i.e., Haig-Simons), inflation adjusted or nominal, and whether to include a range of government paid taxable assistance (such as paid parental leave).

Economic incidence of taxation: To determine the amount of tax paid by a given taxpayer, it is important to understand where the economic (rather than legal) incidence of the taxation falls. For example, while the legal liability for returning GST in New Zealand rests with those in trade, some portion of the economic burden of the GST is borne by consumers of the goods sold by those in trade. Unfortunately, however, economists are generally uncertain about the exact economic incidence of taxation.

Metric: A key issue is whether the assessment of progressivity should include income subject to tax from individuals only, or be extended to include the non-taxable transfer payments and government spending from which taxpayers benefit. Another question is whether it should be measured on an individual or on a household basis.

Selection of a time period: As income is typically assessed annually, progressivity could be assessed on an annual basis. However, measuring progressivity on an annual basis is arbitrary and can overlook variations in the amount of tax paid by taxpayers over the course of their lifetime. This can skew the assessment of the progressivity of a tax system.

Detailed design of a Tax Principles Act

38. This report seeks Ministers' preferences at this stage to the key features of the design.

What principles to include?

39. The key question is the selection of an appropriate set of principles. While we believe the same set of principles could be included under either Option 1 or Option 2, there would be a tighter definition in legislation under Option 2, which could limit what is reported.

40. We recommend the selected principles draw on existing analytical frameworks. This would capitalise upon the existing body of literature and the consensus among stakeholders as to the principles which underlie an effective tax system.

41. For example, the 2018 Tax Working Group referred to the established principles of "efficiency and growth, equity and fairness, revenue integrity, fiscal cost, compliance and administrative costs, and coherence" when assessing individual proposals for tax reform. In doing so, the 2018 Tax Working Group drew upon the "Principles of a Good Taxation System" set out in the 2009 Victoria University Tax Working Group.[9] Consistent with the findings of these working groups, the principles which could be incorporated within the TPA include:[10]

41.1 *Efficiency*: The principle of efficiency seeks to raise tax at the least cost to domestic residents.[11]

41.2 *Fairness/Equity:* The principle of equity is typically divided into its horizontal and vertical components. Horizontal equity requires that taxpayers in similar situations should be treated similarly in taxation while vertical equity

[9] Victoria University Tax Working Group, 2010, p15
[10] OECD, *Addressing the challenges of the digital economy*, Chapter 2 (2014)
[11] Noting that we would expect an efficient tax system to be broad and neutral.

requires those with higher income or ability to pay to pay a greater proportion of their income in tax.

41.3 *Revenue integrity*: The revenue system should be sustainable over time and minimise opportunities for taxpayers to engage in tax avoidance.

41.4 *Compliance and administration costs*: The tax system should be as simple and low cost as possible for taxpayers to comply with (and for Inland Revenue to administer).

42. Two additional principles which you may wish to consider including are:

42.1 *Certainty and predictability:* The 2018 Tax Working Group (TWG) also included the principles of predictability and certainty in addition to the principles noted above. These principles require taxpayers to be able to understand clearly what their obligations are before those obligations are due. The 2014 OECD Report *Addressing the Challenges of the Digital Economy* (OECD Report)[12] also referred separately to the value of certainty, and argued that clear and simple tax rules reduced opportunities for aggressive tax planning (i.e., tax avoidance).[13]

42.2 *Flexibility/Adaptability:* The OECD Report also referred to the principle of flexibility, which requires that tax systems remain dynamic and able to keep pace with technological and commercial developments (e.g., cryptoassets). Although flexibility is a more recent addition to tax literature, the current pace of technological change makes it relevant to policy makers in the present era.

43. There may be some overlap with the principles in terms of the information reported and measures used. For example, compliance costs are a measure of the certainty and simplicity of the tax system and an efficient tax system may also result in lower compliance and administrative costs. Likewise, tax policy may reflect a trade-off between tax principles and this would be reflected in the information reported.

44. We will need to ensure that the selected principles cannot form the basis of legal proceedings against the government. We will also need to ensure that the TPA does not alter the responsibilities of Agencies under other pieces of legislation.

Government statement

45. Part of the reporting framework could include the ability for governments to offer non-legislative direction on the desired focus of reporting (e.g., through the issue of a Government statement or similar). This would allow governments to seek information which supports their specific policy aims and priorities while maintaining the independence and integrity of the reporting framework itself.[14]

46. This non-legislative direction could be integrated within the Revenue Strategy, which is currently a component of the Government's Fiscal Strategy.[15]

47. For example, a government seeking information on the equity of the tax system, could issue a statement requiring officials to have regard to specific indicators in their reporting (e.g., economic income or wealth). In this context, a Government statement could act as a "brief of instructions" to focus officials' reporting on areas of interest. This would not affect the wider role of the Revenue Strategy, which would continue to set out the government's vision for a tax system and inform the Tax Policy Work Programme.

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[12] At p30.
[13] The value of certainty has an established pedigree in tax literature, having been listed among the Four Canons of Taxation established by Adam Smith in *The Wealth of Nations* (1776).
[14] This is similar to the approach toward the Revenue Strategy.
[15] PFA s 26L(d) requires the government to produce a Revenue Strategy.

48. However, for the framework to remain a neutral source of tax information and build up a longitudinal data series, it will need to retain a degree of independence from the government of the day. We would therefore suggest that the reporting maintain a consistent focus on the legislated principles *in addition* to the area(s) of interest to the instructing government. This will ensure that a consistent stream of information is produced (and available to decision makers) irrespective of the specific interests of the incumbent government. This would help to make the framework a permanent feature of the information landscape.

49. Incidentally, the Revenue Strategy is currently included as a requirement in the PFA. Officials could investigate the option to shift the requirement to produce a Revenue Strategy into the TPA. At this stage we consider the Tax Administration Act and its principles of integrity and fairness of process would remain separate.

Frequency of reporting

50. A further design question concerns the frequency of reporting. We are aware of existing reporting frameworks which require the relevant authority to report every three to four years.[16]

51. We recommend a similar three-year reporting period. This would provide sufficient time to prepare higher quality analysis. Shorter periods, such as annual or 18 monthly reporting, are unlikely to provide as much value as less frequent reporting on the basis that the findings of one year are unlikely to differ materially from the year immediately before or after it.

52. Another option could be to require reporting every three years by default, with the ability for Ministers to request more frequent reporting where required.

Next Steps

53. Taking the project forward will require several decisions.

Consultation

54. We recommend that there is consultation prior to the enactment of legislation (in keeping with the GTPP). We seek your preference as to whether you wish officials to undertake public consultation following the preparation of a Cabinet paper (e.g., through a short discussion document).

55. While consultation during the project would extend its timeline before Bill introduction by several months, it would align with the GTPP and is likely to produce a better end product. Increased collaboration with stakeholders is also likely to result in greater overall support for the initiative which will support the longevity of the Tax Principles Act.

56. Already, we are aware that the private sector has expressed interest in the tax principles project. We think the proposal for a high-level reporting framework would be positively received by the private sector and believe our current work would benefit from the ability to discuss the project, in general terms, with stakeholders before the drafting of legislation begins.

57. Consultation through the release of a short discussion document would allow the project to benefit from the insights of a variety of stakeholders and, more importantly, would allow stakeholders to understand the intention of the initiative (thereby improving the calibre of submissions). Alternatively, consultation could

[16] For example, the Retirement Commissioner is required to publish a review of retirement income policies every three years. The LTIB is required every three years.

occur on an informal basis (i.e., without a discussion document) with key tax policy stakeholders.

Timeline

58. The introduction of legislation before year's end will be challenging. A significant portion of Inland Revenue's resources are currently devoted to the housing reforms and to other policy changes which are to be enacted in the 2021 Annual Rates Bill.

59. Stakeholders' resources will be devoted to submitting on the housing reforms, the Social Unemployment Insurance discussion document, and responding to Covid impacts. This means stakeholders' capacity for engagement on the TPA will be limited.

60. We are provisionally aiming to introduce legislation after the enactment of the 2021 Annual Rates' Bill. This would allow additional time for stakeholders to engage with the proposals at Select Committee. An indicative timeline is set out below:

Key milestones	**Indicative date**
Cabinet paper for Cabinet Economic Development Committee	Late October/November 2021
Consultation period if agreed	November-December 2021
Cabinet paper for LEG	March 2022
Bill introduction	June 2022

Example legislation and information for reporting

61. Officials will consider what information could be reported on the tax system, informed by the principles in this report, and what a TPA could look like and report further.

Financial implications

62. We are working through the resourcing implications of this proposal, including agency reporting requirements.

63. It is possible that the ongoing resourcing of the initiative will require a budget bid (that is, if the project cannot be resourced from existing baselines). We will continue to investigate potential administrative costs and report back later on whether a Budget bid would be required.

64. If new funding is required, a budget bid will need to be invited and submitted by November 2021 in order to be considered in early 2022.

Item 2

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Further advice: Establishing a reporting framework in a Tax Principles Act**

Date:	22 March 2022	**Priority:**	Medium
Security level:	Sensitive	**Report number:**	IR2022/099

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations	5 April 2022

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor	s 9(2)(a)
Josh Fowler	Senior Policy Advisor	

22 March 2022

Minister of Revenue

Further advice: Establishing a reporting framework in a Tax Principles Act

Executive summary

Purpose

1. This report:

   1.1 Presents options for expressing the tax principles in a way which is more likely to be readily understood by, and engage, the public.

   1.2 Offers further advice on the reporting framework's possible design features and interactions with existing documents.

   1.3 Seeks your agreement to the release of a short discussion document on the content and design of the proposed Tax Principles Act and associated consultation.

Background

2. Late last year, we provided the Minister of Finance and the Minister of Revenue with advice ("Initial Advice") on developing and establishing a new Tax Principles Act ("TPA") [IR2021/407, T2021/2404].

3. The intention of the TPA is to provide a reporting framework informed by a set of tax principles. The report proposed a set of general principles (listed in column one in the table below) and offered design choices on related matters (e.g. the frequency of reporting and the level of detail in legislation).

4. You have since asked officials to carry out further work on the presentation of the principles, with a view to expressing them in a way that is more likely to engage stakeholders and the wider public.

5. You have expressed concern that the enactment of a bare set of principles, without further context, may be a hurdle to public and stakeholder engagement with the legislation and reporting framework.

6. In our view, this issue could be addressed by presenting the principles in descriptive terms. For example, rather than referring to the principle of certainty alone and in the abstract, the legislation might say, "People should be able to clearly determine their tax obligations before they are due". Other principles could be expressed in a similarly descriptive way. This would help stakeholders to grasp the content and intention of the tax principles, which information would be reported against, more easily and pose fewer barriers to engagement in public debate.

Selection of principles

7. We would not recommend the enactment of maxims or prescriptive statements which deviate significantly from commonly accepted tax policy principles. More

novel formulations could deter stakeholders from engaging with the policy process, or affect, long term, the willingness of future governments to continue commissioning reporting through the framework. Much of the framework's value will arise from the body of work created by continued reporting and the regular public debate it generates over time. Locating the TPA within traditional tax policy frameworks would improve the chances of achieving enduring bipartisan support for the initiative and growing a body of literature over the coming years.

Using the TPA to support government policy initiatives

8. We should note, however, that using traditional tax policy frameworks and principles would still allow governments to pursue or seek specific information to support their own policy objectives.

9. Governments could use the Revenue Strategy to instruct officials when reporting to have regard to specific areas of the tax system which are of interest to them (e.g. wealth or income distribution). The Revenue Strategy could also be used to expand on a government's view of how the tax principles should be pursued relative to each other and the trade-offs that would be made for specific tax policies. For example, a government may wish to improve revenue integrity at the trade-off of higher compliance costs.

10. The TPA could also allow governments to provide a response to the reports produced under its jurisdiction. This approach has precedent, and would allow governments to offer their reflections on the reports (thereby closing the policy "loop").

Next steps

11. We expect to complete several key milestones in the project this year. These will include finalising the Budget bid and providing you with a draft Cabinet paper and discussion document. We will also need to confirm the detailed design decisions for draft legislation.

12. Provided you agree, the next step would be for officials to prepare a discussion document and draft Cabinet paper seeking Cabinet's agreement to proceed with consultation on the development of the TPA. The discussion document would seek feedback on the final wording of the tax principles to be included in legislation and their descriptions, as well as detailed design questions such as frequency of reporting.

Recommendations

1. We recommend that you:

   1.1 **Note** the updated advice on descriptive wording of tax principles to guide the reporting framework.

   Noted

   1.2 **Indicate** if there are any other areas of the Initial Advice you wish to discuss with us.

   Indicated

   1.3 **Agree** to officials drafting a Cabinet paper and short consultation document to be provided to you for your consideration and approval before lodgement.

   Agreed/Not agreed

   1.4 **Refer** a copy of this report to the Minister of Finance.

   Referred

s 9(2)(a)

Murray Shadbolt
Principal Policy Advisor
Policy and Regulatory Stewardship
Inland Revenue

Hon David Parker
Minister of Revenue
/ /2022

Purpose

1. In September 2021, we provided the Minister of Finance and the Minister of Revenue advice ("Initial Advice") on developing and establishing a new Tax Principles Act ("TPA") [IR2021/407, T2021/2404]. The initial advice was discussed at a meeting with officials on 21 October 2021.

2. The Minister of Revenue has since asked officials to carry out further work on the principles to be included within a new Tax Principles Act ("TPA"). This report:

   2.1 Presents further advice on expressing the principles in a way which is more likely to be readily understood by, and engage, the public than in the Initial Advice.

   2.2 Offers further advice on the framework's possible design features and interaction with existing documents.

   2.3 Seeks your agreement to prepare a short discussion document on the content and design of the proposed Tax Principles Act and associated consultation.

3. Provided you agree, the next step would be for officials to prepare a discussion document and draft Cabinet paper for you seeking Cabinet's approval to the release of a discussion document.

Further advice on description of tax principles

Introduction

4. The intention of the TPA is to provide a reporting framework informed by a set of tax principles. Our Initial Advice proposed a set of general principles (listed in column one in the table below) and offered design options on matters such as frequency of reporting and the level of detail in legislation.

5. We understand you prefer formal reporting to occur once every three years, with the option for interim annual reporting.

6. We understand the main objectives of the framework are to increase the public's understanding of the tax system and improve the quality of debate surrounding its key features. This includes distributional outcomes, particularly for very high wealth individuals where information is currently sparse.

7. You have since asked officials to carry out further work on the presentation of the principles, with a view to expressing them in a way that is more likely to engage stakeholders and the public.

Discussion

Descriptive presentation of tax principles

8. You have expressed concern that the enactment of a bare set of principles, without further description, may be a hurdle to public and stakeholder engagement with the legislation and reporting framework. Some stakeholders and members of the public will not be familiar with conventional tax policy principles (e.g. equity,

efficiency, etc). Accordingly, we have given thought to how the framework might better engage a wider audience while still being enduring and feasible to report on.

9. In our view, this could be achieved by presenting the principles in descriptive, rather than general, terms. For example, rather than referring to the principle of certainty alone and in the abstract, the legislation might say, "People should be able to clearly determine their tax obligations before they are due."

10. Enacting the principles in this way would make it clearer for the public and improve engagement, while still including the generally accepted principles of tax policy. Those familiar with the principles would recognise them immediately, while those who are not acquainted with them would grasp their meaning.

11. This approach does not presuppose the relative priority of the principles and associated trade-offs, which we anticipate would continue in the public debate informed by the reporting (for example, some stakeholders might be willing to trade-off efficiency to achieve greater vertical equity, etc).

12. The government of the day could then further expand on the principles and descriptions in the annual Revenue Strategy, including how tax policy may change to meet a particular focus the government has for the development or maintenance of the tax system. These proposed changes could be set out in the Tax and Social Policy Work Programme.

13. Although we recommend consulting on their formulation, a preliminary example of how the general principles which we suggested in our Initial Advice could be expressed is set out in the table below:

Principle	**Description**
Efficiency	Tax revenue should be raised at the least possible cost to society, including by minimising impediments to economic growth and avoiding unwanted distortions to the use of resources.
Equity (horizontal)	People with similar levels of income should pay similar amounts of tax.
Equity (vertical)	The tax system should be progressive. An income tax is progressive if people with higher levels of income pay a higher proportion of that income in tax. Having a progressive tax system does not mean that every tax should be progressive.
Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
Compliance and administrative costs	Compliance and administrative costs should be minimised as much as possible.
Certainty and predictability	People should be able to clearly determine their tax obligations before they are due.
Flexibility and adaptability	The tax system should keep pace with changes in society, in particular with technological and commercial developments.

Selection of principles in the legislation

14. We have not been too specific in the descriptions to provide some flexibility in reporting against these principles and avoid creating a pass/fail assessment of the current tax system. For example, we have not specified a time period over which the revenue system should be sustainable.

15. We believe a significant part of the framework's value will arise from it becoming an enduring, institutional feature of the tax policy landscape. Ensuring the framework remains in place over the long term will allow it to produce a body of literature and measures from which observations and trends can be drawn. This can inform the public debate and support evidence-based policy changes. However, to achieve this, we believe the framework will need to attract and retain support from as many sectors of society as possible, and be set up to encourage debate from that broadly accepted position.

16. Accordingly, we would not recommend the enactment of maxims, preferred outcome or prescriptive statements which deviate significantly from the principles described above. In our view, setting out other statements or maxims about the tax system *in the legislation* would put both the integrity and longevity of the framework at risk.

17. Value-based prescriptions could deter stakeholders who hold different views from constructively engaging with the framework during consultation and would allow them to more easily dismiss the framework's findings if they do not agree with them. This could ultimately affect the willingness of future governments to continue commissioning reporting under the framework. This could lead to ongoing amendments to the set of principles and negatively impact the extent to which the reporting can provide information on trends over time.

18. For example, the statement *"the pursuit of administrative efficiency should not produce unfairness between taxpayers or income types"* might not be best suited to a reporting framework. This is because a statement like this goes beyond requesting information be reported about two important principles (administrative efficiency and fairness), to a statement about which is more important. This is difficult to report against. We expect particular principles can sometimes be in conflict and the trade-off between them is a judgement for each government and may change over time.

19. One option would use non-legislative government documents to indicate the particular view a government takes on the tax principles, and the trade-offs between the different principles. Taking the above example of administrative efficiency and fairness, such a statement might be better suited in the Revenue Strategy, informed by information from the TPA reporting framework that (hypothetically) shows the government and the public the current measures on administrative efficiency and fairness. The Revenue Strategy could indicate if the Government considered the balance is inappropriately set, leading to specific reforms.

20. As another example, a government may decide that the system should quickly adapt to technological change (such as digital services and cryptocurrency) in a way that will significantly increase administration and compliance costs but improve the revenue integrity of the system. This could be signalled in the Revenue Strategy and work programme with further detail outlined in Ministerial speeches and Cabinet papers. The framework would then report on how the tax system has changed in terms of revenue integrity, compliance, administration costs, adaptability etc.

Issues with using unfamiliar principles

21. We note the issues that could arise with the use of less familiar principles using three examples, below.

Statements about the desired effect of taxation

22. The tax principles would include that the tax system should be progressive (e.g. that people on higher levels of income should pay a higher proportion of that income in tax). However, we do not recommend including in the legislation any principle that sets out how *much* more tax should be paid, as this would reflect a value judgment about the desired *degree* of progressivity (rather than progressivity itself).

Statements which define a specific taxpayer attribute

23. Another statement of the sort we would not recommend including within the TPA is the following:

> *"Those with wealth of $3M should not pay less tax than middle income earners".*

24. Any reference to a specific level of income or wealth would present a challenge for the framework. Critics would argue the legislation of a specific value is arbitrary, and does not account for liquidity, inflation or the value of a taxpayer's liabilities. It would also date over time and require regular amendment.

Statements which offer conclusions about the effect of taxes

25. We would also not recommend including statements which offer judgments about the effect of taxes on the tax system. An example of such a statement is the following:

> *Lower taxes are less distortionary than higher taxes*

26. A statement such as this could be overtaken by new insights in economic research. For example, while it is generally true that lower taxes on a broader range of capital and labour income are less likely to create economic distortions, there is currently considerable debate over whether it is more efficient to tax capital income at a lower rate than labour income.

27. The displacement of a legislated principle by developments in academic research would allow critics of the framework to more readily dismiss the framework as mistaken and the findings as outdated. Entrenching a position on such issues could ultimately put the longevity of the framework at risk.

Reporting challenges

28. Reporting conclusive information on principles will be challenging for several reasons. Determining where the actual incidence (or burden) of taxation lies is a difficult, if not impossible task. Although we could offer a view on the amount of tax paid by taxpayers according to their marginal or effective tax rates, any attempt to, for example, measure the progressivity of the tax system as a whole is likely to be partial at best. The number of assumptions and caveats required could make the reporting less useful for public debate. This means our reporting will tend to be informative rather than conclusive.

29. For example, the taxation of taxpayers can look very different comparing a single period to if it is assessed over the taxpayer's lifetime.

Example 1: Two taxpayers

Consider two taxpayers, Ben and Kelvin, who live and work in an economy with a 10% interest rate and a 20% tax on consumption. Both taxpayers earn and spend across two periods.

Ben earns a salary of $50 in the first period, and a salary of $55 in the second period. Ben spends as much as he earns in each period:

Ben's consumption over two periods					
	Income	**Tax**	**Net consumption**	**Saving**	**Tax as % of income**
Period 1	$50	$10	$40	$0	20%
Period 2	$55	$11	$44	$0	20%

Kelvin, by contrast, earns $100 in the first period, and nothing in the second period. He spends $50 in the first period and saves the remaining $50. He earns $5 in interest in the second period and spends this, plus the $50 which he saved from the first period:

Kelvin's consumption over two periods					
	Income	**Tax**	**Net consumption**	**Saving**	**Tax as % of income**
Period 1	$100	$10	$40	$50	10%
Period 2	$ 5	$11	$44	-$50	220%

Although both Ben and Kelvin have the same lifetime consumption possibilities and spend the same amounts in each period, their taxation as a percentage of income can only be described differently.

The taxation of Ben will appear proportional as he pays exactly 20% of his income in each period. However, the taxation of Kelvin will look regressive because his tax rate is much higher when his income is low in the second period, than when it was higher in the first period.[1]

Support for government policy initiatives

Use of Revenue Strategy to provide specific information

30. We expect and appreciate that governments will seek additional information from the reporting framework to support their policy priorities. This aligns well with the aim of contributing to data-led policy development. These need not be set out in the TPA legislation and could be set out in non-legislative government documents.

31. In our view, this could be achieved through the government's annual Revenue Strategy (which is currently part of the Government's fiscal strategy) and in setting the Tax and Social Policy work programme. For example, a government which wished to learn more about wealth or income distribution could use the Revenue Strategy to instruct officials to have specific regard to that area of the tax system in their reporting.

32. This would allow governments to obtain (in addition to the regular stream of tax system information associated with the principles themselves) information which is of specific interest to them without compromising the independence or integrity of the reporting framework itself. This would contribute to the body of literature produced by the framework.

[1] This example has been calculated on a tax inclusive basis. For example, in Ben's case $10 of tax has been determined as 20% of his consumption of $50 which includes the tax itself, rather than as 20% of the cost of his consumption excluding tax of $40.

33. We would recommend including discussion of this approach in the upcoming discussion document.

Government response to reporting

34. Finally, as a further measure, the TPA could allow governments to provide a periodic response to the information in the reporting framework.[2] This approach has precedent and would allow governments to offer their reflections on the report (thereby closing the policy "loop"). This would also allow governments to signal the items which will be incorporated into the next iteration of the Tax and Social Policy Work Programme.

Consultation

35. The Treasury has been consulted on this report and agrees with the recommendations.

Next steps

36. We expect to complete several key milestones in the policy process this year. These will include providing you with a draft Cabinet paper and discussion document, finalising the Budget bid, and providing you with further reporting to confirm the detailed design decisions.

Consultation

37. We understand you intend to make a short speech about the project early this year. This would assist in making the public aware of the intention of the legislation and address some questions that have been raised since the project was included on the Tax and Social Policy Work Programme.

38. We believe that wider consultation with stakeholders through the release of a short discussion document would also be useful. Consultation with a broad audience is likely to result in more informed discussion amongst stakeholders (who continue to express interest in the project) and a better overall product. In particular, feedback would be useful on the descriptions of the tax principles and what principles submitters consider would be widely accepted and enduring. We recommend this occur through the release of a short discussion document in the second quarter of 2022.

39. Provided you agree, the next step would be for officials to prepare a discussion document and accompanying Cabinet paper which seeks Cabinet's agreement to proceed with consultation on the development of the TPA.

Budget and bill bids

40. We have completed a budget bid for the resourcing of the TPA reporting framework. This is being considered as part of the regular budget process.

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[2] For example, the incumbent government typically responds to the findings of the Retirement Commissioner's Review of Retirement Income Policies, although we do not envisage the TPA framework will be offering recommendations for reform.

41. A revised Bill bid for the TPA was submitted earlier this year. A summary of the proposed timeline is as follows:

Milestone	**Date anticipated by**
Release of consultation document	30 May 2022
Final policy approval	30 September 2022
Introduction	18 October 2022
Report back from Select Committee	31 July 2023
Enactment	30 September 2023

42. We should note this timeline is tighter than it would first appear. We understand you wish us to deliver the first iteration of the reporting framework before the House rises in 2023. It will be necessary to begin the preparatory work associated with reporting in the second quarter of 2022.

43. A significant part of this work will be reaching out to a range of subject matter experts to understand the possibilities for legislative design, Treaty implications, data acquisition and analysis. Depending on whether the marginal or full benefit product is chosen in the budget process, it will also be necessary to engage with web developers on possibilities for presenting the information interactively, online.

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Cabinet paper and Discussion Document - Establishing a reporting framework in a Tax Principles Act**

Date:	3 June 2022	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2022/295

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Refer** the enclosed papers for Ministerial consultation **Refer** a copy of this report to the Minister of Finance **Sign** and **lodge** the enclosed Cabinet paper	**10:00 a.m., Thursday 16 June 2022.**

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor	s 9(2)(a)
Josh Fowler	Senior Policy Advisor	

3 June 2022

Minister of Revenue

Cabinet paper and Discussion Document – Establishing a reporting framework in a Tax Principles Act

Purpose

1. This report encloses **draft** copies of both the consultation document and Cabinet paper required for the next steps in the Tax Principles Project.

2. We understand you wish to present the Cabinet paper to Cabinet Economic Development Committee (CAB DEV) on 22 June 2022. This will require the Cabinet paper to be lodged by **10:00 a.m. Thursday, 16 June 2022.**

Background

3. Following our advice of 24 September 2021 and 22 March 2022 on options for developing a statutory reporting framework based on tax principles, you directed officials to begin preparing a draft Cabinet paper and consultation document (Discussion Document) for your consideration.

4. Accordingly, please find **enclosed** a draft Cabinet paper and a draft Discussion Document for Ministerial consultation and lodgement at the Cabinet Economic Development Committee (CAB DEV). This draft Cabinet paper provides a brief summary of the proposal and its objectives. It additionally asks CAB DEV to:

    4.1 **Note** that the Government's tax policy work programme currently includes an item on the development of a statutory reporting framework informed by tax principles.

    4.2 **Approve** the release of the Discussion Document for consultation;

    4.3 **Authorise** you to make further changes to the discussion document that are of a minor, editorial or technical nature before it is released; and

    4.4 **Invite** you to report back to the Committee with final proposals following the conclusion of consultation.

5. The draft Cabinet paper proposes the release of the Cabinet paper, associated minutes, and key advice papers within 30 working days of the release of the Discussion Document.

Regulatory Impact Analysis

6. The Discussion Document is intended to function as an interim Regulatory Impact Assessment (RIA). It has been reviewed as part of Inland Revenue's usual Impact Assessment quality assurance process (and as required by Treasury guidance on discussion documents and the Regulatory Impact Assessment process).

7. The review process has determined that the Discussion Document meets the relevant interim RIA requirements. However, the review panel has recommended some small changes to the discussion document to improve readability. We will review these suggested amendments, along with any feedback from Ministerial consultation, and provide an updated Discussion Document prior to its lodgement

with the Cabinet paper. This means the version of the Discussion Document which is lodged with the Cabinet Paper is likely to have minor differences from the version enclosed. However, we will draw any differences to your attention prior to lodgement.

8. Once the Discussion Document is released and consultation process is complete, a full Impact Assessment will be required. This will need to provide a comprehensive analysis of the reporting framework's impact and is likely to draw on the advice provided in our earlier two reports.

Consultation

9. The Treasury and the Department of the Prime Minister and Cabinet were consulted on the content of the Discussion Document.

Next steps

10. The next steps are for you to:

10.1 Review the enclosed draft Discussion Document and CAB DEV paper;

10.2 Consult with your Ministerial colleagues; and

10.3 Provided you agree with the content, **sign** and **lodge** the Cabinet paper and Discussion Document by 10:00 a.m. Thursday 16 June 2022 for consideration at the CAB DEV meeting on 22 June 2022.

Recommended action

1. We recommend that you:

1.1 **Note** the contents of this report and enclosed draft consultation document and Cabinet paper;

Noted

1.2 **Refer** a copy of the draft consultation document and Cabinet paper to your Ministerial colleagues for consultation;

Referred / Not referred

1.3 Provided you agree with the content, **Sign** and **lodge** the enclosed draft Cabinet paper (and latest version of the consultation document) by **10:00 a.m., Thursday 16 January 2022**;

Signed and lodged

1.4 **Refer** a copy of this report to the Minister of Finance for his information.

Referred

s 9(2)(a)

Murray Shadbolt
Principal Policy Advisor
Policy and Regulatory Stewardship

Hon. David Parker
Minister of Revenue
/ /2022

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Development Committee

ESTABLISHING A REPORTING FRAMEWORK IN A TAX PRINCIPLES ACT

Proposal

1. This paper seeks the Cabinet Economic Development Committee's approval in principle to the release of the discussion document *A Tax Principles Act: A reporting framework informed by tax principles*.

Relation to Government Priorities

2. The Government's current tax and social policy work programme has an item on the development of a statutory reporting framework informed by tax principles (TPA).

The discussion document: *A Tax Principles Act: a reporting framework informed by tax principles*

3. The TPA would establish a reporting framework informed by a set of tax principles. The intention of the framework is to provide a source of regular information about New Zealand's tax system (rather than about its administration). Specifically, the proposal aims to:

   3.1 Improve the public's understanding of New Zealand's tax system;

   3.2 Inform discussions on tax, fiscal and economic issues among stakeholders, policy makers and the wider public; and

   3.3 Contribute to the achievement of wider long-term social, fiscal and economic objectives through data driven reporting.

4. Achieving these objectives will require the TPA framework to become an enduring and permanent part of New Zealand's tax information landscape. To achieve its goals, the framework will need to have two specific qualities:

   4.1 *Independence:* to achieve stakeholder and cross-party support, the framework will need to be neutral and independent of the government of the day; and

   4.2 *Flexibility:* the framework will need to be capable of responding to new insights and developments in economic and tax literature. To do so, officials will need to be able to revise and adapt their measures as new insights become available.

Proposed Design Features

Selected principles

5. As proposed, the reporting framework would be informed by a high-level set of accepted tax principles which capitalise on existing frameworks, drawing from the work of previous tax working groups and the OECD. The principles which I propose be include within the discussion document on the TPA are:

No.	Principle	Description
1.	Horizonal Equity	People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (e.g. not taxing the imputed rent on an owner occupied home).
2.	Vertical Equity	The tax system should be progressive. Tax is progressive if people with higher levels of economic income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (e.g. GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income as middle income New Zealanders already do.
3.	Efficiency	Tax revenue should be raised in ways which minimise distortions to the economy and the use of resources.
4.	Compliance and administrative costs	Compliance and administrative costs for taxpayers and the Government should be reasonable but this is not justification for substantial unfairness in the tax system.
5.	Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
6.	Certainty and predictability	People should be able to determine their tax obligations before they are due.
7.	Flexibility and adaptability	The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality.

6. The information obtained from the framework will help to educate and inform the public about the role and operation of New Zealand's tax system.

Development of measures and reporting

7. Allowing officials the flexibility to develop and refine the measures in the report over time could help the framework retain its relevance and reflect developments in best practice. This could be more challenging if the measures were closely prescribed within the legislation itself.

8. I propose full reporting take place every three years. A short reporting period (such as annually or once every 18 months) is unlikely to offer as much value to governments, given the resources required, as the findings of one year across a number of indicators are unlikely to vary significantly from the year immediately before or after it. Similarly, reporting once every four or five years could result in significant insights and developments in New Zealand's tax system going uncaptured or being overlooked. However, there may be some information that could be reported annually as an interim report (as we do currently with the Tax Expenditure Statement).

Ability of governments to seek specific information through the Revenue Strategy

9. Additionally, I propose that the TPA include the ability for governments to seek information on specific areas of interest through the Revenue Strategy. This would be in addition to the standard reporting produced under the TPA and would allow governments to obtain information to support their policy and legislative priorities without compromising the integrity or independence of the reporting framework.

10. The information provided by the reporting framework could be used to inform the Government's Tax Policy Work Programme, which determines Inland Revenue's priorities for a term of 18 months.

11. This approach has precedent. For example, in 2021, the Revenue Strategy referred to the introduction of the 39% top tax rate as a measure the Government used to increase the progressivity of the tax system. Officials were also resourced and directed to look specifically at the effective tax rate of high wealth individuals and the integrity of the tax system after introduction of the tax rate.

Locating the obligation to issue a revenue strategy within the TPA

12. The TPA also provides the opportunity to consider bringing the obligation to issue a Revenue Strategy under an Inland Revenue Act. Currently, the requirement to provide a Revenue Strategy is located within the Public Finance Act 1989, which is administered by the Treasury. Bringing this requirement within the TPA could be a natural fit for a revenue function which could be used to offer additional direction to reporting provided under the TPA. I have asked officials to consider this further as part of the advice to be provided with feedback from the targeted consultation.

Consultation

13. Conducting targeted consultation on the TPA would align with the Generic Tax Policy Process (GTPP) which has been an important part of New Zealand's tax policy process for almost 30 years.

14. I believe that consultation will help stakeholders understand the proposal and contribute positively to the design of the TPA. I therefore propose to release the Discussion Document shortly after Cabinet approval.

Financial Implications

15. There are currently no financial implications associated with releasing this discussion document.

16. The options included in the discussion document will have financial implications if implemented. These will be reported to Cabinet at the time final policy approvals are sought.

Legislative Implications

17. There are no legislative implications associated with releasing this discussion document. However, implementing the proposal will require the enactment of new legislation. I note that a Bill bid was provided to the Cabinet Office on 21 January 2022.

18. Subject to consultation, I propose introducing this legislation in either late 2022 or early 2023, with enactment to occur in 2023.

Impact analysis

Regulatory Impact Assessment

19. The Treasury's Regulatory Impact Analysis team has determined that *A Tax Principles Act: A reporting framework informed by tax principles* is exempt from the requirement to provide a Regulatory Impact Statement (RIS). The exemption is based on advice that the discussion document includes the key features of an interim RIS.

20. The Regulatory Impact Analysis panel at Inland Revenue has reviewed the discussion document and confirmed that it meets these requirements. A full RIS will be completed at a later date to inform Cabinet's final decisions on this proposal once it returns from targeted consultation.

Climate Implications of Policy Assessment

21. 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 Implications

22. Releasing the discussion document does not have any population implications. Any population implications resulting from the proposals will be included in final policy advice to Cabinet following targeted consultation.

Human Rights

23. The proposals discussed in the consultation document are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

24. Inland Revenue officials consulted with the Treasury and the Department of Prime Minister and Cabinet in developing the proposals included in this discussion document.

Communications

25. The discussion document would be released on Inland Revenue's tax policy website.

Proactive Release

26. I propose to proactively release this Cabinet paper, associated minutes, and key advice papers within 30 working days of the release of the discussion document.

Recommendations

27. The Minister of Revenue recommends that the Committee:

    1. **Note** that the Government's tax policy work programme currently includes an item on the development of a statutory reporting framework informed by tax principles.

    2. **Approve** the release of the attached discussion document, *A Tax Principles Act: A reporting framework informed by tax principles*.

    3. **Authorise** the Minister of Revenue to make further changes to the discussion document that are of a minor, editorial or technical nature before it is released.

    4. **Invite** the Minister to report back to the Committee with final proposals following the conclusion of targeted consultation.

Authorised for lodgement

Hon David Parker
Minister of Revenue

CBC-22-MIN-0041

Cabinet Business Committee

Minute of Decision

Establishing a Reporting Framework in a Tax Principles Act: Release of Discussion Document

Portfolio **Revenue**

On 15 August 2022, the Cabinet Business Committee:

1 **noted** that the government's tax policy work programme currently includes an item on the development of a statutory reporting framework informed by tax principles;

2 **approved** the release of the discussion document attached to the submission under CBC-22-SUB-0041, *A Tax Principles Act: A reporting framework informed by tax principles*;

3 **authorised** the Minister of Revenue to make further changes to the discussion document that are of a minor, editorial, or technical nature before it is released;

4 **invited** the Minister of Revenue to report back to the Cabinet Economic Development Committee with final proposals following the conclusion of targeted consultation.

Jenny Vickers
Committee Secretary

Present:
Rt Hon Jacinda Ardern (Chair)
Hon Grant Robertson
Hon Kelvin Davis
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Carmel Sepuloni
Hon Andrew Little
Hon David Parker
Hon Stuart Nash
Hon Michael Wood
Hon Kiri Allan

Officials present from:
Office of the Prime Minister
Department of the Prime Minister and Cabinet

A Tax Principles Act: a reporting framework informed by tax principles

A Government discussion document

Te Kāwanatanga o Aotearoa
New Zealand Government

Hon David Parker
Minister of Revenue

First published in September 2022 by Policy and Regulatory Stewardship, Inland Revenue, PO Box 2198, Wellington 6140.

A Tax Principles Act: a reporting framework informed by tax principles – a Government discussion document

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The document is available at:
https://www.taxpolicy.ird.govt.nz/publications/2022/2022-dd-tax-principles

CONTENTS

CHAPTER 1

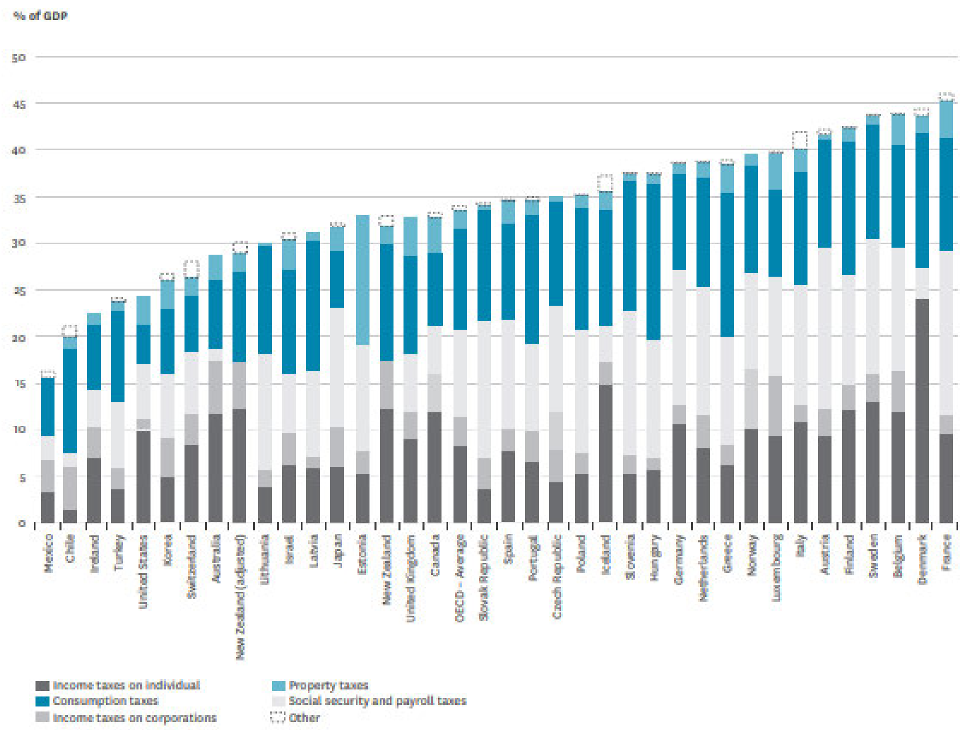
Introduction

1.1 All countries need a well-functioning, fair and efficient tax system to promote economic growth and support the well-being of their people. In a modern nation, taxes pay for services which make society more prosperous, fairer and peaceful. A good tax system provides revenue for health, education, justice and other important social and civic needs, including the maintenance of the rule of law. In New Zealand we look to the tax system to enhance social cohesion through supporting strong, balanced, sustainable economic growth and promoting fairness through the use of transfer payments. It is important that the way we collect taxes is fair and is seen to be fair.

New Zealand's tax system

1.2 To be constructive, a debate about the tax system and its fairness must be based on facts. For example, as set out in the table below, New Zealand is around the middle of Organisation for Economic Co-operation and Development (OECD) countries in its tax–to–GDP ratio (that is, tax revenue as a proportion of Gross Domestic Product). New Zealand's tax-to-GDP ratio has remained close to the OECD average, in recent years.[1]

Table 1: Tax as a share of GDP in OECD countries in 2018[2]



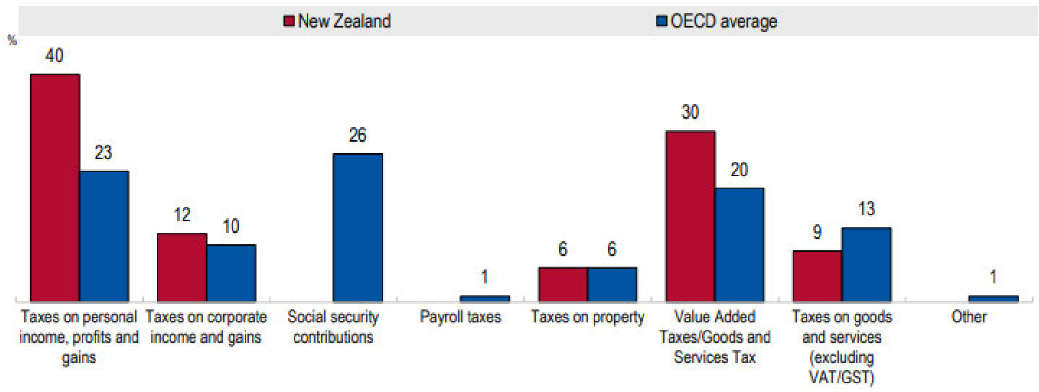
Source: OECD

[1] Revenue Statistics 2021 – New Zealand, Tax-to-GDP ratio over time (OECD).

[2] "Property taxes" include local government rates as per OECD definitions. New Zealand's tax-to-GDP ratio looks artificially high relative to its international peers using the OECD's standard methodology as, unlike other OECD countries, GST is charged on public services in New Zealand. GST on public services does not generate net revenue but does increase measured GST receipts. The "New Zealand (adjusted)" entry adjusts for this.

1.3 OECD data on New Zealand's tax structure shows a significant proportion of its tax revenue comes from two sources. The first is tax from personal income, profits and gains. In 2019, receipts from this source amounted to 40% of New Zealand's tax take, compared with the OECD average of 23% from personal income profits and gains, and 26% from social security contributions.[3] The second is tax revenue from Goods and Services Tax (GST), which comprised 30% of New Zealand's revenue receipts, compared with the OECD average of 20%. Together, revenue from these two taxes made up 70% of New Zealand's total tax receipts.

Table 2: Tax structure compared to the OECD average, 2019



Data gaps

1.4 Although this information is useful to understanding the shape of the tax system, the Government is aware that there are areas of the tax system where information is lacking, could be improved or made more widely available to the public. Examples of data gaps include:

- *Timeframe of analysis*: As data is often gathered on an annual basis, it can be difficult to develop an understanding of how taxation affects individuals over a lifetime rather than at a specific point in time. For example, while GST is levied at a flat rate of 15% on the sale of goods and services, the amount of GST paid as a proportion of current income declines as income increases. This means that GST represents a smaller share of the current income of high-income earners. On this measure, GST is regressive. This is in part because higher income individuals have higher savings rates. However, an individual's saving or dissaving rate will vary over a lifetime, meaning that the individual's payment of GST on consumption as a proportion of income may also vary.

- *Economic incidence of taxation*: Economists unfortunately know little about where the ultimate cost (or "incidence") of many taxes lie and it may not be possible to determine this conclusively. What is known is the true cost of taxes may not be borne by those who legally pay them. An example is GST, which is legally paid by businesses, but whose cost is borne by consumers through higher prices. Developing greater insight into the difference between legal and economic incidence could improve the Government's understanding of the impact of taxes on different groups.

[3] Where some countries collect social security contributions as a separate levy, New Zealand finances its welfare system from general taxation.

1.5 It will be difficult for New Zealanders to understand the current state of the tax system and the direction in which it is travelling when key information about its features is unknown. Even the data that is available may not be well known by the public. Although the operation of the tax system is a specialist subject, the ways in which it impacts and contributes to society means every New Zealander has an interest in ensuring the tax system operates effectively and is well placed to respond to current and future challenges. Accordingly, the Government believes that more should be done to improve the public's understanding of the tax system and to encourage more informed debate on its key features.

1.6 To address this, the Government is proposing the enactment of a statutory reporting framework informed by a set of tax principles. Enacting a reporting framework with tax principles at its centre will support the analysis and reporting of relevant information which can then be used to educate the public about the tax system and inform the direction of future tax policy.

The role of tax principles

1.7 The use of principles in a tax policy context has historical precedent. In the almost 250 years which have passed since the publication of Adam Smith's *The Wealth of Nations*, discussions of tax policy have generally included reference to a set of familiar principles for designing the policy settings of a tax collection system.

1.8 Although the range of issues to consider has increased in recent times, the role of tax principles in formulating and evaluating tax policy has remained. As the 2018 Tax Working Group noted, past tax reviews, both in New Zealand and overseas, have used a relatively consistent set of principles to assist them in evaluating their tax systems.[4] These principles include efficiency, equity and fairness, revenue integrity, compliance and administration costs, and coherence. Tax officials around the world regularly draw upon the same principles when advising governments. Tax principles have much in common with the Government's expectations for good regulatory practice.[5]

1.9 In the New Zealand context, these principles often contribute to, and work with, existing policy frameworks. This includes the Treasury's Living Standards Framework (LSF) and He Ara Waiora, which allows for the incorporation of insights from Tikanga Māori as part of the Crown-Māori relationship under Te Tiriti o Waitangi/The Treaty of Waitangi.

1.10 The influence of tax principles can extend beyond the immediate tax collection system. Governments have come to use and rely on the tax system to assist social and environmental objectives or to honour commitments under domestic and international treaties. This has meant tax principles have come to play a role in the promotion of wider welfare and wellbeing in the community. In doing so, there is often a trade-off that is required to be made between the different tax principles. At times, a policy may be an exception to the application of tax principles as the policy is intended to meet wider objectives.

1.11 Despite the indispensable role principles play in the creation and development of tax policy, it is likely that they remain unfamiliar to many people. This is also true of the shape and effectiveness of the current tax system, the design of which is not well understood beyond a relatively small group of tax professionals

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[4] *Future of Tax: Interim Report* (Cullen et al, 2018) p13. See also *Tax Review 2001: Final Report* (McLeod et al, 2001) Chapter Two, p19 and *Australia's future tax system: Report to the Treasurer - Part One* (Henry et al, December 2009), Chapter Two.

[5] Government Expectations for Good Regulatory Practice (treasury.govt.nz)

and experts. Placing tax principles at the centre of the reporting framework would help make the public more aware of the tax system's foundational principles and how they play out in key aspects of the tax system. The reporting framework also would help governments better understand how the tax system affects cohorts of New Zealanders, thereby informing future policy development.

Collection, analysis and reporting of relevant information

1.12 As noted above, the Government is also concerned that there is limited data available on several areas of the tax system. This makes having an informed debate and providing advice on these areas of the tax system more difficult. For example, little is publicly known about the compliance costs faced by the self-employed. Other examples of areas in which information is limited include how the tax system affects people's decisions to enter the labour market, or start a business.

1.13 Limited information impedes the development of a more effective tax system. A reporting framework informed by tax principles could help the public and governments find information which assists them in debating and navigating emerging policy issues. It would also highlight the areas where key information is missing or incomplete.

1.14 A reporting framework for the tax system would join the existing reporting frameworks providing information to the Government and the public. For example, in the interests of increased transparency, New Zealand's fiscal responsibility and reporting framework is contained within the Public Finance Act (PFA), which requires the Government to set out its annual fiscal objectives and report on them annually and pursue its policy objectives in accordance with principles of responsible fiscal management. Other frameworks which impose reporting requirements include those relating to child poverty and climate change. These frameworks inform the Government and help people to understand the direction New Zealand is taking and to make informed judgements about progress on stated objectives.

1.15 Similar reporting on the tax system would be invaluable given the important role of the tax system in society. Accordingly, the Government aims to develop a statutory reporting framework informed by a set of tax principles. These reports would be produced regularly (for example, once every three years), and would be made available to the public. The reports could be used to educate the public, encourage public debate and inform future Governments' revenue strategies and tax policy work programmes.

1.16 This consultation document seeks feedback from the public on the design of the proposed reporting framework, including the description of the tax principles and options for reporting findings. As the Government intends the framework to play an enduring role in informing people about the tax system, it believes that consultation on the framework's design will help in the final design receiving broad support and for it to become a permanent, institutional feature of New Zealand's information landscape.

How to make a submission

1.17 Submissions are invited on the options and proposals in this discussion document.

1.18 Your submission should include a brief summary of your main points and recommendations. Please also indicate whether officials from Inland Revenue may contact you to discuss the points raised, if required.

1.19 The closing date for submissions is 14 October 2022.

1.20 Submissions can be made:

- by email to policy.webmaster@ird.govt.nz with "A Tax Principles Act – a Government discussion document" in the subject line, or
- by post to:

  A Tax Principles Act: a reporting framework informed by tax principles – a Government discussion document
  C/- Deputy Commissioner, Policy and Regulatory Stewardship
  Inland Revenue Department
  PO Box 2198
  Wellington 6140

1.21 Submissions may be the subject of a request under the Official Information Act 1982. Please clearly indicate in your submission if any information should be withheld on the grounds of privacy, or for any other reason (contact information such as an address, email, and phone number for submissions from individuals will be withheld). Any information withheld will be determined using the Official Information Act 1982.

Questions for submitters

- How well do you think New Zealand's tax system is understood by the public?
- Do you think it is the role of the Government to increase public understanding and engagement with New Zealand's tax system?
- What benefits do you see arising from an increased public understanding of tax policy issues?
- Would regular reporting of information on the tax system, based around core tax principles, improve the quality of the debate on tax policy and inform the development of advice or positions on tax policy changes?
- What form of reporting would be most useful?

CHAPTER 2

Background

2.1 A government's ability to maintain and adapt the country's tax system relies on the support of the community. It is important to ensure the public has a good understanding of how the tax system works so that new challenges can be debated and addressed.

2.2 Current pressures on tax systems around the globe are clear. Governments are facing similar challenges in the form of rising inflation and supply chain shortages due to increased geopolitical instability and the economic effects of the COVID-19 pandemic. These build on longer term challenges such as climate change and an aging population. These issues emphasise the need for governments to have a robust and responsive tax system as part of their wider fiscal responsibilities.

2.3 Although the tax systems of many countries have played a crucial role in the domestic response to these issues, there is the need for ongoing work to ensure tax systems remain fit for purpose.

2.4 For example, median age increases in the populations of developed countries are likely to impact on tax revenue from labour income and place increased demands on healthcare. Governments will need to adapt their revenue strategies in response to these issues if they are to maintain existing social service delivery in changing conditions.

The objectives - new insights and informed debate

2.5 The Government has identified two challenges to effectively navigating current and future issues such as those noted above. These are:

- *New Zealand's tax system is not well understood*: Responding to future tax challenges will require informed debate about the tax system, its goals, priorities and impacts. However, despite being important to all New Zealanders, more could be done to improve the public's understanding of the tax system and current tax issues. This would help facilitate informed public debate on tax policy issues.

- *Information deficits*: There are areas of the tax system on which there is little information available. Examples include the effect of the tax system on labour force participation and the level of certainty within the tax system and its impact on business decisions. Having more information available about these and other issues could offer valuable insights which contribute to evidence–led policy debate and development.

Options

2.6 The problems identified above essentially both arise from a deficit of widely available and understood information about the tax system. However, the Government regards the development of effective tax policy as a priority. In considering its response to the problems identified above, the Government has several options available. These include:

- *Retaining the status quo*: The Government could choose to retain the status quo and take no active steps to address the existing information and engagement deficits. Existing levels of reporting through Annual

Reports and Budget documents, as required in more general-purpose public sector and financial reporting frameworks, would remain. However, while taking no additional action would mean resources continue to be applied as they are now, it would not address the social and economic impacts which flow from a lack of information and engagement on key aspects of the tax system. Barriers to meaningful public participation in informed discussions of tax policy and the negative consequences of information deficits when developing tax policy would remain.

- *Increased reporting on selected issues*: Governments could decide to commission additional advice on specific areas of interest as they arise, to address future challenges. While this option would help Governments in developing evidence–led policy, it presents three shortcomings, namely that:

  – Over the long term, the issues on which advice is commissioned are likely to vary from one Parliamentary term to the next in accordance with the commissioning Government's policy priorities. While commissioning specific policy advice on issues is an entirely appropriate use of existing or additionally funded resources, the variation in topics would not assist in developing the continuity of data which would allow for conclusions to be drawn from the observation of variations and trends over time.

  – Commissioning specific advice is unlikely to improve the public's understanding of the tax system. Although official advice is generally publicly released once it is no longer under active consideration, it typically is provided with Ministers as the intended audience and may assume prior subject knowledge.

  – Priorities may change unexpectedly, especially in response to urgent situations as has been evidenced recently with the response to the impact of COVID-19. Resources focused on collecting and preparing information for the public may be diverted to ensure functions critical to meeting legislative obligations can continue to be met.

- *Developing a specific reporting framework*: The Government could develop a principled reporting framework specifically focused on the operation of the tax system, with reporting requirements set out in legislation. Although this would require sufficient resourcing, it has several advantages over the options noted above:

  – A dedicated reporting framework would specifically address the data deficit identified above by increasing the amount of publicly available information about the operation of the tax system. This could be used for both educating the public about New Zealand's tax system and encouraging informed debate on its operation.

  – A reporting framework with regular reporting required by legislation could produce a consistent data series which would allow for the observation of trends. This would help Governments to understand how the tax system is performing over time.

  – A reporting framework's findings could also influence the content of a Government's tax policy work programme and support further research on issues that relate to core tax principles.

Consultation on a reporting framework

2.7 The Government believes the case for a statutory reporting framework is sufficiently strong to include it on the current tax work programme and consult with the public on its desirability and features. Developing such a framework will require a range of decisions to be made on its design, including its guiding principles and measures.

Question for submitters

- Which option above do you consider would best address the current problems with a lack of information and limited public engagement with the operation of the tax system?

CHAPTER 3

Principles

3.1 Since Adam Smith's *The Wealth of Nations* was first published in 1776, discussions of tax policy have generally included reference to a familiar set of design principles.

3.2 Although the range of principles has since expanded beyond Smith's original four maxims, the essential role of tax principles in informing and evaluating tax policy has remained.

3.3 For Smith, the basic maxims of tax policy were equity, certainty, convenience and efficiency. While these remain within the current set of generally accepted tax principles, the extraordinary technological changes which have occurred over the last 250 years have required policy makers to supplement these principles with new tools for designing effective tax policy. This is particularly so with the arrival of the digital economy.

3.4 Tax reviews, both in New Zealand and overseas, have looked beyond Smith's four maxims to additional considerations such as the overall coherence of the system, revenue integrity, fiscal adequacy and flexibility. Applying tax principles helps governments design their tax systems so that they perform the essential role of raising sufficient revenue to meet their expenditure in the most appropriate way. While the application of the principles and the relative weight attached to different priorities can be debated politically, the principles themselves are well settled. The principles would form the basis for officials to collect and report information on the tax system.

3.5 The principles which the Government proposes be included within the reporting framework are set out in the table, below. The Government believes this combination of familiar tax policy prescriptions reflects the traditional aspects of a tax system as well as addressing current considerations.

3.6 Each proposed principle is accompanied by a brief explanation to help the public understand its meaning and highlight contemporary issues within the scope of each principle. It is hoped that including a description alongside each principle will assist with public engagement with both the framework and its reporting.

3.7 It is intended that these principles are those which people see value in retaining and protecting and would want to see information on them regularly reported. They need to be clear enough to avoid ambiguity without prescribing outcomes or tax policy settings.

Table 3: Tax principles

No.	Principle	Description
1.	Horizonal Equity	People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (for example, not taxing the imputed rent on an owner-occupied home).
2.	Vertical Equity	The tax system should be progressive. Tax is progressive if people with higher levels of economic

No.	Principle	Description
		income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (for example, GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income as middle-income New Zealanders already do.
3.	Efficiency	Tax revenue should be raised in ways which minimise distortions to the economy and the use of resources.
4.	Compliance and administrative costs	Compliance and administrative costs for taxpayers and the Government should be reasonable but this is not justification for substantial unfairness in the tax system.
5.	Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
6.	Certainty and predictability	People should be able to determine their tax obligations before they are due.
7.	Flexibility and adaptability	The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality.

3.8 The Government is aware that people will have strong views on what tax policy should seek to uphold or achieve. Those views will not always be aligned. The Government believes that informed debate on tax policy settings is a sign of a healthy democracy.

3.9 Part of that debate is understanding where it is appropriate and fair to depart from these principles in order to achieve other objectives outside of the tax system (for example, not taxing the imputed rent on an owner-occupied home in recognition of the wider social benefits that come from homeownership).

3.10 The Government also recognises that there will often be a trade-off between the different principles in many tax policy proposals. An example is the natural tension between the principles of certainty and adaptability. While a tax system should provide enough certainty to allow people to plan and make investment decisions, the tax system also needs to be able to adapt to changes in the way people do business. Examples include the growth of the digital economy and emerging technologies such as blockchain and digital currency. A tax system also needs to be capable of responding rapidly to current and emerging integrity risks, including through the use of retrospective legislation.

3.11 Accordingly, any tax policy proposal is unlikely to satisfy all the principles. An objective of the reporting framework is to promote a shared understanding of the principles so that effective debate on tax policy, and the trade-offs involved, can occur. It is intended that the information reported will indicate how the combination of tax policy changes over time are impacting the tax system in relation to the different tax principles, for example, whether compliance costs are increasing or decreasing, and the degree to which those increased or decreased costs are contributing to, say, horizontal equity.

3.12 In considering what tax principles to include as the basis for the reporting framework, consideration was given to whether to include tax principles relevant to the administrative operation of the tax system. Examples of such principles include natural justice in ensuring procedural fairness, maintaining the perceptions of integrity in the consistent and correct operation of the tax system (so that some taxpayers are not favoured over others), preserving confidentiality of taxpayer information, and ensuring open and transparent consultation on any changes to the tax system (as currently set out in the Generic Tax Policy Process (GTPP)). However, as many of these considerations (as well as principles relating to obligations of taxpayers) are already set out in the Tax Administration Act 1994 (TAA 1994), there is an argument for them to remain in that Act.

3.13 There are examples of overseas systems where tax principles operate more along the lines of a series of taxpayer rights. These again have features more closely related to the practical administration of the tax system rather than the settings that determine the design of tax policy settings. Inland Revenue already has a Charter setting out how it will administer the tax system, which includes that its actions are consistent with the spirit of the Treaty of Waitangi.[6] The Charter reflects the principles set out in the TAA 1994 and Public Service Act 2020 (PSA 2020).

3.14 There was also consideration given to whether principles outside of the traditional tax settings should be included, such as specific environmental or social welfare principles. However, the focus of this proposal is on the role and operation of the tax system as it relates to raising revenue rather than its possible role in achieving wider government objectives. That said, some of the information reported on the tax system may have wider uses.

Role of the Treaty of Waitangi and other policy frameworks

3.15 Modern legislation may sometimes refer to the principles of the Treaty of Waitangi. These principles have been developed by the Courts and the Waitangi Tribunal as a means of applying the intention of the parties to the Treaty to contemporary circumstances. Treaty principles identified by the Courts and the Waitangi Tribunal include partnership, mutual benefit and a duty to act in good faith. These appear similar to the principles which govern the administrative operation of the tax system and wider public service. These principles are reflected in the Inland Revenue Charter and PSA 2020.

3.16 A well-functioning tax system that reflects the tax principles in the table above will support the collective wellbeing of New Zealanders. This is captured by the whakataukī (proverb) "*nāu te rourou, nāku te rourou, ka ora ai te iwi: with your food basket and my food basket the people with thrive*". The information which the reporting framework gathers could help decision makers seeking to advise on tax policies when using frameworks such as the Treasury's Living Standards Framework (LSF) (a wellbeing framework developed by the Treasury to consider the broader impacts of policy advice) and He Ara Waiora (a wellbeing framework built on Te Ao Māori knowledge and perspectives of wellbeing).

Wellbeing frameworks and tax

3.17 The LSF and He Ara Waiora are two frameworks that can be used to consider the trade-offs between different policy options. Given the significant impact that tax has on the incomes of New Zealanders (as well as the distributional impact it has across different levels of income and wealth, demographic groups, and generations), it is important to consider the impact that tax has on our collective wellbeing as a country. A discussion of the way in which the tax system affects New Zealand's wellbeing can be found in Box 8 of He Tirohanga Mokopuna 2021 (The Treasury's combined Statement on the Long-term Fiscal Position and Long-term Insights Briefing).[7]

[6] https://www.ird.govt.nz/about-us/charter

[7] https://www.treasury.govt.nz/system/files/2021-09/ltfs-2021.pdf

3.18 The LSF and He Ara Waiora are two ways in which New Zealand can develop its understanding of how the tax system impacts broader wellbeing. The 2018 Tax Working Group considered both the Living Standards Framework and He Ara Waiora when reviewing the tax system in its final report *Future of Tax*[8] (in addition to utilising the established principles of tax policy design set out earlier in this chapter). The Tax Working Group considered that these principles complemented the broader wellbeing perspective offered by the LSF and He Ara Waiora, and that those frameworks would help policymakers apply these principles in the future.

3.19 The information obtained by a tax principles based reporting framework could be used to inform policy work which also draws upon the LSF and He Ara Waiora frameworks. For example, when applying the He Ara Waiora framework, information gathered under the tax principles based framework about the distribution of income could inform advice that advances manaakitanga (support, hospitality, generosity) by identifying existing inequities.

3.20 As some of this work is ongoing, the Government is wanting to hear from submitters how the tax principles based framework's findings could be used to contribute to analysis undertaken under frameworks such as the Treasury's LSF and He Ara Waiora, and support the Crown's relations with Māori.

Questions for submitters

- What do you think of the principles and descriptions provided above? Are they clear and easily understood? Do they reflect your views of core principles that are used to develop tax systems?
- How would you describe the principles or word the descriptions in a way that is engaging for the general public?
- Are there other principles that should also be included to inform the reporting framework?
- Should the framework include a specific reference to the Treaty of Waitangi? If so, how?
- How could the reporting framework support the Crown-Māori relationship under the Treaty of Waitangi?
- How could the framework contribute to the wider consideration of well-being under such frameworks as He Ara Waiora and the Treasury's Living Standards Framework?

[8] https://taxworkinggroup.govt.nz/sites/default/files/2019-03/twg-final-report-voli-feb19-v1.pdf

CHAPTER 4

Legislative design

Role of principles in legislation

4.1 Reference to principles within legislation has precedent in New Zealand. The use of legislated principles offers advantages in many contexts, particularly in changing and dynamic environments. The use of principles in these settings provides decision makers with the ability to apply their professional judgement in conditions which cannot be readily foreseen or easily described in legislation.

4.2 For example, section 6 of the TAA 1994 requires Ministers and officials to use their best endeavours to protect the integrity of the tax system. Considerations relevant to the tax system's integrity include the public's perception of that integrity, principles relating to preservation of confidentiality, as well as the rights of persons to have their liability determined fairly, impartially and according to the law.

4.3 Section 6A of the TAA 1994 also refers to principles. This section requires the Commissioner of Inland Revenue to "collect over time the highest net revenue that is practicable within the law." This duty is subject to factors such as resource availability, promoting voluntary compliance with the Inland Revenue Acts, and consideration of compliance costs incurred by persons (that is, taxpayers). This principled framework allows the Commissioner to use their discretion to ensure Crown resources are used efficiently in administering the tax system and in practice to bolster the obligations mentioned concerning the integrity of the tax system.

4.4 Another legislative framework which incorporates principles is the Public Finance Act 1989 (PFA 1989). Part 2 of the PFA 1989 requires the Government to pursue its policy objectives in accordance with the principles of "responsible fiscal management." These principles include "reducing debt to prudent levels," "managing prudently the fiscal risks facing the Government," and "ensuring the Crown's resources are managed effectively and efficiently." The PFA 1989 framework even allows governments to temporarily depart from the principles of responsible management provided certain conditions are met. This provides governments with the flexibility to respond to current events.

4.5 The Child Poverty Reduction Act 2018 (CPRA 2018) creates a reporting framework for measuring child poverty in New Zealand. While the CPRA 2018's primary measures include specific metrics for determining "low income", they also refer to concepts which are not defined within the legislation itself. For example, the definitions of primary measures such as "material hardship" and "persistent poverty" have been delegated to the Government Statistician to determine. This allows those tasked with reporting on child poverty to adapt their measures in response to changing social and economic conditions. This helps to ensure that the CPRA 2018's measures avoid becoming outdated.

4.6 The role of the legislated principles within the proposed Tax Principles Act (TPA) would be to guide reporting about the tax system. It is not intended that the principles be used in assessing, interpreting, or amending existing revenue legislation, or in directing tax officials in the application of the revenue legislation to individual taxpayers or generally. The sole intention of the TPA legislation is to direct officials in reporting on measures and indicators related to the tax principles.

4.7 The Government believes that including principles and associated indicators within the TPA would provide the reporting framework with a base while ensuring that it retains the necessary flexibility to grow and improve its output over time.

Developing measures

4.8 The Government believes that information reported should be relevant and accurate. The authors of reports produced under the reporting framework should be able to use the widest possible range of analytical tools and methods to ensure the framework keeps pace with developments in economic literature and research on best practice standards.

4.9 Accordingly, prescribing the use of specific *methodologies* for reporting on the various principles within the TPA would limit the reporting framework's methods to those currently known and available. This would undermine the inherent flexibility provided by a principled reporting framework and prevent the framework's analysis from progressing alongside Inland Revenue's technical capabilities and insights.

4.10 Moreover, mandating specific methods for inquiring into the principles informing the reporting framework may not provide accurate information. For example, having a progressive tax system to meet the principle of vertical equity means (if progressivity is to be measured relative to income) that people with higher levels of income should pay a higher proportion of that income in tax.

4.11 However, assessing whether this is true of the tax system overall would require knowledge of where the economic burden (or incidence) of every tax levied by Parliament lies. As the issue of tax incidence continues to attract debate among economists, along with methods used to determine it, attempting to directly measure the overall progressivity of New Zealand's tax system is likely to prove challenging. This is also likely to be true of attempts to report directly on other principles, particularly where the availability of data is currently limited. The reporting on some aspects of the tax system may be more qualitative than quantifiable.

Principle indicators

4.12 Therefore, rather than prescribing methods for reporting on each principle, the framework could incorporate, or refer to specific categories of *information* (or "principle indicators") which are relevant to each of the principles. These principle indicators could be used to allow governments to draw inferences about the presence of the framework's principles in New Zealand's tax system.

4.13 For example, the level of certainty in the tax system could be evaluated with reference to the level of confidence taxpayers have in determining their tax obligations. As this would involve a qualitative analysis, relevant information could include the results of taxpayer surveys or focus groups.

4.14 Other information, such as the number of retrospective legislative amendments made within that year, may also be helpful in evaluating certainty. However, as with many indicators, context will be an important ingredient in attempting to draw conclusions from the indicators. This is because there are times in which retrospective legislation can be used to improve the level of certainty in tax law. This could occur, for example, where an amendment confirms that the intended meaning of tax legislation aligns with its generally understood interpretation by taxpayers.

4.15 The use of principle indicators in the legislation would also avoid limiting the Commissioner's reporting to specific methods of analysis, allowing the Commissioner to use professional judgement in selecting the most appropriate analytical techniques. This would also help future proof the framework by allowing the report's authors to take advantage of new developments and best practice in economic research and data analysis as they become available.

4.16 Possible principle indicators and examples of the specific information (that is, information which is currently available or data gaps) that could be relevant to each indicator are set out in the table below:

Table 4: Possible principle indicators

Principle	Indicator	Examples of relevant information
Equity	Whether those in similar situations pay similar amounts of tax.	The amount of income tax paid by taxpayers in similar positions.
	The income distribution of individuals.	The number of individuals within each band of taxable income, and the effective rate of tax paid at each band.
		Taxable income as a proportion of economic income.
		GST paid by individuals as a proportion of their income.
Efficiency	Neutrality.	The extent to which the tax system affects taxpayer decision-making (for example, the supply of labour, savings and investment decisions).
Revenue integrity	The ease with which taxpayers are able to circumvent tax rules.	How often anti-avoidance rules are applied by Inland Revenue.
	Public trust in the tax system.	Taxpayer perceptions of the tax system.
		Amount (and responsiveness) of remedial revenue legislation.
		The extent to which budgeted revenues are collected.
		Net Present Value (NPV) of tax payments delayed.
		The number of exemptions, allowances or preferential rates which reduce a tax obligation.
Certainty and predictability	The confidence of taxpayers in determining their liabilities.	Taxpayer perceptions of tax certainty.
		The quantity of retrospective revenue legislation.
Compliance and administrative costs	The cost to taxpayers in meeting their tax liabilities	Amounts spent by taxpayers on seeking professional advice and completing tax returns .
	The cost to the government of administering the tax system.	Amounts spent by the Government in maintaining the infrastructure of the tax system, developing and publishing information, and reviewing compliance.

Options for legislating indicators

4.17 If principle indicators are to become a feature of the framework, an important legislative design question will be whether such indicators should be enacted within the legislation itself, or should rather be determined at the beginning of each reporting cycle.

4.18 Both options have advantages. A set of legislated principle indicators would help illuminate the principles themselves, as well as allow the framework to maintain continuity and consistency across reporting cycles (allowing for ready comparisons between years). However, permitting the indicators to be determined with each reporting cycle would ensure the information included keeps pace with best practice in measuring the effects of the tax system.

4.19 A hybrid approach could involve including some indicators within the legislation itself, while allowing the Commissioner the discretion to add to these as the reporting framework develops.

4.20 If the TPA were to permit the Commissioner to determine some or all of the principle indicators for a reporting cycle, a related question is whether the government of the day should be able to have a say over the indicators which are to be included, or whether the selection of indicators should be left to the Commissioner.

4.21 While preventing the government of the day from influencing the framework's indicators could be seen to preserve its full independence, this would also stop governments from using the framework to inform evidence-based policy making. From a policy perspective, the availability of relevant information is desirable. Preventing governments from having influence over the framework's indicators could result in the framework going underutilised.

4.22 A possible option could be to allow the government of the day to suggest principle indicators relevant to its policy priorities, while leaving the ultimate decisions on what is reported to the Commissioner of Inland Revenue. This would encourage the Commissioner and the Minister of Revenue to discuss the government's requirements and decide whether the use of the framework is likely to be an appropriate vehicle for the analysis sought after. However, the government would always be able to seek advice on topics of interest directly and separately from the reporting framework (as it does currently).

Other design decisions

4.23 Legislation which is administered by Inland Revenue is listed in schedule 1 of the TAA 1994. The Acts currently listed in schedule 1 include, amongst others, the Goods and Services Act 1985, the Income Tax Act 2007 and the KiwiSaver Act 2006. As the TPA will offer information about the tax system and be administered by Inland Revenue, and as doing so may require access to other information collected by Inland Revenue, it would seem natural that the TPA similarly be listed in schedule 1.

4.24 The TPA reporting framework is, above all, intended to provide information and promote debate about the future of the tax system. The Government does not intend that the principles expressed within the TPA would affect the tax rights or obligations of taxpayers, or the Commissioner of Inland Revenue. It is not anticipated that any additional information gathering powers would be required, for instance. However, it may be appropriate to make the strictly informative and analytical character of the TPA explicit in the legislation itself to assure stakeholders that the TPA will not have legal consequences for their positions under other legislation.

4.25 Finally, although the TPA will provide information about the tax system, it is intended that the framework will adhere to relevant privacy principles, alongside the general concepts of confidentiality already contained in the TAA 1994. Any data relating to taxpayers would be aggregated and anonymised to avoid identifying individuals when reporting. However, it may be appropriate to make this explicit within the TPA so that taxpayers can be confident their privacy will not be affected by the framework's reporting. The intention is that Inland Revenue officers would prepare the reports. As revenue officers they are subject to section 18 of the TAA which relates to the confidentiality requirements of sensitive revenue information.

Questions for submitters

- What principle indicators should the framework use to draw inferences about New Zealand's tax system? What specific information could be relevant to those indicators?
- Should principle indicators be included within the legislation, or determined by the Commissioner of Inland Revenue with each reporting cycle? Or, should the Act contain some specific principle indicators and allow these to be supplemented as new methods and techniques become available?
- Should Governments be able to suggest indicators to obtain evidence to support their policy priorities?
- Should the TPA include express provisions in relation to its status as a reporting framework, and taxpayer privacy? If so, what additional protections should be enacted?
- Should the Commissioner of Inland Revenue consult on the indicators and format of the reporting?

CHAPTER 5

Operation of the reporting framework

Examples of other reporting frameworks

5.1 Each financial year, the Minister of Finance is required by PFA 1989 to present the Government's Fiscal Strategy to Parliament. The Fiscal Strategy must contain the Government's long-term objectives for fiscal policy as well as a range of specific financial information.

5.2 The PFA 1989 requires the fiscal strategy to also include a Revenue Strategy.[9] This sets out the Government's objectives for the tax system and for tax policy over the coming year. The regularity of the Revenue Strategy could allow it to play a key role in the operation of the TPA reporting framework.[10]

5.3 For example, in addition to performing its usual Budget function, the Government's revenue strategy could be used to offer non-legislative direction on the specific issues to be canvassed under the TPA reporting framework. This approach would mirror the statutory framework for the Retirement Commissioner's Review of Retirement Income Policies.

5.4 Under the New Zealand Superannuation and Retirement Income Act 2001 (NZSRIA 2001), the Retirement Commissioner is required to review the retirement income policies being implemented by the Government and report to the Minister of Commerce and Consumer Affairs at three yearly intervals.[11] Under the NZSRAI 2001, the Minister of Commerce and Consumer Affairs is required to consult with and then advise the Retirement Commissioner of the issues which the Retirement Commissioner should address, 12 months in advance of their report.[12] That advice must be presented to Parliament.

5.5 The NZSRIA 2001 also requires the Minister Commerce and Consumer Affairs to present a copy of the Retirement Commissioner's completed report to Parliament. Governments may then provide a response to the Retirement Commissioner's recommendations.

How the TPA reporting framework could operate

5.6 Governments could use the Revenue Strategy to direct officials to include the consideration of specific features of the tax system within their reporting to help inform the policy priorities the Government has set out in the Revenue Strategy. This would be in addition to any indicators set out in the TPA or determined by the Commissioner as relevant for reporting in relation to the tax principles.

5.7 Once the report was complete, a Government could choose whether it wished to provide a response to the report and could use its findings to inform the direction of its tax policy work programmes. For example, if the report indicated a decline in revenue integrity, a Government could add specific items to the work programme it believes would improve revenue integrity in line with its revenue strategy. This approach would represent a "closed policy loop," in

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[9] Section 26L(d) Public Finance Act 1989.

[10] The requirement to issue a revenue strategy could itself even be incorporated into the TPA.

[11] Section 83 New Zealand Superannuation and Retirement Income Act 2001.

[12] Section 84 New Zealand Superannuation and Retirement Income Act 2001.

which Governments' policy interests are articulated, relevant information is reported on, and incorporated into their tax policy work programmes.

5.8 Alternatively, the framework could be more self-contained, with its reporting focus proscribed by the TPA through the use of indicators (Chapter 5). For instance, the Commissioner could be required to consult on and select additional indicators for the principles (unless formally directed by the Governor-General under section 6B TAA). This would underline the relative statutory independence of the Commissioner and lend additional objectivity to the process and support public engagement. Another model is that found in the CPRA 2018, under which the Government Statistician has sole power to define relevant concepts (which may incorporate parts of relevant professional standards or practices).[13]

How often should the report be produced?

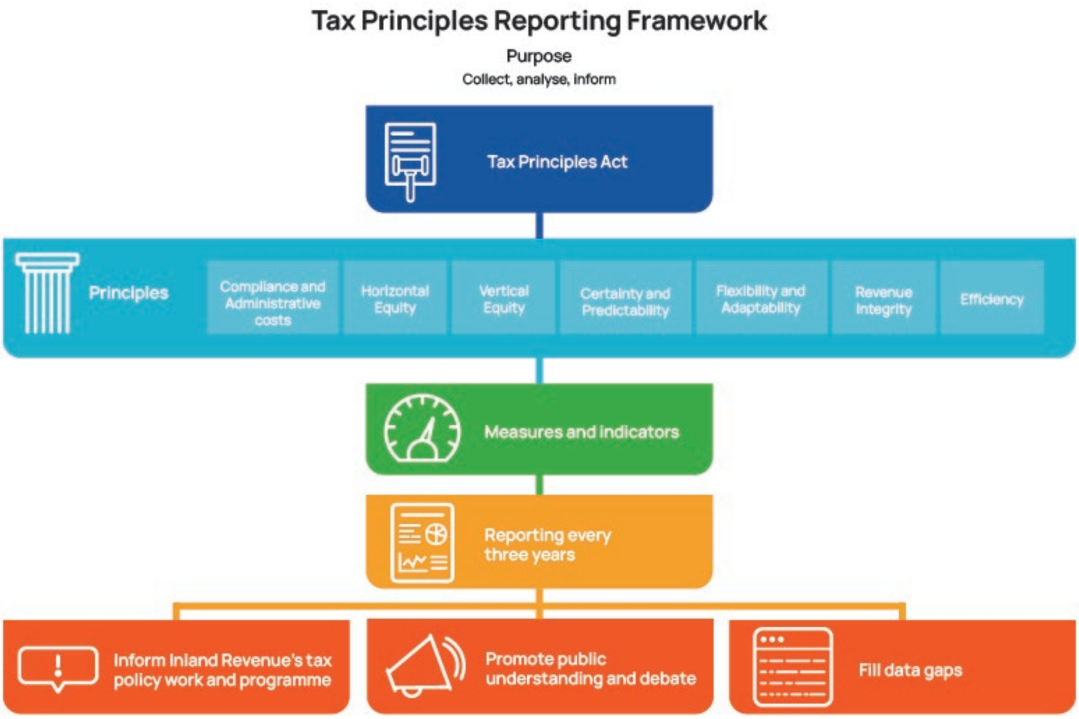
5.9 A further design question is how often the report should be produced. A number of reports are currently produced annually, such as the Budget documents and Annual Reports. The same applies to the Tax Expenditure Statement. The reporting framework could follow this model. However, some indicators may not change year by year, limiting the benefit of annual reporting while imposing a level of cost. Another option could be to report every three years on the indicators.

5.10 A third option would be a combination of the two approaches, such that a "fuller" report could be prepared every three years, with interim reporting provided on an annual basis. This interim report could reflect items more likely to change, such as tax expenditures or income distributions, as well as any specific information requested by a Government through the revenue strategy.

Monitoring

5.11 Part of the framework's design could include a monitoring function, whereby the effectiveness of the framework in educating the public and increasing the quality of information available to policy makers were considered periodically. This could occur on a three yearly basis and coincide with public consultation on appropriate principle indicators.

[13] Section 83 New Zealand Superannuation and Retirement Income Act 2001.


Tax Principles Reporting Framework
Purpose
Collect, analyse, inform
Tax Principles Act
Principles
Compliance and Administrative costs
Horizontal Equity
Vertical Equity
Certainty and Predictability
Flexibility and Adaptability
Revenue Integrity
Efficiency
Measures and indicators
Reporting every three years
Inform Inland Revenue's tax policy work and programme
Promote public understanding and debate
Fill data gaps

CHAPTER 6

Options for reporting

6.1 While reporting frameworks traditionally present their findings in a written or online document, there is the opportunity to supplement this document with other informative measures such as an in-person seminar, and/or an interactive web platform. These measures are not mutually exclusive and could help the public better engage with the content of the report.

Option one: Seminar(s)

6.2 The publication of the report could be followed by a presentation or seminar which articulates the report's content. This would help the public to understand and engage with the report's findings.

6.3 This could take placed at a fixed location, or virtually using video streaming technology. A virtual question and answer session would further assist those interested in gaining insight into the report's findings.

Option two: Interactive web platform

6.4 The information obtained through the reporting framework could be presented online. However, as tax policy data tends to attract a specific audience, a key challenge in making the information available would be in presenting it in a way which captures and engages the public's attention. This objective is unlikely to be achieved by making, for example, a series of data rich spreadsheets available online. This is as the provision of raw data alone, and without context, is likely to be confronting for a general audience and even may give rise to misunderstandings among those unfamiliar with technical analysis.

6.5 One way of engaging the public could be by making the information available online through an interactive web platform. Depending on its design, this could include the use of interactive graphics to present the data in a readily intelligible format.

6.6 Interactive graphics could be used to show a range of information, such as the distribution of income among New Zealanders, tax expenditure by category, or the proportion of tax paid by income decile. These metrics could be extended to allow comparisons between New Zealand and other countries with which we compare ourselves (for example, those within the OECD). Comparisons between years would become possible as the body of information produced by the reporting framework grows over time.

Opportunities

6.7 Depending on its design, an interactive platform would allow for the simple presentation of sophisticated data analysis.

6.8 Subject to resourcing, the content offered by the platform could be expanded to present information captured by existing cross-government reporting streams. Although the expansion of the platform would likely require dedicated resourcing, the use of existing information would increase the platform's value without incurring the cost of additional data collection.

6.9 In the longer term, the platform could expand its content offerings beyond tax policy and offer information about the operation of a range of related services and products across government (for example, Working for Families, KiwiSaver, etc).

Challenges

6.10 A challenge arising from the use of a public focused interactive platform would lie in striking an appropriate balance between access and accuracy, or in other words, presenting the information simply enough to be understood by the layperson without *oversimplifying* its content. As this will in many cases be a matter of judgment, it will be essential to ensure that the relevant expertise is available to inform these decisions.

Questions for submitters

- How could the reporting produced by the framework be presented effectively?
- Would a web platform, in addition to a regular report, engage stakeholders?

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Draft Cabinet paper – Establishing a reporting framework in a Tax Principles Act**

Date:	28 February 2023	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2023/070

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Refer** to the Minister of Finance	10 March 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor	s 9(2)(a)
Josh Fowler	Senior Policy Advisor	

28 February 2023

Minister of Revenue
Associate Minister of Revenue

Draft Cabinet paper – Establishing a reporting framework in a Tax Principles Act

Executive summary

Purpose

1. This report seeks to consolidate our discussions to date and confirm the final proposals on the design of the proposed Tax Principles Act (TPA), to be presented to Cabinet. It also seeks your views on whether public consultation should occur prior to Cabinet, or instead as part of the Parliamentary process.

2. Enclosed with this report are:

   2.1 A draft Cabinet paper which seeks final decisions on the design of the Tax Principles reporting framework; and

   2.2 A copy of draft legislation as an example of how the TPA could look, which could be updated and introduced into the House (subject to final decisions and Cabinet approval).

3. The Regulatory Impact Analysis is currently being prepared by Inland Revenue.

4. We understand you wish to present the Cabinet paper to Cabinet Economic Development Committee (CAB DEV) soon. Depending on your feedback and including time for Ministerial consultation, and NZBORA legislative review, the Cabinet paper could be lodged in April 2023. Legislation could be introduced soon after.

Background

5. We have been discussing the development of a reporting framework based on core tax principles. Cabinet has previously considered a list of tax principles and potential design options, and officials have had conversations with some stakeholders on possible tax principles to use. Stakeholders are supportive of the proposal in general, with different groups interested in different possible additional principles. Some stakeholders are concerned about the possible compliance costs of providing new data while others are interested in using the new information and data to support local communities.

6. In November 2022, you asked us to prepare draft legislation, a Regulatory Impact Analysis (RIA) and draft Cabinet paper seeking Cabinet's agreement to key design decisions and introduction of legislation. You also asked for further advice on the operational details of the reporting framework.

7. You have indicated you would like to introduce legislation before the end of the Parliamentary term. A Bill bid was submitted for the 2023 Legislation Programme for the Tax Principles Bill, with a proposed priority of Category 4 (i.e. to be referred to select committee before the 2023 general election).

Next steps

8. Provided you agree with the proposals, the next steps would be to:

   8.1 **Consult** with your Ministerial colleagues (including on when public consultation should occur); and

   8.2 **Lodge** the enclosed Cabinet paper seeking Cabinet's approval of design decisions and the introduction of the Tax Principles Bill into the House.

Recommendations

1. We recommend that you:

   Nature of reporting framework

   1.1 **Indicate** whether you wish the tax principles reporting framework to be authorised by:

      1.1.1 Non-statutory means (for example, a Cabinet directive); or

      Yes / No

      1.1.2 Primary legislation (i.e. a Tax Principles Act) **(Recommended)**.

      Yes / No

   Design decisions

   1.2 **Confirm** you wish to include the principles in Appendix I to this report within the proposed reporting framework.

   Agreed/Not agreed

   1.3 **Agree** to include within the reporting framework principle indicators to describe the categories of information relevant to the principles that would be reported on.

   Agreed/Not agreed

   1.4 **Agree** to include a regulation making power within the legislation to allow additional principle indicators to be included (or existing indicators to be updated).

   Agreed/Not agreed

   1.5 **Agree** the reporting produced by the Act be published by Inland Revenue and tabled in Parliament upon completion.

   Agreed/Not agreed

   Reporting frequency

   1.6 **Indicate** which reporting frequency option you prefer (noting that full reporting has a higher administrative cost):

      1.6.1 Full reporting annually;

      Yes / No

1.6.2 Full reporting every three years, with an abridged version available annually **(Recommended)**; or

Yes / No

1.6.3 Full reporting every three years.

Yes / No

Reporting deadline

1.7 **Agree** that the report be prepared by the end of the calendar year (annually or every three years) using the information available from the latest available tax year for which enough data exists (which may be from the prior tax year given some taxpayers have up to a year to file tax returns).

Agreed/Not agreed

1.8 **Agree** that if there is a full report every three years, the report should be prepared by the end of the second calendar year of a Parliamentary term (which would be 2025 and every three years afterwards).

Agreed/Not agreed

Public Finance Act: Revenue Strategy

1.9 **Note** we considered whether to relocate the requirement to issue a Revenue Strategy from the Public Finance Act 1989 to within the Tax Principles Reporting framework (while retaining the requirement to state the Government's objectives for total operating revenues within the overall fiscal strategy report within the Public Finance Act 1989).

Noted

1.10 **Note** that Ministers could use the Revenue Strategy to instruct officials to (in addition to baseline reporting content) additionally include specific areas of interest related to the tax system within regular reporting.

Note

1.11 **Agree** to introduce the TPA without reference to the Revenue Strategy and postpone decisions about shifting the Revenue Strategy until further consultation with Treasury has occurred.

Agreed/Not agreed

1.12 **Note** that if the Revenue Strategy was to be part of the TPA it could be prepared and published:

1.12.1 at the same time as the fiscal strategy and Budget documents (as now); or

1.12.2 alongside the Budget Policy Statement (around December each year); or

1.12.3 by the end of June each year (after the Budget) **(Recommended)**.

Noted

Public Finance Act: list of tax changes

1.13 **Agree** that the requirement to publish a list of significant tax policy changes that have been agreed to each year remain in the Public Finance Act 1989 and be published in the Budget documents.

Agreed/Not agreed

Revenue Act

1.14 **Agree** to include the Tax Principles Act amongst the Inland Revenue Acts in Schedule 1 of the Tax Administration Act 1994.

Agreed/Not agreed

1.15 **Direct** officials to prepare the Bill for introduction (for example, commissioning NZBORA vetting).

Directed/Not directed

Next steps

1.16 Indicate whether you wish public consultation to occur:

1.16.1 Prior to Cabinet and introduction of the TPA; or

Agreed/Not agreed

1.16.2 Through the Select Committee process.

Agreed/Not agreed

1.17 **Refer** a copy of this report to the Minister of Finance.

Referred

s 9(2)(a)

Murray Shadbolt
Principal Policy Advisor
Policy and Regulatory Stewardship
Inland Revenue

Hon David Parker
Minister of Revenue
/ /2022

Purpose

9. In November 2022, you asked us to prepare a report, RIA and draft Cabinet paper seeking Cabinet's agreement to key design decisions.

10. Accordingly, this report seeks your agreement on matters related to the design and operational of the Tax Principles reporting framework. A draft Cabinet paper is attached, which can be updated based on your decisions. We have also included an example of a draft Bill. The Cabinet paper could seek agreement to the policy settings and to the introduction of the Bill at the same meeting.

Discussion

Nature of framework

11. We understand the key purpose in developing the Tax Principles reporting framework is to improve the public's understanding of New Zealand's tax system and promote informed debate on tax policy. This would be achieved by increasing the amount of available information about the operation of the tax system. The focus will be on the features of good tax policy rather than the administration of the tax system by Inland Revenue. The latter is covered in Annual Reports and other related material required under the Public Finance Act 1989.

12. As we understand your preference is for a specific framework, we have discussed options for establishing such a framework with the Legislation Design Authority Committee (LDAC). There are, broadly speaking, two ways in which this could be installed and operated. These are through:

Option one: Non-legislative framework (e.g. regular reporting through a Cabinet commissioning)

12.1 Officials could be instructed via a Cabinet directive to provide regular reporting on the operation of New Zealand's tax system and its key features against a set of tax principles.

12.2 While this would avoid the costs associated with the enactment of primary legislation, it could prove less enduring if successive governments do not wish reporting under the framework to continue. Because the value of the framework is likely to grow as data is gathered and analysed, there is the risk that the operation of a non-legislative framework could be interrupted, thereby preventing it from realising its full value.

Option two: Primary legislation

12.3 Alternatively, the framework could be installed in primary legislation. This would require the introduction of a specific Bill which contains the framework's guiding principles and operational matters. While this is likely to be more enduring and carry greater priority than a non-legislative framework, it would also incur the costs associated with the enactment of primary legislation (including Parliamentary time).

12.4 However, having the Bill undergo the Parliamentary process would align with the framework's intention of contributing to a debate about the design and direction of New Zealand's tax system. As New Zealand's tax system represents essential national infrastructure, debating the framework through the Parliamentary process would seem most appropriate. This would include public submissions through the Select Committee process.

13. LDAC considers that there should be a high bar for new legislation, and non-statutory solutions should be pursued where feasible. There is currently significant

pressure across government to deliver multiple initiatives and we expect this to continue, particularly as the effect of rising interest rates is felt upon the economy and the effort in responding to weather events. Accordingly, there is the reasonable risk that non-statutory reporting obligations could be de-prioritised. Overall, we recommend the use of primary legislation.

14. We note that a non-legislated reporting framework (e.g. one required by Cabinet) would not undergo consultation via Select Committee. Accordingly, if your preference is for a non-legislated reporting framework, you may wish to consider seeking public input through the release of a discussion document prior to proceeding to Cabinet for final decisions on a non-legislated reporting framework.

15. However, we have presumed, for the purposes of the enclosed draft Cabinet paper, your preference for the use of primary legislation. We have additionally enclosed with this report a copy of draft legislation to offer you an indication of the form such legislation could take.

Principles

16. We understand that you wish to integrate the principles and accompanying explanations in Appendix I within the reporting framework. The principles are not intended to take on constitutional status and either influence the interpretation of tax legislation in the courts, or restrict any Parliamentary changes to tax law.

17. Rather, the principles are intended to guide public debate and form the basis on which information will be reported and presented. The tax principles chosen reflect well established principles recognised by tax experts and practitioners. You have included descriptors alongside each principle to support the debate as to what the principles mean in a tax policy context.

Principle indicators

18. Due to the challenges associated with assessing each principle directly, we would advise against attempting to prescribe specific methods for assessing each principle within the legislation itself.

19. Instead, we recommend the framework focus on the categories of information (or "principle indicators") which are relevant to each principle. Under this approach, the legislation would describe the information which is most relevant to each principle, leaving Inland Revenue the ability to select the most appropriate methodologies for collecting and evaluating that information. The indicators would not be restrictive or exhaustive, Inland Revenue could report on other indicators in relation to the tax principles where they are relevant. The indicators would be a guide what should be reported at a minimum, and the types of information to be reported in relation to each tax principle.

20. By not being prescriptive, this approach would help future proof the framework. It would ensure it is able to the take advantage of latest advances in the tax and economic literature and account for the quality or availability of different data sets. For example, an enquiry into the principle of certainty could include analysis of the confidence taxpayers have in determining their tax obligations. This could be accomplished through surveys, focus groups or interviews with taxpayers and their agents. Other relevant information could include the number of remedial or retrospective amendments passed during that year, the availability of technical interpretation guides or number of disputes a year.

21. However, it will be important to place information collected by the framework in its proper context and outline any limitations. For example, continuing with the theme of certainty, the fact that remedials have been passed into law does not automatically mean the tax environment is uncertain, as some remedials can

perform a clarificatory role (which increases the level of certainty within the tax system).

22. Other possible principle indicators are set out in Appendix II of this report. We recommend that these be capable of revision by regulation,[1] so that they can be updated as necessary. Regular engagement with stakeholders (e.g. every three years) would help to ensure that the indicators within the framework remain relevant and meet social expectations.

Incorporating environmental and Treaty of Waitangi considerations

23. Stakeholders generally agree with core principles, noting they are well-established and have been used in several working groups and international research. Some stakeholders have suggested including additional principles related to the environment or to the Treaty of Waitangi as well as Human Rights and wider well-being considerations. These are more general principles that apply across the wider public sector and society, and in some cases are captured and applied in other legislation, such as the Public Service Act 1989, or directly such as the New Zealand Bill of Rights Act 1990.

24. Our view of these suggestions is as follows:

Environment

24.1 Including environmental factors among the principles is likely to duplicate existing environmental reporting which occurs as part of that produced by Statistics New Zealand and the Ministry for the Environment.

24.2 Imposing or not imposing tax based on meeting environmental outcomes could be reported under efficiency (especially in relation to neutrality of tax) and horizontal equity principles.

24.3 We would therefore not recommend including a specific environmental principle within the framework.

Treaty of Waitangi

24.4 It is not uncommon for modern legislation to refer to the principles of the Treaty of Waitangi. Treaty principles identified by the Courts and the Waitangi Tribunal include partnership, mutual benefit and a duty to act in good faith. These appear similar to the principles which govern the administrative operation of the tax system and wider public service. These are reflected in the Inland Revenue Charter and Public Service Act 2020.

24.5 As the role of tax in the Māori/Crown relationship is the focus of ongoing work, the implications of including a specific set of principles related to the Treaty within the reporting framework are currently unclear. Therefore, we would advise against incorporating explicit reference to the Treaty of Waitangi within the framework itself.

24.6 The information produced by the reporting framework could contribute to understanding how the tax system affects Māori. For example, as part of its reporting on neutrality, the framework could offer insight into how the tax system treats Māori collective asset ownership (e.g. Māori land), and recipients of Māori Authority distributions in comparison to other forms of ownership and income.

24.7 Information sourced through the framework could also support the He Ara Waiora framework. For example, insights about the distribution of income could inform advice that advances manaakitanga (support, hospitality,

[1] This would require the legislation to contain a regulation making power.

generosity) by identifying existing inequities and opportunities for improvement.

Human Rights and wellbeing

24.8 Human Rights are set out within the Human Rights Act 1993 and are considered regularly by the Human Rights Commission. The Treasury is required to report on the state of Wellbeing in New Zealand once every four years. However, it is possible that the information obtained through the tax principles reporting framework could support and compliment these existing initiatives.

Reporting

Frequency of reporting

25. Another important design question concerns the frequency of reporting. In our view, the cost of producing *comprehensive* annual reporting is unlikely to outweigh the benefits. We say this on the basis that, *generally speaking*, the results of one year are unlikely to differ materially from the year immediately before. We think that a longer period (e.g. three years) would be more appropriate and allow for trends in the data to be more easily observed.

26. However, greater flexibility in reporting frequency would be required if the government of the day were to seek additional reporting through a mechanism such as the annual Revenue Strategy. We do provide some information on an annual basis such as the annual Tax Expenditure statement and distribution of taxpayers.

27. We therefore suggest a compromise between reporting annually and once every three years. This would involve a hybrid reporting model which would provide full, comprehensive reporting every three years, and an abbreviated form of reporting annually.

28. The annual version of the report could include the current Tax Expenditure material (which is already required to be annually prepared) along with basic facts about matters such as income tax distributions, progressivity measures, administration costs and the number of remedial and policy changes made throughout the year.[2]

29. The framework could then offer a more comprehensive report every three years. Content in this more comprehensive report could include surveys on compliance costs as well as information about the efficiency and fairness of the tax system. This could align with the long-term insights briefing required under the Public Service Act 2020, which has a focus on medium to long-term trends.

30. We also recommend that the report be tabled in Parliament, and that it be published by Inland Revenue on one of its websites. We will continue to consider the best ways to make the information public and engaging, which could include dashboards, online graphs as well as data tables.

31. If there is a full report every three years, we recommend the report should be prepared by the end of the second calendar year of a Parliamentary term (which would be 2025 and every three years afterwards). This would ensure the data produced represents the tax system at the commencement of the current Parliamentary term and would avoid publication in the lead up to an election period.

Content and timing of reporting

32. The data in the report is unlikely to be drawn from the most recent tax year. This is largely due to the additional time which tax agents have to file their returns.

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[2] As these would impact on factors such as flexibility and certainty.

33. Although most wage and salary information is filed shortly after the end of the tax year, many self-employed and business filers use agents which can take longer to provide Inland Revenue with their data. This in turn affects the point at which this information becomes available for publication. For example, the information which Inland Revenue published in December 2022 reflected the tax year ended 31 March 2021.

34. As higher income filers are disproportionately represented among filers who use tax agents, excluding these filers would skew the reported distribution of income tax paid by individuals by value. Some businesses can also have an alternative balance date for their accounting years that does not align with the standard tax year and this will need to be factored into the reporting.

35. We recommend the report be prepared by the end of the calendar year (i.e. annually or every three years) using the information available from the latest available tax year for which enough data exists (which may be from the prior tax year given some taxpayers have up to a year to file tax returns).

Relocating the Revenue Strategy to the Tax Principles Act and other matters

36. The Government's annual Revenue Strategy is currently part of the Fiscal Strategy report which is required under the Public Finance Act 1989 (PFA)[3]. In previous advice, we have suggested that the Revenue Strategy could also be used as a "brief of instructions" which would allow the Government to seek specific information on areas of the tax system which are of particular interest to the Government.

37. Relocating the requirement to produce a Revenue Strategy within the TPA would consolidate these functions within the same legislation. The PFA could retain references to setting out objectives for total operating revenue focussed more on wider fiscal strategy and make cross reference to the Government's revenue strategy required under the TPA.

38. However, as the PFA has semi-constitutional status, the Treasury has suggested further time should be taken to consult and work through the implications of this proposal, particularly the ongoing interaction between the PFA and the TPA.

39. Therefore, an alternative is to proceed to introduction for the main reporting framework of the TPA and postpone shifting the Revenue Strategy into the TPA until these issues have received further consideration. We agree with this approach.

Reporting deadline

40. If the decision is made in the future to shift the Revenue Strategy into the TPA, it would provide an opportunity to produce the Revenue Strategy separately from the wider Budget documents, allowing the government to give the Revenue Strategy greater prominence and set out the government's vision for the tax system in regards to the tax principles. Under this approach the Revenue Strategy could be produced and published at the same time as the Budget Policy Statement (as part of setting out the Government's objectives and budget priorities), alongside the Budget as currently, or after the Budget such as end of June.

41. If released in June, it could incorporate decisions made and announced in Budget. Issuing the Revenue Strategy in December or alongside budget could risk it being overlooked among other documents.

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[3] Section 26L(1)(d) sets out the requirement to include details of the Government's revenue strategy in the fiscal strategy report. This must include the Government's objectives for the tax system and tax policy. Section 26G sets out the principles that apply to responsible fiscal management which includes in section 1(e) "when formulating revenue strategy, having regard to efficiency and fairness, including the predictability and stability of tax rates". Section 26J requires a fiscal strategy report to state the Government's long-term objectives for fiscal policy and, in particular, for total operating revenue. The fiscal strategy report must explain how those long-term objectives accord with the principles of responsible fiscal management.

42. The regularly produced Tax Expenditure statement (currently produced as part of Budget documents) could also be incorporated into the framework's regular reporting cycle in relation to the efficiency and equity of the tax system.

43. The PFA requires the Government to publish a list of tax changes that have occurred in the last year[4] in the economic and fiscal update. We recommend that this provision remains in the PFA, as the focus is on material changes to tax revenue forecasts.

44. The reporting indicators will also summarise key tax changes that have occurred in the year as part of reporting on the principles of flexibility and adaptability of the tax system but will focus on changes that impact the tax principles rather than changes that impact revenue forecasts.

45. Insights which emerge from the reporting framework could inform the content of the Government's tax and social policy work programme, thereby closing the tax policy "loop". We have considered whether publication of the tax and social policy work programme should be included in the TPA as a legislative requirement but do not see what additional benefits would be gained from doing so. As the tax programme could be updated at any time, there are some advantages to having flexibility in when and how much is publicly reported.

46. Given the TPA is intended to play a key role in the tax system, we recommend including it amongst the Acts which Inland Revenue is responsible for administering (for example, the Income Tax Act 2007). This would be achieved by listing the TPA in Schedule 1 of the Tax Administration Act 1994.

Legislative process

47. We understand you wish to introduce a Bill in the current year. Due to time constraints (and also as the Bill is likely to be only a few pages in length) we have inserted a provision in the enclosed Cabinet paper that would allow the Bill to be Introduced without Cabinet Legislation (LEG) Committee approval. However, the Bill will need to undergo the usual NZBORA vetting process through the Ministry of Justice.

48. The introduction of the Bill could occur following Cabinet's approval of the paper's consideration of Cabinet Economic Development Committee. The Bill would, however, be subject to the usual Select Committee consideration following First reading and referral to Select Committee.

Consultation

49. The Treasury and DPMC were informed of the contents of this report. As indicated above, Treasury consider additional time should be taken on any changes to the Public Finance Act.

Next steps

50. Taking the project forward will require the following next steps:

    50.1 Ministerial consultation on the attached Cabinet paper (to be updated as required following your decisions on this report) including whether to seek public consultation on the proposals before submitting to Cabinet.

[4] Section 26R.

Appendix I

No.	Principle	Description
1.	Horizonal Equity	People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (for example, not taxing the imputed rent on an owner-occupied home).
2.	Vertical Equity	The tax system should be progressive. Tax is progressive if people with higher levels of economic income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (for example, GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income as middle income New Zealanders already do.
3.	Efficiency	Tax revenue should be raised in ways which minimise distortions to the economy and the use of resources.
4.	Compliance and administrative costs	Compliance and administrative costs for taxpayers and the Government should be reasonable but this is not justification for substantial unfairness in the tax system.
5.	Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
6.	Certainty and predictability	People should be able to determine their tax obligations before they are due.
7.	Flexibility and adaptability	The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality.

Appendix II

Principle	Indicator	Examples of relevant information
Equity	Whether those in similar situations pay similar amounts of tax.	The amount of income tax paid by taxpayers in similar positions.
	Income distribution of individuals.	The number of individuals within each band of taxable income, and the effective rate of tax paid at each band.
		Taxable income as a proportion of economic income.
		GST paid by individuals as a proportion of their income.
Efficiency	Neutrality	The extent to which the tax systems affect taxpayer decision making (for example, the supply of labour, savings and investment decisions).
Revenue integrity	The ease with which taxpayers are able to circumvent tax rules	The frequency with which anti-avoidance rules are applied by Inland revenue.
	Public trust in the tax system.	Taxpayer perceptions of the tax system.
		Amount of and responsiveness of implementation of remedial revenue legislation.
		The extent to which budgeted revenues are collected.
		Net Present Value (NPV) of tax payments delayed.
	Incidence of exemptions, allowances or preferential rates which reduce a tax obligation.	
Certainty and predictability	Confidence of taxpayers in determining their liabilities.	Taxpayer perceptions of tax certainty.
		The quantity of retrospective revenue legislation.
Compliance and administrative costs		Amounts spent by taxpayers in meeting their tax liabilities (for example, preparation of accounts).
		The cost to the government in administering the tax system.

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Development Committee

ESTABLISHING A REPORTING FRAMEWORK IN A TAX PRINCIPLES ACT

Proposal

1 This paper seeks approval to the design of a tax principles-based reporting framework.

Relation to Government Priorities

2 The Government's current tax and social policy work programme has an item on the development of a statutory reporting framework informed by tax principles, the Tax Principles Act (TPA).

Intention of a Tax Principles Act

3 The TPA would establish a reporting framework informed by a set of tax principles. The intention of the framework is to provide a source of regular information about New Zealand's tax system (rather than about its administration). Specifically, the proposal would aim to:

3.1 Improve the public's understanding of New Zealand's tax system;

3.2 Inform discussions on tax, fiscal and economic issues among stakeholders, policy makers and the wider public; and

3.3 Contribute to the achievement of wider long-term social, fiscal and economic objectives through data driven reporting.

4 Achieving these objectives will require the TPA framework to become an enduring and permanent part of New Zealand's tax information landscape. To achieve its goals, the framework will need to have two specific qualities:

4.1 *Independence:* to achieve stakeholder and cross-party support, the framework will need to be neutral and independent of the government of the day; and

4.2 *Flexibility:* the framework will need to be capable of responding to new insights and developments in economic and tax literature. Inland Revenue officials will need to be able to revise and adapt the measures as new insights or new data become available.

Proposed Design Features

Selected principles

5 As proposed, the reporting framework would be informed by a high-level set of accepted tax principles which capitalise on existing tax policy frameworks, drawing from the work of previous tax working groups and the OECD. The legislation would set out the high-level principles and a description of what each principle means.

6 There is no intention that the principles would be used to constrain future tax legislation or as an interpretive basis for the court system. Rather, the principles are to guide the future reporting established under this proposed legislation and encourage informed public debate.

7 The principles which I propose be included within the TPA are:

No.	Principle	Description
1.	Horizonal Equity	People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (for example, not taxing the imputed rent on an owner occupied home).
2.	Vertical Equity	The tax system should be progressive. Tax is progressive if people with higher levels of economic income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (for example, GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income as middle-income New Zealanders already do.
3.	Efficiency	Tax revenue should be raised in ways which minimise distortions to the economy and the use of resources.
4.	Compliance and administrative costs	Compliance and administrative costs for taxpayers and the Government should be reasonable but this is not justification for substantial unfairness in the tax system.
5.	Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
6.	Certainty and	People should be able to determine their tax

	predictability	obligations before they are due.
7.	Flexibility and adaptability	The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality.

8 The information obtained from the framework would be organised around these principles and will help to educate and inform the public about the role and operation of New Zealand's tax system. The reporting would be the responsibility of Inland Revenue to prepare. I therefore propose the TPA be included within the Revenue Acts listed in Schedule 1 of the Tax Administration Act 1994.

9 Alongside the tax principles, I propose that the TPA set out a list of "principle indicators" that Inland Revenue would be required to report on. This list sets out the types of information that must be reported in relation to the tax principles. Inland Revenue may report on additional measures subject to data and resource availability but should at a minimum be reporting on the principle indictors set out in the TPA.

Principle	Indicator	Examples of relevant information
Equity	Whether those in similar situations pay similar amounts of tax.	The amount of income tax paid by taxpayers in similar positions.
	Income distribution of individuals.	The number of individuals within each band of taxable income, and the effective rate of tax paid at each band.
		Taxable income as a proportion of economic income.
		GST paid by individuals as a proportion of their income.
Efficiency	Neutrality. Exemptions, allowances or preferential rates which reduce a tax obligation	The extent to which the tax systems affect taxpayer decision making (for example, the supply of labour, savings and investment decisions). Including if some forms of income-earning ownership have preferential tax treatment.
Revenue integrity		The frequency with which anti-avoidance rules are applied by Inland Revenue.
	Public trust in the tax system.	Taxpayer perceptions of the tax system.

		Amount and responsiveness of implementation of remedial revenue legislation.
		The extent to which budgeted revenues are collected.
		Net Present Value (NPV) of tax payments delayed.
Certainty and predictability	Confidence of taxpayers in determining their liabilities.	Taxpayer perceptions of tax certainty.
		The quantity of retrospective revenue legislation.
Compliance and administrative costs		Amounts spent by taxpayers in meeting their tax liabilities (for example, preparation of accounts).
		The cost to the government in administering the tax system.

10 As data and methodologies change over time, I intend that Inland Revenue would consult the public at least once every three years on whether the categories of information being reported are useful to the public. The list of indicators in the legislation may need to be updated following such consultation. In terms of additional measures Inland Revenue may include in the report that are not listed in the legislation, I intend that the public be made aware of the proposed measures in advance through a public notification process to help with increased transparency.

Development of measures and frequency of reporting

11 Another important design question concerns the frequency of reporting. Some information is readily available and produced annually but for a number of areas relating to the tax principles, the findings of one year are unlikely to differ significantly from the year immediately before or after. The cost of producing *comprehensive* annual reporting may not outweigh the benefits.

12 I therefore propose a compromise between reporting annually and once every three years. This would involve a flexible, hybrid reporting model which would provide full, comprehensive reporting every three years, and a shorter interim form of reporting issued each other year. The reports would be required to be completed by the end of the calendar year using the information available from the latest available tax year for which sufficient data exists.[1] The reports are important to the public debate so I propose the legislation would require the shorter reports to at least be published on

[1] As some taxpayers have extensions of time before their information is reported, sufficent data may not exist for some measures, such as distribution of income of taxpayers, until over a year after the end of a tax year.

an Inland Revenue website, and the three yearly comprehensive report be tabled in Parliament.

13 The three-yearly reports should be completed by the end of the second year of a parliamentary term. The first shorter report would be produced by the end of 2023 following enactment.

Year	Type of report
2023	Enactment of legislation and 1st shorter report
2024	2nd shorter report
2025	1st comprehensive report
2026	Shorter report
2027	Shorter report
2028	Comprehensive report
2029	Shorter report

Relocating the Revenue Strategy to the TPA

14 The Public Finance Act 1989 has a requirement to produce a Revenue Strategy and specifically refers to the need to have regard to some principles of tax in doing so, such as efficiency. I have considered whether the requirement for a Revenue Strategy would sit better within the TPA. However, making changes to the Public Finance Act 1989 should be done carefully. I believe further time is required to consider how these two pieces of legislation would work together. I will direct officials to continue working on how the two pieces of legislation would operate together, including where to locate the Revenue Strategy requirement.

15 In the meantime, the Revenue Strategy could be used to signal any additional areas we want officials to include in reporting under the TPA. We could also highlight where we have used information from previous reports to update the Revenue Strategy and Tax and Social Policy Work Programme.

Next steps

16 I propose that Cabinet authorises me to make detailed legislative design decisions. I intend to seek approval for the introduction of the Bill at the LEG Committee of 11 May.

Public Consultation

17 Some discussions have been held with key stakeholders who have indicated support for the general proposal. Some concerns were raised about the potential compliance

cost of the reporting framework if additional information is required to be generated and supplied by private entities and individuals. I propose that detailed consultation on the proposed legislative design occur through Select Committee as part of the Bill process.

Financial Implications

18 There are no fiscal implications associated with the reporting framework, as the initial reporting will be funded from existing baselines.

Legislative Implications

19 Implementing the proposal will require the enactment of new legislation. I note that a Bill bid was provided to the Cabinet Office in October 2022 and updated in April 2023. The Bill is relatively short in length.

20 I propose introducing this legislation in May 2023, with referral to Select Committee and enactment to also occur in 2023 before the general election.

Impact analysis

Regulatory Impact Assessment

21 A Regulatory Impact Statement has been completed and is attached in the appendix.

22 The Quality Assurance Panel with representatives from Inland Revenue has reviewed the "A reporting framework informed by tax principles" prepared by Inland Revenue and considers the information and analysis partially meets the quality assurance criteria. The argument for a framework as proposed is reasonably convincing. However, public consultation on the proposals has been limited to discussions with relatively few stakeholders, which may have limited the depth of the analysis.

Climate Implications of Policy Assessment

23 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 Implications

24 There are no direct population implications from the reporting framework. The information collected and reported may improve the level of information available on the impact of the tax system on different population groups.

Human Rights

25 The proposals are not inconsistent with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993.

Consultation

26 Inland Revenue officials consulted with the Treasury and the Ministry of Justice in developing the proposals. The Department of Prime Minister and Cabinet was informed.

Communications

27 I intend to announce the proposals through a press release.

Proactive Release

28 I propose to proactively release this Cabinet paper, associated minutes, and key advice papers within 30 working days.

Recommendations

The Minister of Revenue recommends that the Committee:

1 **Note** that the Government's tax policy work programme currently includes an item on the development of a statutory reporting framework informed by tax principles.

2 **Note** the purpose of the Tax Principles Act is to improve the:

2.1 Amount of information available on the tax system; and

2.2 Public debate on the tax system.

3 **Note** the use of the Revenue Strategy and the information gained through the framework will help support and inform the contents of the Tax and Social Policy Work Programme.

Design decisions

4 **Agree** the following principles be incorporated within the statutory reporting framework ("Tax Principles Act"):

No.	Principle	Description
1.	Horizonal Equity	People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (for example, not taxing the imputed rent on an owner-occupied home).
2.	Vertical Equity	The tax system should be progressive. Tax is progressive if people with higher levels of economic income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (for

		example, GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income as middle-income New Zealanders already do.
3.	Efficiency	Tax revenue should be raised in ways which minimise distortions to the economy and the use of resources.
4.	Compliance and administrative costs	Compliance and administrative costs for taxpayers and the Government should be reasonable but this is not justification for substantial unfairness in the tax system.
5.	Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
6.	Certainty and predictability	People should be able to determine their tax obligations before they are due.
7.	Flexibility and adaptability	The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality.

5 **Agree** the legislation would set out a minimum list of principle indicators and authorise the Minister of Revenue to determine the indicators to be enacted within the reporting framework.

6 **Agree** to allow officials to determine the content of the reporting produced by the framework (which could include the use of additional indicators to support the objectives of the Act) with any additional indicators being subject to a public notification process so the public are aware and can comment on proposed indicators.

7 **Agree** the reporting produced by the framework be published by the Inland Revenue and tabled in Parliament.

Reporting frequency

8 **Agree** to a flexible reporting model comprised of:

8.1 Comprehensive reporting once every three years (to be tabled in Parliament and published by Inland Revenue); and

8.2 A shorter report (to be published by Inland Revenue) in other years.

Reporting deadline

9 **Agree** that the reporting be prepared by the end of the calendar year using the information available from the latest tax year (for which sufficient information exists), with the first shorter report to be produced by December 2023.

10 **Agree** that the comprehensive reporting produced every three years be prepared by the end of the second calendar year of a Parliamentary term (with the first comprehensive report produced by December 2025).

Public Finance Act: Revenue Strategy

11 **Note** that officials will continue to consider whether the Revenue Strategy should be included in the Tax Principles legislation in the future and how the Tax Principles legislation would work alongside the Public Finance Act 1989**.**

12 **Note** that Ministers can use the Revenue Strategy to direct officials to consider (in addition to baseline reporting content) additional governmental areas of interest as part of the framework's regular reporting and in future signal how the reports have impacted the Revenue Strategy and work programme.

Revenue Act

13 **Agree** the Tax Principles Act should be included among the Inland Revenue Acts in Schedule 1 of the Tax Administration Act 1994.

Process

14 **Authorise** the Minister of Revenue to make decisions on the detailed design of the legislation referred to in recommendation 4.

Authorised for lodgement

Hon David Parker
Minister of Revenue

Cabinet Economic Development Committee

Minute of Decision

Establishing a Reporting Framework in a Tax Principles Act

Portfolio **Revenue**

On 3 May 2023, the Cabinet Economic Development Committee:

Background

1 **noted** that the government's tax policy work programme currently includes an item on the development of a statutory reporting framework informed by tax principles;

2 **noted** that the purpose of the proposed Tax Principles Act is to improve the:

2.1 amount of information available on the tax system;

2.2 public debate on the tax system;

3 **noted** that the use of the Revenue Strategy and the information gained through the framework will help support and inform the contents of the Tax and Social Policy Work Programme;

Design decisions

4 **agreed** that the following principles be incorporated within the statutory reporting framework (the Tax Principles Act):

No.	Principle	Description
1.	Horizonal equity	People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (for example, not taxing the imputed rent on an owner-occupied home).
2.	Vertical equity	The tax system should be progressive. Tax is progressive if people with higher levels of economic income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (for example, GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income as middle-income New Zealanders already do.

3.	Efficiency	Tax revenue should be raised in ways which minimise distortions to the economy and the use of resources.
4.	Compliance and administrative costs	Compliance and administrative costs for taxpayers and the Government should be reasonable but this is not justification for substantial unfairness in the tax system.
5.	Revenue integrity	The revenue system should be sustainable over time and minimise opportunities for tax avoidance.
6.	Certainty and predictability	People should be able to determine their tax obligations before they are due.
7.	Flexibility and adaptability	The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality.

5 **agreed** that the legislation would set out a minimum list of principle indicators and authorise the Minister of Revenue to determine the indicators to be enacted within the reporting framework;

6 **authorised** officials to determine the content of the reporting produced by the framework (which could include the use of additional indicators to support the objectives of the Act), with any additional indicators being subject to a public notification process so the public are aware and can comment on proposed indicators;

7 **agreed** that the reporting produced by the framework be published by Inland Revenue and tabled in Parliament;

Reporting frequency

8 **agreed** to a flexible reporting model comprised of:

8.1 comprehensive reporting once every three years (to be tabled in Parliament and published by Inland Revenue);

8.2 a shorter report (to be published by Inland Revenue) in other years;

Reporting deadline

9 **agreed** that the reporting be prepared by the end of the calendar year using the information available from the latest tax year (for which sufficient information exists), with the first shorter report to be produced by December 2023;

10 **agreed** that the comprehensive reporting produced every three years be prepared by the end of the second calendar year of a Parliamentary term (with the first comprehensive report produced by December 2025);

Public Finance Act: Revenue Strategy

11 **noted** that officials will continue to consider whether the Revenue Strategy should be included in the Tax Principles legislation in the future and how the Tax Principles legislation would work alongside the Public Finance Act 1989;

12 **noted** that Ministers can use the Revenue Strategy to direct officials to consider (in addition to baseline reporting content) additional governmental areas of interest as part of the framework's regular reporting and in future signal how the reports have impacted the Revenue Strategy and work programme;

Legislative implications

13 **agreed** the Tax Principles Act should be included among the Inland Revenue Acts in Schedule 1 of the Tax Administration Act 1994;

14 **invited** the Minister of Revenue to issue drafting instructions to relevant officials to give effect to the above paragraphs;

15 **authorised** the Minister of Revenue to make decisions on the detailed design of the legislation referred to above.

Janine Harvey
Committee Secretary

Present:
Hon Dr Megan Woods (Chair)
Hon Michael Wood
Hon Dr Ayesha Verrall
Hon Damien O'Connor
Hon David Parker
Hon Peeni Henare
Hon Ginny Andersen
Hon Barbara Edmonds
Hon Dr Duncan Webb
Hon Dr Deborah Russell
Hon Rachel Brooking
Jo Luxton, MP

Officials present from:
Office of the Prime Minister
Officials Committee for DEV

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Tax Principles Bill: additional advice

Date:	18 April 2023	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2023/136

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Sign** and **lodge** the enclosed draft Cabinet paper by 10:00 a.m., Thursday 27 April 2023 for consideration at the CAB DEV meeting on 3 May 2023 **Refer** to the Minister of Finance	26 April 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor	s 9(2)(a)
Josh Fowler	Senior Policy Advisor	

18 April 2023

Minister of Revenue
Associate Minister of Revenue

Tax Principles Bill: additional advice

Purpose

1. This report provides you with:

   1.1 Further information and advice following additional work on the content of the draft Bill, following on from earlier advice of 28 February 2023 (IR2023/070 refers); and

   1.2 A revised Cabinet paper for your consideration, to be lodged for the Cabinet DEV Committee scheduled for 3 May 2023.

Additional advice

Report timetable

2. In our last report (IR2023/070 refers) you agreed to a hybrid reporting model, whereby a full report would be prepared once every three years, with an abbreviated or shorter form of the report published each other year. You agreed the first full report should be available by the end of the second calendar year of a Parliamentary term (which is expected to be the end of 2025).

3. An outstanding issue is the date for publication of the first shorter form of the report.

4. We had envisaged that the shorter reports would be required by legislation to be published by the end of a calendar year. This would mean the first shorter report would be due by the end of December in the year in which the Bill receives Royal assent.

5. We understand you are seeking to have the Bill enacted before the House rises for the 2023 general election. This would require the first report to be completed this year.

6. Although the shorter form of the report is intended to draw largely from existing data sources and will be comparatively lower cost in its preparation, we think the very first report will require extra time to prepare, go through a quality assurance process and publish.

7. It will also coincide with the initial post-election period, which is traditionally a busy period for the officials preparing the reports. As the reporting framework is to be resourced from existing baselines, there is the risk that issuing the first report this year could require trade-offs between the quality of the first report and meeting other core organisational reporting.

8. We would therefore recommend the first iteration of the report be prepared and published by December 2024. This could be achieved by setting a commencement date for legislation as 1 July 2024.

Regulation making power

9. Following further discussions with our drafting colleagues in refining the first draft of the Bill, we have come to the view that the regulation making power earlier recommended for updating the principle indicators may not result in the time and cost savings we had initially anticipated. The principle indicators are the measures that must be reported at a minimum and are set out in the legislation. The Commissioner can report on additional where relevant and data is available.

10. Although the use of regulations typically represents a low-cost method for departments to update existing legislation, Inland Revenue is in the fortunate position of having allocated House time for passing at least one piece of primary legislation each year. This allows Inland Revenue a greater ability to amend primary legislation as part of its regular Annual Rates Bills. Also, on reflection, changes to the principal indicators are not time sensitive and a slower legislative process would still be suitable.

11. While a regulation making mechanism would still be a valid approach for amending the principle indicators within the reporting framework, it comes with additional requirements to test, maintain and review regulation. By contrast, the costs of progressing changes to the principle indicators through primary legislation would be marginal as part of the existing process for the passage of an Annual Rates Bill.

12. On balance, we think the use of primary legislation to amend principle indicators would be more expeditious than the use of regulations, and no longer recommend a regulation making power be included in the Bill.

13. We also recommend, to assist with increasing transparency, the Commissioner be required to publish what measures they will use in the reports in advance of the report being prepared, such as in the Tax Information Bulletin. This would give an opportunity for people to provide feedback on the proposed measures.

Regulatory Impact Statement

14. As part of its preparation for the lodgement of the Cabinet paper, Inland Revenue has prepared a Regulatory Impact Analysis (RIA) on the reporting framework. This will be attached to the Cabinet paper and released as part of the documents accompanying the Bill's introduction. The RIA is still being reviewed by the internal panel and may receive a "partial meets" as the proposal has not been through the usual public consultation process.

15. A copy of the draft RIA is enclosed for your information.

Cabinet Committee process

16. If you agree to the recommendation in this report, we have provided an updated draft DEV paper for your consideration. We understand you wish to consider the paper at DEV on 3 May. You would need to **sign** and **lodge** the Cabinet paper by 10:00 a.m., Thursday 27 April 2023.

17. We will provide you with a draft LEG paper and copy of the Bill shortly, for consideration at the 11 May 2023 LEG Committee.

Recommendations

1. We recommend that you:

   1.1 **Agree** the first shorter iteration of the report be produced by December 2024, with the Act to commence from 1 July 2024;

   Agree/Not agreed

   1.2 **Agree** *not* to include a regulation making power within the legislation (to add additional principle indicators), and **note** these can be updated through the Annual Rates Bill instead, if required;

   Agreed/Not Agreed

   1.3 **Agree** that the Commissioner publish in advance the measures they will include in the report;

   Agreed/Not Agreed

   1.4 **Sign** and **lodge** the Cabinet paper by 10:00 a.m., Thursday 27 April 2023 for consideration at the CAB DEV meeting on 3 May 2023; and

   Agreed/Not Agreed

   1.5 **Refer** a copy of this report to the Minister of Finance.

   Referred

s 9(2)(a)

Murray Shadbolt
Principal Policy Advisor
Policy and Regulatory Stewardship
Inland Revenue

Hon David Parker
Minister of Revenue
/ /2022

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Draft Cabinet Legislation Committee paper – Establishing a reporting framework in a Tax Principles Act**

Date:	26 April 2023	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2023/144

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Sign** and **lodge** the enclosed Cabinet Legislation Committee paper by **10:00 a.m., Thursday 4 May 2023** **Refer** a copy of this report to the Minister of Finance	4 May 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor	s 9(2)(a)
Josh Fowler	Senior Policy Advisor	

27 April 2023

Minister of Revenue
Associate Minister of Revenue

Draft Cabinet Legislation Committee paper – Establishing a reporting framework in a Tax Principles Act

Purpose

1. The Tax Principles Reporting Act (Act) is scheduled to be introduced into the House on 18 May 2023 (i.e. Budget Night). This report:

   1.1 Discusses the lodgement of two Cabinet papers (i.e. one for Cabinet Economic Development Committee, and one for Cabinet Legislation Committee); and

   1.2 Encloses a draft Cabinet paper for Cabinet Legislation Committee for your review.

Discussion

2. Policy approval will be sought at Cabinet Economic Development (CAB DEV) on 3 May 2023, with Cabinet approval expected the following Monday day (i.e. on 8 May 2023). We expect Cabinet approval to follow on 8 May 2023. We recently provided you with a draft Cabinet paper which will need to be lodged by **10:00 a.m.**, **Thursday 27 April 2023**.

3. After policy approval, Cabinet Legislation Committee (CAB LEG) will need to approve the introduction of the legislation itself. Accordingly, this report encloses a Cabinet paper for CAB LEG scheduled for 11 May 2023. This draft CAB LEG paper will need to be signed and lodged by **10:00 a.m.**, **Thursday 4 May 2023**.

Next Steps

4. Provided you agree with the proposals, the next step would be to:

   4.1 **Sign** and **Lodge** the enclosed CAB LEG paper seeking Cabinet's approval for the introduction of the Tax Principles Reporting Bill into the House.

Consultation

5. The Treasury was informed of the contents of this report.

Recommendations

1. We recommend that you:

   1.1 **Note** the contents of this report.

   1.2 **Sign** and **lodge** the enclosed Cabinet paper by 10:00 a.m., Thursday 4 May 2023 in time for the Cabinet Legislation Committee (CAB LEG) on 11 May 2023.

s 9(2)(a)

Murray Shadbolt
Principal Policy Advisor
Policy and Regulatory Stewardship
Inland Revenue

Hon David Parker
Minister of Revenue
/ /2022

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

TAXATION PRINCIPLES REPORTING BILL: APPROVAL FOR INTRODUCTION

Proposal

1 This paper seeks the Cabinet Legislation Committee's agreement to introduce the Taxation Principles Reporting Bill (Bill) on 18 May 2023. The Bill will create a new Revenue Act called the Taxation Principles Reporting Act 2023.

Policy

2 In creating a Taxation Principles Reporting Act 2023, the Bill will establish a statutory reporting framework [DEV-23-MIN-0067 refers]. The framework will be informed by the following set of tax principles:

2.1 Horizontal equity;

2.2 Vertical equity;

2.3 Efficiency;

2.4 Revenue integrity;

2.5 Compliance and administration costs;

2.6 Certainty and predictability; and

2.7 Flexibility and adaptability.

3 The Commissioner of Inland Revenue will be required to report to the Minister of Revenue on measures of current tax settings relating to the above principles using approved indicators (such as income distribution and tax paid distribution by individuals).

4 A full, comprehensive report will be provided every three years, with a shorter form of reporting issued in other years. The reports will be required to be completed by the end of the calendar year, using the information available from the latest available tax year for which sufficient data exists.

Impact analysis

5 A regulatory impact assessment was prepared for this policy. This was submitted at the time that Cabinet Committee approval for the policy was sought.

Compliance

6 The Bill complies with:

6.1 the principles of the Treaty of Waitangi;

6.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

6.3 the disclosure statement requirements (the draft disclosure statement is attached);

6.4 the principles and guidelines set out in the Privacy Act 2020;

6.5 relevant international standards and obligations; and

6.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

Relevant Government Departments or Other Public Bodies

7 The Treasury and the Ministry of Justice were consulted on the proposals set out in the Bill. The Department of Prime Minister and Cabinet were informed.

Relevant Private Sector Organisations and Public Consultation Processes

8 Some discussions have been held with key stakeholders who have indicated support for the general proposal. Some concerns were raised about the potential compliance cost of the reporting framework where additional information required to be generated and supplied by private entities and individuals. I propose that detailed consultation on the proposed design occur through Select Committee as part of the Bill process.

Binding on the Crown

9 The Taxation Principles Reporting Act 2023 will be binding on the Crown.

10 The legislation will not create a new agency.

11 The legislation will not amend the existing coverage of the Ombudsman Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of Decision-Making Powers

12 The draft legislation does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

Definition of Minister/Department

13 The Bill defines Minister as the Minister of Revenue, or, if there is no Minister of Revenue, the Minister responsible for the Inland Revenue Department. The Commissioner is defined as the Commissioner of Inland Revenue.

Commencement of Legislation

14 The Taxation Principles Reporting Act 2023 comes into force at Royal assent.

Parliamentary Stages

15 The Bill should be introduced on 18 May 2023, referred to the Finance and Expenditure Select Committee and reported back to the House in August 2023.

Communications

16 I have signalled the intended introduction of this Bill in a speech on 26 April 2023. I will make a further announcement about the proposals in the Bill when it is introduced. A commentary on the Bill will also be released at this time. Inland Revenue will include details of the new legislation in a *Tax Information Bulletin* after the Bill is enacted.

Proactive Release

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

Recommendations

I recommend that the Committee:

1 **Note** that the Bill will create a new Revenue Act (the Taxation Principles Reporting Act 2023);

2 **Approve** the Taxation Principles Reporting Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;

3 **Agree** that the Bill be introduced on 18 May 2023;

4 **Agree** that the government propose that the Bill be:

4.1 Referred to the Finance and Expenditure Committee for consideration;

4.2 Reported back to the House in August 2023;

4.3 Enacted before the end of the current Parliamentary term.

Authorised for lodgement

Hon David Parker

Minister of Revenue

Cabinet Legislation Committee

Minute of Decision

Taxation Principles Reporting Bill: Approval for Introduction

Portfolio **Revenue**

On 11 May 2023, the Cabinet Legislation Committee:

1 **noted** that the Taxation Principles Reporting Bill (the Bill) will create a new Revenue Act (the Taxation Principles Reporting Act 2023);

2 **approved** the Taxation Principles Reporting Bill [IRD 23486/6.0] for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;

3 **agreed** that the Bill be introduced on 18 May 2023;

4 **agreed** that the government propose that the Bill be:

4.1 Referred to the Finance and Expenditure Committee for consideration;

4.2 Reported back to the House in August 2023;

4.3 Enacted before the end of the current Parliamentary term.

Rebecca Davies
Committee Secretary

Present:
Hon Grant Robertson (Chair)
Hon Michael Wood
Hon Kiri Allan
Hon Andrew Little
Hon David Parker
Hon Kieran McAnulty
Hon Ginny Andersen
Hon Barbara Edmonds
Hon Dr Duncan Webb
Tangi Utikere, MP (Chief Government Whip)

Officials present from:
Office of the Prime Minister
Officials Committee for LEG

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Summary of submissions and recommended changes for the officials' report for the Taxation Principles Reporting Bill**

Date:	20 June 2023	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2023/195

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations and indicate preference for changes to the Bill	22 June 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Murray Shadbolt	Principal Policy Advisor	s 9(2)(a)
Josh Fowler	Senior Policy Advisor	

20 June 2023

Minister of Revenue

Summary of submissions and recommended changes for the officials' report for the Taxation Principles Reporting Bill Report guidelines

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 Principles Reporting Bill (the Bill).

2. The Bill was referred to FEC on 18 May with submissions due by 9 June. The Bill received 33 written submissions. The initial briefing from officials and the oral hearings of evidence were heard on 15 June. Almost all submitters were supportive of the intent behind the Bill and the reporting of information on the tax system.

3. 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.

4. The major issues raised by submitters related to:

   - the consultation process and timing of the Bill (with a desire to delay enactment or delay reporting);
   - whether additional principles should be added to the Bill (including coherence, simplicity and consultation);
   - that the wording of the descriptors of the principles should be changed (to remove some words and phrases or to use alternative wording the submitters consider to be more appropriate);
   - the compliance costs imposed on taxpayers if new information is requested by the Commissioner to fulfil the reporting obligation.

5. A number of more minor issues were raised by submitters across almost all of the 15 clauses in the Bill. Most relate to clarifying the intent of the draft legislation. Submissions were also received on topics outside of the wording of the Bill, such as whether Inland Revenue is resourced to carry out the reporting function, or whether an alternative agency should be responsible for reporting.

6. In addition to the specific policy changes outlined in this report, we seek your approval to recommended improvements or clarifications to the drafting of certain clauses in the Bill. This is in response to feedback received from the Parliamentary Counsel Office on drafting style, as well as submissions from the NZ Law Society, the Legislation Design and Advisory Committee, and other submitters. These relate to where the drafting potentially overreaches or has unintended consequences.

7. None of these proposed amendments has a fiscal cost, and they do not give rise to any new material compliance or administration costs, or any significant systems or technology implications.

8. Treasury has been informed about this report.

9. Cabinet authorised you to make decisions on the detailed design of the Bill [CAB-23-MIN-0160.01 refers]. While the proposals could amend the wording of the descriptors agreed by Cabinet, we do not consider this is a significant change to the reporting framework agreed by Cabinet. Cabinet also agreed to the date of the first report which is also an issue raised in submissions.

Next steps

10. Subject to your agreement, recommendations outlined in this report will be drafted for inclusion in the officials' report. The finalised officials' report is due to the FEC no later than 23 June 2023. We will report to you with a draft version of the officials' report for noting as soon as possible. The independent advisor will also be reporting to FEC about this time.

11. FEC will consider the report at its meeting on 28 June. 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 27 July 2023.

Recommended action

We recommend that you:

1. **note** that agreed amendments will be included in the officials' report to the Taxation Principles Reporting Bill to be submitted on Friday 23 June 2023;

   Noted

2. **discuss** with officials the wording of the descriptors of the tax principles;

   Discussed

3. **indicate** where you agree or do not agree with the recommended amendments to the proposals in the Bill as set out in the table below:

Recommendations		**Minister of Revenue**
3.1	**agree** to amend the commencement date from 1 July 2023 to the day after the day of Royal Assent; (clause 2)	Agreed/ Not agreed
3.2	**indicate** if you wish the date of the first report to be either: a. December 2023 (current proposal); or b. December 2024 **(officials' recommendation)**; or c. December 2025 (submitters' recommendation); (clause 11)	 Yes/No Yes/No Yes/No
3.3	**agree** to remove the Treaty clause, as the operational impact of the provision is already covered by the Public Services Act 2020 and following further advice from Te Arawhiti and NZ Law Society; (clause 6)	Agreed/ Not agreed
3.4	**agree** to amend the *exclusion of other duties of the Commissioner clause* so that it only applies to exclude the duty to collect the maximum net amount of revenue practicable, and so the duty to protect the integrity of the tax system will also apply to the reporting framework; (clause 7)	Agreed/ Not agreed
3.5	**agree** to remove clause 15 to reflect updated guidance on how legislation is to now refer to secondary legislation provisions. (Clause 15)	Agreed/ Not agreed

4. **indicate** where you agree or do not agree with the recommended minor and technical changes to the wording of proposals in the Bill as set out in the table below:

Recommendations		**Minister of Revenue**
4.1	improve the drafting of provisions in line with Parliamentary Counsel Office guidelines;	Agreed/ Not agreed
4.2	clarify the link between the duty to report and the approved measures and the tax principles;	Agreed/ Not agreed
4.3	clarify the definition of Commissioner's report to make it clearer what is being reported;	Agreed/ Not agreed
4.4	clarify that the exclusion of the ability of the courts to consider the tax principles and reporting when determining a matter of law does not: a. exclude media from reporting on the measures; and b. exclude the courts from a judicial review of the Commissioner in carrying out their duty under the Taxation Principles Reporting legislation;	Agreed/ Not agreed
4.5	clarify that the reports will use the best information available up to the tax year for the relevant reports (i.e. the latest tax year for which "full" information is available), rather than information for that tax year only, which will allow for lagged data and late filing information to be reported appropriately;	Agreed/ Not agreed
4.6	clarify that the ability of the Commissioner to remove a measure from a future report would also have a 2-month notification period, and would only apply to measures the Commissioner included and not to measures set out in the legislation (removing the "Henry VIII" power).	Agreed/ Not agreed

s 9(2)(a)

Josh Fowler
Bill Manager
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2023

Background

12. The Taxation Principles Reporting Bill is currently being considered by the Finance and Expenditure Committee ("FEC"). The officials' report on submissions is due to the FEC no later than 23 June 2023 to enable the Committee to report back to the House by 27 July 2023.

13. Written submissions on the Bill closed on 9 June 2023, after being open for 3 weeks. This is shorter than the usual period for submissions and was noted in most submissions received. The briefing from officials and the hearing of oral evidence were both held on 15 June 2023.

14. There were 33 written submissions received. Most of the submissions were from the tax community (e.g. law and accounting firms). Submissions were also received from non-governmental organisations and interest groups such as Tax Justice Aotearoa, Federated Farmers and NZ Christian Council of Social Services. Submissions were detailed and commented on almost all 15 clauses in the Bill.

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

General themes in submissions

16. The major themes in most of the submissions cover:

- The lack of consultation leading up to the introduction of the Bill and the shortened timeframe for consideration at this Select Committee stage;
- The wording for the descriptors of the principles, specifically support for neutral descriptions as some submitters considered the descriptions to contain political language and may not be enduring;
- Whether additional principles should be added to the Bill (particularly coherence and simplicity);
- The compliance cost imposed on taxpayers if new information is requested to enable the Commissioner to report on measures, and whether Inland Revenue has the capability to do the reporting. Some submitters also suggested a separate agency should be responsible for reporting.

17. Other more minor issues were raised by submitters across almost all of the 15 clauses in the Bill. Most relate to clarifying the intent of the legislation. These included the need to clarify:

- the link between the duty to report and the approved measures and the tax principles. Currently, the principles located in Schedule 1 are not *explicitly* tied to the approved principles measurements. This could be accomplished by changes to the wording on the Duty to Report (clause 11);
- the definition of Commissioner's report (to make it clearer what is being reported);
- that the exclusion of the ability of the courts to consider the tax principles does not exclude the courts from a judicial review of the Commissioner in carrying out their duty under the Taxation Principles Reporting legislation. Also, that the exclusion from reporting when determining a matter of law does not exclude media or the public from writing articles on the measures;
- that the reports will use the best information available <u>up to</u> the tax year for the relevant reports, rather than information for that tax year only (which will allow for lagged data and late filing information to be reported appropriately);

- that the ability of the Commissioner to remove a measure from a future report would also have a 2 month notification period, and would only apply to measures the Commissioner included and not to measures explicitly enacted in the legislation (removing the "Henry VIII" power);

18. Submissions were also received on topics outside of the wording of the Bill such as whether Inland Revenue is resourced to carry out the function, or whether an alternative agency should be responsible for reporting.

Consultation process and timing of first reports

19. Most submitters commented on the timing around the Bill and lack of consultation in the lead up to the introduction, with reference to the Generic Tax Policy Process ("GTPP).

20. The GTTP process is an important part of sustainable and workable tax policy and legislation in New Zealand, especially where it relates to technical tax policy that impact on how taxpayers determine their tax liabilities. The GTPP is not always followed, for example in relation to Budget sensitive changes.

21. This Bill does not directly impact on taxpayers and does not change any tax obligations or liabilities, unlike other bills and proposals.

22. Submissions have requested that the Bill be withdrawn and undertake full consultation, or that the date for the first report under the Bill be delayed until 1 July 2024 or 2025.

23. This would provide Inland Revenue with more time to prepare measures to include in the reports and consult with interested parties on what measures to include and the methodology used in preparing data. We would continue to publish some data regardless of the date of the first report.

24. Some submissions noted the commencement date is set for 1 July 2023, which is before the Bill becomes law and would technically be retrospective. While having no practical impact, the commencement date could be changed to remove the retrospective aspect with no impact on the timing of reports.

Proposed changes

25. Based on submissions, we recommend the commencement date of the Bill be changed to the day after the date on which it receives the Royal assent so it is not retrospective. We are also seeking your preference for when the first interim report would be due, either December 2023 as current or a latter year as recommended by submissions. We would prefer to report in December 2024.

26. Inland Revenue would continue to publish the distribution of taxable income of individuals by December 2023 and update the list of tax expenditures with Treasury in May 2024. We are in the process of considering the information to include in the Annual Report on the administration of the tax system, to be published this year.

Wording of the descriptors and principles

27. Based on submissions, the wording of the descriptors for the tax principles could be changed.

28. There were a range of different suggestions raised by submitters on the wording of the descriptors. This includes that the descriptors be removed completely and the Bill rely on the list of tax principles and the ordinary meaning without further description. Most, however, suggested changes to the wording. We attach in the

appendix a copy of the wording suggested by the Corporate Taxpayer Group (CTG) which reflects most of the submissions' suggestions.

29. We do prefer the current wording of Efficiency rather than the CTG suggestion. While deadweight costs are a consideration in the efficiency of a tax system, they are very difficult to measure. We wish to retain the focus on minimising distortions (or minimising economic costs), which is currently sought by minimising the impact of tax on decision making by having a neutral approach to how tax is collected from similar activities.

30. Some submitters suggested that fairness should be included, or that the two Equity principles should be combined and labelled as Fairness and Equity. Other submitters did not agree as they considered fairness to be entirely subjective and a value judgement for each individual. On balance, we recommend that the principles remain Horizontal Equity and Vertical Equity.

Proposed changes

31. Based on submissions, we recommend you discuss with officials the wording of the descriptors to be included in the officials' report to FEC.

Submissions to be declined

32. Some submitters proposed wording changes to the descriptors that would seek to indicate preferred tax policy choices or changes that are not consistent with the usual understanding of the principles. We recommend these submissions be declined.

Additional principles

33. A number of submitters suggested adding additional principles to the bill, these principles are as follows:

- **Coherence**, as a tax principle, is of particular interest when looking at significant reform of the tax system (e.g. removing or adding an exemption or a tax base). We consider if the reform makes in the context of the entire tax system. A coherent tax system contributes to the sustainability and integrity of a tax system by minimising opportunities for arbitrage as well as improving administration and compliance costs.
- **Simplicity** as a tax principle is sound as a guide for tax policy design in that a tax system should aim for simplicity where possible and not be unnecessarily complicated. A simple system will help people to understand better their tax obligations and make it easier to get right and harder to get wrong. This is part of a tax system that provides certainty and predictability.
- **Consultation or the GTPP** have also been suggested as a principle to include. While GTPP and consultation is an important feature of the tax policy design process and helps to design better tax policy and improve understanding of the provisions, we see this as more of an administrative principle than a tax design principle. However, it does assist with ensuring people are better able to understand and meet their tax obligations and is relevant to the principle of certainty and predictability.

34. Rather than adding coherence, simplicity and consultation as separate principles, coherence could be mentioned in the descriptor for Revenue Integrity and simplicity and consultation could be mentioned in the principles of Certainty and Predictability.

Proposed changes

35. We recommend that you discuss with officials the wording of the descriptors and how they can reflect the ideas of coherence, simplicity and consultation, particularly in relation to the tax principles of Revenue Integrity and Certainty and Predictability.

Submissions to be declined

36. Some submitters also recommended adding in principles on:

- Competitiveness
- Honouring the Treaty
- Social equity
- Environmental impact
- Effect on negative externalities
- Transparency.

37. One submitter thought the principles and the measures should be linked to the Treasury's wellbeing framework as well as demonstrating how they would honour the Treaty of Waitangi. In reporting on the tax system, we expect to be mindful of other reporting frameworks and how they compare or are linked. We recommend these submissions be declined.

Consultation

38. Treasury have been informed of this report.

Next steps

39. We are meeting with you on Tuesday 20 June to discuss the content of this report.

40. The finalised officials' report is due to the FEC no later than 23 June 2023. We will provide a draft version of the officials' report for noting as soon as possible. The independent advisor will also be reporting to FEC about this time.

Appendix – Alternative Descriptors

41. The table below sets out the current and CTG suggested descriptors of the tax principles. A number of submitters proposed similar amendments.

Principle	Description
Horizonal Equity	**Current** People with similar levels of income should pay similar amounts of tax. The time value of money matters when considering horizontal equity. The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (e.g. not taxing the imputed rent or gains on an owner-occupied home). **Suggested** The extent that taxpayers with similar levels of income should pay similar amounts of tax.
Efficiency	**Current** Tax revenue should be raised in ways that minimise distortions to the economy and the use of resources. **Suggested** The extent that deadweight costs occur from the tax system.
Vertical Equity	**Current** The tax system should be progressive. Tax is progressive if people with higher levels of economic income pay a higher proportion of that income in tax. A progressive tax system does not mean that every tax should be progressive (e.g. GST is regressive) but the overall system ought to be. In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income than middle income New Zealanders already do. **Suggested** The extent that the tax system should be progressive. Tax is progressive if taxpayers with higher levels of income pay a higher proportion of tax.
Revenue integrity	**Current** The revenue system should be sustainable over time and minimise opportunities for tax avoidance and tax evasion. **Suggested** The extent of which the revenue system is sustainable over time and minimises opportunities for tax avoidance and tax evasion.

Compliance and administrative costs	**Current** Compliance and administrative costs for taxpayers and the Government should be reasonable, but this is not justification for substantial unfairness in the tax system. **Suggested** The extent to which compliance and administrative costs for taxpayers and the Government are reasonable.
Certainty and predictability	**Current** People should be able to determine their tax obligations before they are due. **Suggested** The extent to which taxpayers are able to determine their tax obligations when they undertake economic activity.
Flexibility and adaptability	**Current** The tax system should keep pace with changes in society, in particular technological and commercial developments, and changes in inequality. **Suggested** The extent to which the tax system keeps pace with changes in society, in particular technological and commercial developments, and changes in inequality. [Note some submitters suggested adding in reference to demographic changes. There were mixed views on the inclusion to the reference to inequality].

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Reassessment of Bill bids for the 2023 Legislation Programme**

Date:	12 April 2023	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2023/119

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations	14 April 2023
	Sign and **refer** the attached letter to the Cabinet Office	10am, Monday 17 April 2023

Contact for telephone discussion (if required)

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

12 April 2023

Minister of Revenue

Reassessment of Bill bids for the 2023 Legislation Programme

Purpose

1. In October 2022, Ministers were asked to submit bids for bills seeking places on the 2023 Legislation Programme (IR2022/476 refers). Due to the Government's programme of reprioritisation in the intervening months, a decision was made to not finalise the 2023 Legislation Programme until Ministers had the opportunity to reassess their legislative priorities.

2. The Cabinet Office has requested Ministers to now make that reassessment, and to provide an update on their legislative priorities by 10am, Monday 17 April 2023.

Reassessment of Bill bids

3. Ministers have been asked to arrange for the timeline and priority category of each of the bids submitted in their portfolios in November 2022 to be reassessed on the basis of:

   3.1 its relevance to the Government's current priorities;

   3.2 its relevance to the Minister's other priorities;

   3.3 the limited amount of House time remaining before the House rises on 31 August for the general election;

   3.4 its current status, including the completeness of policy approvals and drafting instructions, and how far advanced it is through the legislative process;

   3.5 how far advanced through the legislative process it is realistically likely to be when the House rises on 31 August; and

   3.6 whether, in light of these matters, the timeline submitted with the initial bid remains both accurate and realistic.

4. Four Bill bids were submitted in November 2022 for the Revenue portfolio:

Not in scope

   4.4 Tax Principles Bill

Not in scope

Not in scope

8. The bid for the Tax Principles Bill is still required, with an introduction date of Budget night, 18 May 2023, to coincide with the Omnibus Bill. We understand that you are seeking to have the Bill enacted before the end of the current Parliamentary term. This will require a change from the current category 4 rating (refer to select committee before the general election) to a category 2 rating (must be passed before the 2023 general election).

Not in scope

Next steps

12. The attached letter outlining the reassessment of the Revenue Bill bids is due to be sent to the Legislation Coordinator at the Cabinet Office by 10am, Monday 17 April 2023.

Recommended action

We recommend that you:

a) **Note** the Tax Principles Bill bid category is updated to category 2, must be passed before the 2023 general election.

b) **Sign** and **refer** the attached letter to the Legislation Coordinator in the Cabinet Office by 10am, Monday 17 April 2023.

Agreed/Not agreed

s 9(2)(a)

Peter Frawley
Policy Lead
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2023

Hon David Parker BCom, LLB
Attorney-General
Minister for the Environment
Minister of Revenue
Associate Minister of Finance

In Confidence

Office of the Minister of Revenue

RESPONSE TO REQUEST FOR REASSESSMENT OF BIDS FOR THE 2023 LEGISLATION PROGRAMME

In November 2022, four bids were submitted from the Revenue portfolio. I have received advice from officials on each of these, and my office has reassessed each in light of the Government's current priorities, and my own. The results of this reassessment are below.

Not in scope

Taxation (Budget 2023 Measures) Bill

A bid was submitted for the Taxation (2023 Budget Measures) Bill seeking a priority category of 2 (must be passed before the 2023 general election). I am now seeking a priority category of 7 (not to proceed), as there are no Budget 2023 measures in the Revenue portfolio that require enactment on Budget night.

Tax Principles Bill

A bid was submitted for the Tax Principles Bill seeking a priority category of 4 (to be referred to a select committee before the 2023 general election) for this Bill. This bid is still required with introduction planned for 18 May 2023. I am now seeking a priority category of 2 (must be passed before the 2023 general election) for this Bill. An updated timeline for this Bill is attached to this letter.

Hon David Parker
Minister of Revenue

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Not in scope

Appendix 2: Tax Principles Bill updated timeline

Step	*Proposed date*	*Consistency assurance*
Date on which final policy approvals will be obtained from Cabinet	8 May 2023	Officials provided the Minister with initial advice in mid-2021 on options for developing the reporting framework and prepared a discussion document for consultation. Advice on final decisions were provided in February 2023 with a draft Cabinet paper for Ministerial consultation. Ministerial approval was given for drafting instructions to be prepared.
Date by which the Bill will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990	20 April 2023	
Dates on which the Bill will be before LEG and Cabinet for approval for introduction	11 and 15 May 2023	Subject to the 2023 Cabinet committee timetable.
Date requested for introduction of the Bill	18 May 2023	
Date of report back from select committee	August 2023	A shortened Select Committee period will be sought. Final dates are yet to be confirmed with the Clerk.
Date of enactment	Before the end of the current Parliamentary term	
Date of commencement	From Royal assent	First report under the Act would be published by December 2024.

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: **Draft submission to Cabinet Legislation Committee for bids on the 2023 Legislation Programme**

Date:	9 November 2023	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2022/476

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations	17 November 2022
	Sign and **refer** the attached submission to the Cabinet Office	10 am Monday 21 November 2022

Contact for telephone discussion (if required)

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

9 November 2022

Minister of Revenue

Draft submission to Cabinet Legislation Committee for bids on the 2023 Legislation Programme

Purpose

1. Ministers must submit bids to the Cabinet Legislation Committee for bills to be given places on the 2023 Legislation Programme. Ministers and departments are asked to consider legislative priorities for the remainder of the current Parliamentary term, rather than for the 2023 year. This will enable the Government to deliver key priorities laid out for this term before the 2023 general election.

2. This report seeks your agreement to submit bids for Revenue Bills on the 2023 Legislation Programme.

Not in scope

New Revenue Bills for potential introduction in 2023

5. The attached draft submission also contains a request for new Revenue Bills to be included on the 2023 Legislation Programme. The following represent officials' view of the potential new Revenue Bills:

Not in scope

5.3 Tax Principles Bill.

Not in scope

Next steps

8. If you agree with the recommendations in the draft submission, the legislative bids for the 2023 Legislation Programme should be delivered to the Legislation Coordinator in the Cabinet Office by 10am Monday, 21 November 2022.

Recommended action

We recommend that you:

a. **agree** to the following Revenue Bills being included on the 2023 Legislation Programme:

Not in scope

iv. Tax Principles Bill.

Agreed/Not agreed

b. **sign** and **refer** the attached submission to the Legislation Coordinator in the Cabinet Office by 10am, Monday 21 November 2022.

Signed and referred/Not signed and referred

s 9(2)(a)

Peter Frawley
Policy Lead
Policy and Regulatory Stewardship

Hon David Parker
Minister of Revenue
/ /2022

In Confidence

Office of the Minister of Revenue

Cabinet Legislation Committee

Request for Priority in the 2023 Legislation Programme

1 This submission contains requests that the following Revenue Bills be included in the 2023 Legislation Programme:

Not in scope

1.4 Priority 4 of 4: Tax Principles Bill.

Authorised for lodgement

Hon David Parker
Minister of Revenue

In Confidence

Office of the Minister of Revenue

Cabinet Legislation Committee

Tax Principles Bill: Request for Priority in the 2023 Legislation Programme

Summary information

1 Key summary information:

1.1	Portfolio of sponsoring Minister:	Revenue
1.2	Department responsible:	Inland Revenue Departmental Contact: Peter Frawley Policy Lead s 9(2)(a)
1.3	Title of the proposed Bill:	Tax Principles Bill
1.4	Proposed ranking of Bill:	Priority 4 of 4
1.5	Estimated size and complexity:	Small Bill of medium complexity
1.6	Proposed priority:	Category 4 (to be referred to a select committee before the 2023 general election).
1.7	Explanation for proposed priority:	A category 4 priority is sought due to Ministerial priorities.

Policy

2 I propose to develop and establish a new Tax Principles Act (TPA) which would provide a reporting framework informed by a set of tax principles. These principles could include aspects of:

2.1 efficiency (how broad the tax base is, degree of neutrality on decisions)

2.2 fairness (the degree of progressivity of the tax and transfer system)

2.3 revenue integrity (how sustainable the tax system is, whether those expected to contribute are doing so or are avoiding taxes); and

2.4 compliance and administration costs (how easy it is to comply with and administer the tax system).

3 The framework could include an ability for governments to offer non-legislative direction on the desired focus of the reporting (e.g. through the issue of a government statement). This would provide more detailed information of the specific topic of interest.

4 Cabinet agreement to consult has been obtained, with legislation expected to be introduced in the second quarter of 2023.

Need for legislation

5 Legislation is necessary to provide a statutory background for the tax principles reporting framework to operate within.

6 A category 4 priority (to be referred to a select committee before the 2023 general election) is proposed for this Bill.

Compliance

7 The Bill will comply with:

7.1 the principles of the Treaty of Waitangi;

7.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

7.3 the principles and guidelines set out in the Privacy Act 2020

7.4 the relevant international standards and obligations; and

7.5 the *Legislation Guidelines (2021 edition)*, which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

8 Cabinet will determine whether the TPA will be binding on the Crown as part of the policy decisions made prior to the introduction of the Bill.

Consultation

9 Consultation on the design of the reporting framework will take place with stakeholders in the first quarter of 2023.

10 This is expected to include a wide range of stakeholders in both the private and public sectors. Stakeholders I expect officials to consult with include Chartered Accountants Australia and New Zealand, the Corporate Taxpayers' Group, the Treasury, Inland Revenue's Māori Advisory Board, Oxfam, the Tax Justice Network and the Salvation Army's Social Policy and Parliamentary Unit. I expect consultation to be completed within the second quarter of 2023.

11 Officials have consulted the Legislation Design and Advisory Committee during the development of the Bill. Consultation will additionally be required within caucus.

Associated regulations

12 No regulations are required to bring the proposed Bill into operation.

Timeline

13 TPA is expected to be introduced and referred to a select committee before the 2023 general election.

Step	*Proposed date*	*Consistency assurance*
Date on which final policy approvals will be obtained from Cabinet.	Quarter 1 2023	Officials provided the Minister with initial advice in mid-2021 on options for developing the reporting framework and prepared a discussion document for consultation. Officials expect to receive Ministerial decisions in late 2022/early 2023. While a Bill bid was submitted for 2022, achieving other Ministerial priorities meant that the introduction of legislation in 2022 was not possible. However, introducing legislation in 2023 appears possible at this stage.
Date by which the Bill will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	Quarter 2 2023	
Dates on which the Bill will be before LEG and Cabinet for approval for introduction.	Quarter 2 2023	
Date requested for introduction of the Bill.	Quarter 2 2023	
Date of report back from select committee.	Post-2023 general election	
Date of enactment.	Post-2023 general election	
Date of commencement.	Post-2023 general election	

Recommendations

The Minister of Revenue recommends that the Committee:

14 **note** that the Tax Principles Bill will introduce a statutory reporting framework which provides information about the tax system;

15 **note** that the Tax Principles Bill ranks 4 out of 4 within the bids from my Revenue portfolio;

16 **approve** the inclusion of the Tax Principles Bill in the 2023 Legislation Programme, with a Category 4 priority (to be referred to a select committee before the 2023 general election);

17 **note** that drafting instructions will be provided to Inland Revenue's Tax Law Drafting Unit by Quarter 1, 2023;

18 **note** that the Bill should be introduced no later than Quarter 2, 2023.

Authorised for lodgement

Hon David Parker
Minister of Revenue