Hon Simon Watts, Minister of Revenue

Information Release

Taxation (Annual Rates for 2025-26, Compliance Simplification, and Remedial Measures) Bill

September 25

Availability

This information release is available on Inland Revenue's tax policy website at:
https://www.taxpolicy.ird.govt.nz/publications/2025/ir-compliance-simplification-tax-bill

Documents in this information release

#	Reference	Type	Title	Date
01	IR2025/190	Inland Revenue Report	Non-fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025-26) Bill	17/06/2025
02	IR2025/191	Inland Revenue Report	Fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025-26, FBT Simplification, and Remedial Measures) Bill	13/06/2025
03	IR2025/295	Inland Revenue Report	Further items for inclusion in the Taxation (Annual Rates for 2025-26) Bill	11/07/2025
04	IR2025/187	Inland Revenue Report	Cabinet paper: Policy measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill	04/06/2025
05	EXP-25-SUB-0052	Cabinet Paper	Measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill	24/06/2025
06	EXP-25-MIN-0052	Cabinet Committee Minute	Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill	24/06/2025
07	CAB-25-MIN-0224	Cabinet Minute	Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill	30/06/2025
08	ECO-25-SUB-0109	Cabinet Paper	Further measures for inclusion in the Taxation (Annual Rates for 2025-26) Bill	23/07/2025
09	ECO-25-MIN-0109	Cabinet Committee Minute	Further measures for inclusion in the Taxation (Annual Rates for 2025-26) Bill	23/07/2025

10	CAB-25-MIN-0255	Cabinet Minute	Further measures for inclusion in the Taxation (Annual Rates for 2025-26) Bill	28/07/2025
11	IR2025-325	Inland Revenue Report	Cabinet paper - Taxation (Annual Rates for 2025-26, Compliance Simplification, and Remedial Measures) Bill - approval for introduction	24/07/2025
12	LEG-25-SUB-0166	Cabinet Paper	Taxation (Annual Rates for 2025-26, Compliance Simplification, and Remedial Measures) Bill: approval for introduction	21/08/2025
13	LEG-25-MIN-0166	Cabinet Committee Minute	Taxation (Annual Rates for 2025-26, Compliance Simplification, and Remedial Measures) Bill: approval for introduction	21/08/2025
14	CAB-25-MIN-0287	Cabinet Minute	Taxation (Annual Rates for 2025-26, Compliance Simplification, and Remedial Measures) Bill: approval for introduction	25/08/2025
15	IR2025/007	Inland Revenue Report	Outcome of consultation on the effects of FIF rules on immigration	10/02/2025
16	IR2025/233	Inland Revenue Report	Foreign Investment Fund – Phase One technical decisions	26/05/2025
17	ECO-25-SUB-0020	Cabinet Paper	Changes to the foreign investment fund rules	05/03/2025
18	ECO-25-MIN-0020	Cabinet Committee minute	Changes to the foreign investment fund rules	05/03/2025
19	CAB-25-MIN-0061	Cabinet Minute	Changes to the foreign investment fund rules	10/03/2025
20	IR2025/200	Inland Revenue Report	GST and joint ventures – final policy recommendations	12/06/2025
21	IR2025/286	Inland Revenue Report	GST and joint ventures – joint and several liability and administrative requirements for election	26/06/2025
22	EXP-25-SUB-0065	Cabinet Paper	GST and unincorporated joint ventures	29/07/2025
23	EXP-25-MIN-0065	Cabinet Committee Minute	GST and unincorporated joint ventures	29/07/2025
24	CAB-25-MIN-0263	Cabinet Minute	GST and unincorporated joint ventures	04/08/2025
25	IR2025/126	Inland Revenue Report	Employee share scheme deferral regime – outcome of	25/03/2025

			consultation	
26	IR2025/285	Inland Revenue Report	Income derived from the sale of excess electricity – updated options	26/06/2025
27	IR2025/231	Inland Revenue Report	Information Sharing	30/05/2025
28	BN2025/335	Inland Revenue Briefing Note	Additional information for Cabinet's consideration on disclosing information under a proposed Ministerial agreement	24/07/2025
29	IR2025/274	Inland Revenue Report	Replacing the legislative trust disclosure provisions with Commissioner powers	19/06/2025
30	IR2024/076	Inland Revenue Report	Tax policy report: Request for advice on section 17GB - Tax Administration Act 1994	14/03/2024
31	IR2024/153	Inland Revenue Report	Tax policy report: Further advice on section 17GB of the Tax Administration Act 1994	02/05/2024
32	IR2024/213	Inland Revenue Report	Options to amend section 17GB of the Tax Administration Act 1994	22/08/2024
33	BN2024/350	Inland Revenue Briefing Note	Confirming options for consultation on possible changes to s 17GB	28/08/2024
34	N/A	Inland Revenue Consultation document	Consultation on possible changes to section 17GB of the Tax Administration Act 1994	26/09/2024
35	IR2024/409	Inland Revenue Report	Final decisions on section 17GB	07/11/2024
36	BN2025/094	Inland Revenue Briefing Note	Next steps for proceeding with changes to section 17GB	05/03/2025

Additional information

The Cabinet paper, "Measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill" [EXP-25-SUB-0052] was considered by the Cabinet Expenditure and Regulatory Review Committee on 24 June 2025 and confirmed by Cabinet on 30 June 2025. The regulatory impact statements attached to this Cabinet paper have been published online: Regulatory Impact Statements for the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill.

The Cabinet paper, "Taxation (Annual Rates for 2025-26, Compliance Simplification, and Remedial Measures) Bill: Approval for introduction" [LEG-25-SUB-0166] was considered by the Cabinet Legislation Committee on 21 August 2025 and confirmed by Cabinet on 25 August 2025. The regulatory impact statements attached to this Cabinet paper has already been published online: Regulatory Impact Statements for the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill. The departmental disclosure statement attached to that Cabinet paper has been published online: NZ Legislation Disclosures.

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
9(2)(f)(iv)	to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
9(2)(g)(i)	to maintain the effective conduct of public affairs through the free and frank expression of opinions
9(2)(h)	to maintain legal professional privilege
18(c)(i)	that the making available of the information requested would be contrary to the provisions of a specified enactment

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Item 01

POLICY

Tax policy report: **Non-fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill**

Date:	17 June 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/190

Action sought

	Action sought	Deadline
Minister of Finance	**Note** the contents of this report	24 June 2025
Minister of Revenue	**Agree** to recommendations	24 June 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Peter Frawley	Policy Lead	s 9(2)(a)	☐
Philip Marshall	Bill Manager	s 9(2)(a)	☒
Hannah Simmonds	Bill Coordinator	s 9(2)(a)	☐

17 June 2025

Minister of Finance
Minister of Revenue

Non-fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill

Executive summary

1. This report seeks your agreement to make remedial amendments to the following Acts, and to include these in the Taxation (Annual Rates for 2025−26) Bill (the Bill):

    1.1. Income Tax Act 2007

    1.2. Tax Administration Act 1994

    1.3. Goods and Services Tax Act 1985

    1.4. Unclaimed Money Act 1971, and

    1.5. Child Support Act 1991.

2. These remedial amendments are intended to ensure the relevant tax law is consistent with the policy intent, and seek to maintain the coherence and integrity of the tax system.

3. These remedial amendments do not have any fiscal implications and are not material enough to require Cabinet approval.

4. Unless otherwise stated, the remedial amendments in this report would apply from the day after the date of Royal assent.

Consultation

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

6. The Tax System Forum was recently consulted on a list of items under consideration for inclusion in the Bill, and it was broadly supportive of the suite of remedials proposed.

Next steps

7. If the Minister of Revenues agrees to the recommendations, we will develop legislative changes to give effect to the remedial proposals. These will be included in the Bill scheduled for introduction in August 2025.

Recommended action

We recommend that you:

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

   Noted

   Minister of Finance

2. **Indicate** in the body of this report where you agree or do not agree with a recommendation.

   Indicated

   Minister of Revenue

3. **Agree** that, except where agreed elsewhere in this report, the approved amendments outlined in this report will apply from the day after the date of Royal assent.

   Agreed/Not agreed

   Minister of Revenue

4. **Agree** that the approved amendments will be included in the Taxation (Annual Rates for 2025–26) Bill, scheduled for introduction in August 2025.

   Agreed/Not agreed

   Minister of Revenue

s 9(2)(a)

Peter Frawley
Policy Lead

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Non-fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025−26) Bill

Purpose

8. This report seeks your agreement to make remedial amendments to the following Acts, and to include these in the Taxation (Annual Rates for 2025−26) Bill (the Bill):

    8.1. Income Tax Act 2007 (ITA)

    8.2. Tax Administration Act 1994 (TAA)

    8.3. Goods and Services Tax Act 1985 (GST Act)

    8.4. Unclaimed Money Act 1971, and

    8.5. Child Support Act 1991.

9. These remedial amendments are intended to ensure the relevant tax law is consistent with the policy intent, and seek to maintain the coherence and integrity of the tax system.

10. These remedial amendments do not have any fiscal implications and are not material enough to require Cabinet approval.

11. Unless otherwise stated, the remedial amendments in this report would apply from the day after the date of Royal assent.

Administrative implications

12. Inland Revenue can deliver the remedial changes included in this report based on our current work programme, and on what we understand the Government intends for Inland Revenue to deliver in the future. However, this Bill will reduce Inland Revenue's change capacity, and the resourcing of policy items within the Bill should be considered when thinking about Inland Revenue's ability to deliver future initiatives. While Inland Revenue proposes self-funding the departmental capital and operating costs to deliver these initiatives, this will create cost pressures and limits the department's ability to self-fund subsequent initiatives.

Consultation

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

14. The Tax System Forum was recently consulted on a list of items under consideration for inclusion in the Bill, and it was broadly supportive of the suite of remedials proposed.

Next steps

15. If the Minister of Revenues agrees to the recommendations, we will develop legislative changes to give effect to the remedial proposals. These will be included in the Bill scheduled for introduction in August 2025.

Supplier groups clarification

16. As part of changes made in 2022 to modernise GST information requirements, the rules for "shared tax invoices", which allowed a registered person to issue a single

tax invoice on behalf of multiple suppliers in certain circumstances, were replaced with the rules applying to "supplier groups".

17. A supplier group is typically a group of unrelated registered persons without common ownership or control. Under the supplier group rules, the "issuing member" of the group is responsible for issuing taxable supply information (formerly known as a tax invoice) for any member of the group when that other member makes a taxable supply.

18. The intention behind the supplier group rules was to allow groups of suppliers making taxable supplies to a common recipient to use shared invoices in a wider range of circumstances than was allowed under the former rules for shared tax invoices.[1] For example, an electricity retailer (Retailer A) and a lines company may form a supplier group so that invoices provided by Retailer A (the issuing member) to its customers, which include the supply made by the lines company (being the lines charge typically included on electricity bills), comply with the GST Act requirements for taxable supply information.

19. The problem with the supplier group rules is that the scope of the rules is unintentionally broad. On a literal reading, it appears the issuing member of a supplier group is responsible for issuing taxable supply information for each and every supply by a member of the supplier group. This is not a sensible outcome because supplier groups (as opposed to GST groups) are typically unrelated groups of registered persons without common ownership. For instance, in the above example of Retailer A and the lines company, this would mean Retailer A (as the issuing member) is technically required to provide taxable supply information for every single supply made by the lines company, potentially including supplies made by the lines company to persons who are not customers of Retailer A but are instead customers of a different electricity retailer that is unrelated to Retailer A.

20. We recommend an amendment to clarify that an issuing member of a supplier group is only responsible for issuing taxable supply information and supply correction information on behalf of the other members for supplies that are covered by an agreement between the members (rather than for any supply that a member of the supplier group may make).

21. Because the proposed amendment would be a mere clarification, we recommend that it retrospectively take effect on 1 April 2023, being the date that the relevant provisions in the supplier group rules were last amended (and that the former rules for shared tax invoices were repealed). An application provision should provide that the amendment applies for taxable periods starting on or after 1 April 2023.

Recommendations

Agree to an amendment clarifying that an issuing member of a supplier group is only responsible for issuing taxable supply information and supply correction information on behalf of the other members for supplies that are covered by an agreement between the members.

Agree/Not agreed

Agree that this amendment would have retrospective effect on and after 1 April 2023, with application for taxable periods starting on or after that date.

Agreed/Not agreed

[1] The former rules for shared tax invoices only allowed the use of a shared tax invoice if the suppliers used a single invoice because they had statutory obligations that made it practical to use a single invoice, or because they were all members of the same GST group.

Effective date for change from GST filing frequency selected in error

22. Sometimes, when people register for GST using the online registration process, they accidentally select a filing frequency that they did not mean to (for example, monthly instead of two-monthly). When this occurs, Inland Revenue staff cannot backdate a change in the registered person's taxable period to the start date of their registration. This is because the GST Act provides that a change in filing frequency takes effect at the end of the taxable period in which the person applies for the change.

23. We recommend an amendment to provide that a change in filing frequency for a newly registered person takes effect at the start date of their registration if they apply for the change before the earlier of:

    23.1. the due date for the GST return that corresponds with their chosen filing frequency, or

    23.2. seven days after the due date for the GST return that corresponds with their current filing frequency (being the filing frequency they are applying to change from).

24. This suggested timing rule is intended to provide taxpayers with sufficient time to apply for the change, while at the same time ensuring that they make the application in a sufficiently timely manner so that they do not miss filing deadlines that could have been met.

Recommendations

Agree to allow a newly registered person to change their filing frequency effective from the start date of their registration.

Agreed/Not agreed

GST secondhand goods technical amendment

25. The GST adjustment rules allow GST on goods to be claimed back when the purchaser of the goods subsequently registers for GST and uses the goods to make taxable supplies.

26. The specific rule allowing this explicitly includes secondhand goods. However, the rule links back to the definition of input tax for secondhand goods, which refers to the goods being sold to a registered person. Although the accepted practice is the rule applies to allow input tax deductions for secondhand goods acquired prior to registering for GST, we recommend that the legislation should be clarified.

Recommendation

Agree to clarify, in the adjustment rule for goods acquired prior to registering for GST, that the amount of input tax for secondhand goods is determined as though the person was a registered person at the time they acquired the goods.

Agreed/Not agreed

Clarify GST rules for certain goods sold as non-taxable supplies

27. Special rules in the GST Act allow a registered person to elect to treat a sale of certain goods, such as a home office, as not subject to GST, so long as the

registered person has not treated the goods as being part of their taxable (ie, business) activity. One of the qualifying requirements is that the person cannot have previously claimed a GST input tax deduction for the goods.

28. The policy intention of these rules was that only input tax deductions for goods and services that became an integral part of the goods should be considered. In other words, deductions for incidental inputs such as repairs and maintenance that did not significantly alter or improve the goods would not prevent the person from electing a subsequent sale of the goods as not subject to GST. However, the current wording of the legislation is unspecific on what qualifies as a relevant deduction, so we recommend that this detail be clarified. Because the proposed clarification reflects Inland Revenue's published policy guidance on the rules and is expected to align with how the affected taxpayers have been applying the rules, it would not have a fiscal impact.

Recommendations

Agree to clarify a requirement for goods elected as a non-taxable supply so that only input tax deductions for goods and services that became an integral part of the goods would be considered.

Agreed/Not agreed

Agree the remedials have the same retrospective application dates as the original amendments, which were either 1 April 2023 or 1 April 2011 (depending on the relevant rule), with a savings provision for supplies for which an assessment was made before 30 August 2022.

Agreed/Not agreed

29. There is also a related deeming rule in the GST Act that treats sales of goods such as land as subject to GST when the registered person previously claimed taxable use of the goods. Some GST advisors have raised concerns that this rule may require a registered person that uses land to make a combination of taxable and exempt supplies (such as a retirement village operator) to treat the sale of the land as a single taxable supply. If the rule applies, it requires GST-registered vendors and purchasers to make GST adjustments. In other scenarios, such as a farmhouse used as a principal place of residence and surrounding farmland, a simpler rule applies to split the land sale into a taxable supply of the farm and a non-taxable supply of the farmhouse.

30. To reduce compliance costs, we recommend the simpler rule be expanded so it applies to sales of land that have been used to make taxable and exempt supplies. This would not change the overall amount of GST collected[2] (so would not have a fiscal cost), but would be simpler and prevent potential compliance costs from the vendor and purchaser needing to make GST adjustments.

Recommendation

Agree to expand the scope of an existing rule for splitting land sales into taxable and non-taxable supplies so that it applies to sales of land that have been used to make taxable and exempt supplies.

Agreed/Not agreed

[2] As under the current rules, the vendor claims a deduction at the time of sale which cancels out the output tax they return in respect of their exempt use of the land. Under the proposed change they would simply not charge output tax to the extent the land had exempt use.

GST business-to-business zero-rating of financial services election process

31. GST-registered suppliers can elect to zero-rate (GST applies at 0%) qualifying financial services they provide to other GST-registered businesses. This election is made by taking a position in their GST return and allows them to claim GST deductions for the inputs used to make these supplies.

32. We have received feedback from some GST advisors that there can be some circumstances when it would be easier to elect by notifying the Commissioner of Inland Revenue (the Commissioner). For example, a new business may acquire inputs that it will use to begin supplying financial services in a future period and wish to use the election to register for GST now to ensure they can claim deductions for the inputs in a later return. We therefore recommend allowing the election to be exercised by either taking the relevant position in a GST return or by notifying the Commissioner.

Recommendation

Agree to allow suppliers to make an election to zero-rate business-to-business supplies of financial services by either taking the relevant GST position in a return or by notifying the Commissioner of Inland Revenue.

Agreed/Not agreed

Record-keeping requirements for supplies to unregistered persons

33. Under current law a registered person that makes or receives a supply of goods or services must keep a record of taxable supply information (formally known as a tax invoice) for that supply. For supplies over $1,000, this includes "recipient details" (ie, name and address) of the purchaser.

34. The policy rationale behind this requirement is that it supports the integrity of the GST system by ensuring that GST input tax deductions claimed on high-value items can be cross-referenced against a legitimate transaction. However, this is only necessary if the recipient of the supply is GST registered, as an unregistered purchaser is unable to claim GST.

35. This requirement to keep a record of "recipient details" is unnecessary if the purchaser is not registered for GST and may be viewed as onerous. This is on the basis that if the supply is made to an unregistered purchaser, they are unable to claim GST on the supply, and therefore keeping such records is not necessary to support GST integrity.

36. We recommend an amendment to limit the requirement to hold "recipient details" for supplies over $1,000 to circumstances when that supply is made to another registered person only.

Recommendations

Agree to an amendment to the GST record-keeping rules to limit the requirement to hold "recipient details" for supplies over $1,000 to supplies made to GST-registered persons only.

Agreed/Not Agreed

Exclude tax pooling from disputes process

37. The Commissioner has discretion in allowing a taxpayer to use tax pooling for paying voluntarily disclosed tax shortfalls in some circumstances under the ITA.

38. Most provisions where the Commissioner has discretion are specifically excluded from the disputes process. Because current legislation does not list the use of tax pooling for voluntary disclosures as one of the legislative provisions that is not subject to challenges, taxpayers can issue a Notice of Proposed Adjustment to the Commissioner when the decision to exercise discretion is declined.

39. We recommend that the legislation be amended to exclude tax pooling from the disputes process. This would align the treatment of tax pooling to the treatment of other provisions where discretionary decisions are excluded from the disputes process.

Recommendations

Agree to exclude the Commissioner of Inland Revenue's discretion to allow tax pooling to be used for voluntary disclosures from the disputes process so that it is not subject to challenges, aligning it with the treatment of other discretionary decisions.

Agreed/Not agreed

Clarify onus of proof for penalties applying to use of electronic sales suppression tools is on Commissioner

40. Electronic sales suppression tools (suppression tools) change point-of-sale data collected by a business. The purpose of the suppression tools is to evade tax by understating or completely changing revenues. These tools pose a significant risk to the integrity of the tax system, and in 2022, new civil and criminal penalties were introduced to address this risk. A penalty of $5,000 applies for the acquisition or possession of a suppression tool (with an exception for those who unknowingly acquire one).

41. Currently, the onus of proof for use of suppression tools lies with the taxpayer. This could be considered inconsistent with the treatment of other tax evasion or similar acts, given that onus of proof for these ordinarily rests on the Commissioner. This omission was an oversight when the policy was introduced. We therefore recommend clarifying that the onus of proof from use of suppression tools is on the Commissioner, not the taxpayer.

42. Without change to legislation, this could lead to inconsistent practice. Staff may apply the rules as outlined in current legislation (that is, put the onus of proof on the taxpayer), which may lead to confusion and uncertainty. In the short term, this issue is being mitigated through operational practice.

43. This amendment should apply retrospectively from 13 December 2022, being the date the new civil and criminal penalties for acquisition or possession of suppression rules came into effect.

Recommendations

Agree to clarify that the onus of proof for penalties applying to the use of electronic sales suppression tools is on the Commissioner of Inland Revenue, not the taxpayer, aligning with the treatment of other tax evasion or similar acts

Agreed/Not agreed

Agree that this amendment should apply retrospectively from 13 December 2022.

Agreed/Not agreed

Share email addresses of fine defaulters with Ministry of Justice

44. Inland Revenue has an Information Matching Agreement (the Agreement) with the Ministry of Justice (MoJ) to improve the collection and enforcement of monetary penalties. The Agreement enables MoJ to share a fine defaulter's name and date of birth with Inland Revenue. Inland Revenue then matches this information with the information it holds about the defaulter. If the information matches, the defaulter's last known address, telephone number, and their current employer's name, address, and telephone number are supplied back to MoJ.

45. MoJ has requested an update to the Agreement to enable them to request and receive the defaulter's email address to enable correspondence to be sent via email rather than relying on post. Clause 43 of schedule 7 of the TAA is the authorising provision behind the Information Matching Agreement with MoJ and will need to be amended to allow for the email addresses of fine defaulters to be shared under the agreement. The Office of the Privacy Commissioner has been informed about this proposed change.

Recommendation

Agree to an amendment to the Tax Administration Act 1994 to enable Inland Revenue to share the email addresses of fine defaulters with the Ministry of Justice.

Agreed/Not agreed

Clarification of Commissioner's publication requirements

46. Various Inland Revenue Acts require the Commissioner to publish certain information in a "publication", for example, determinations on tax issues. Inland Revenue currently publishes information on its websites and in its online *Tax Information Bulletin*.

47. Information in a "publication" should be publicly accessible and communicable, reliable, and of sufficient frequency. Recent legal analysis has highlighted that publishing information on Inland Revenue's websites alone may not be enough to satisfy the legal requirement that the information be included in a "publication".

48. Legislative instruments such as Orders in Council are notified in the *Gazette* and are also available on the New Zealand Legislation website.

49. We recommend a remedial amendment to clarify that when the Commissioner is required to publish information, that this requirement is satisfied when the Commissioner has published that information on a website that the Commissioner maintains.

50. This proposed amendment would remove room for doubt and align publishing requirements with other agencies, which generally meet their publishing requirements electronically, that is, on a website that they maintain.

Recommendations

Agree that, when a provision in the Income Tax Act 2007, Goods and Services Tax Act 1985, or Tax Administration Act 1994 requires information to be published, that this requirement should be met if the information is included on a website that the Commissioner of Inland Revenue maintains.

Agreed/Not agreed

Amounts received in trust by public or local authorities – redundant provisions

51. The ITA provides exemptions for public authorities, public purpose Crown-controlled companies, and local authorities. Each of the exemptions provide that any income derived by the relevant entity in their capacity as a trustee is not exempt income.

52. In 2018, a general rule was introduced to clarify that when a person is acting as a trustee, they are treated for income tax purposes as acting solely in that capacity, and not in their personal, body corporate, or other capacity.

53. This general rule means that it is no longer necessary to have the specific trustee capacity rules for public authorities, public purpose Crown-controlled companies, and local authorities. We recommend removing these redundant provisions.

Recommendations

Agree to repeal the specific trustee capacity rules for amounts received in trust by public authorities, public purpose Crown-controlled companies, and local authorities.

Agreed/Not agreed

Foreign-sourced amounts and non-resident trustees – redundant provision

54. Foreign-sourced amounts derived by non-resident trustees are normally not assessable income. However, the amounts can be assessable in specific situations, for example, when the settlor of the trust is a New Zealand resident.

55. However, the relevant provision (section HC 25 of the ITA) contains an incorrect case that should be removed (section HC 25(2)(c) of the ITA). It refers to a resident trustee when the provision can only apply to non-resident trustees.

56. We recommend that this redundant provision be repealed to improve legislative clarity.

Recommendations

Agree to repeal the redundant provision relating to foreign-sourced amounts and non-resident trustees.

Agreed/Not agreed

Remove requirement for uplifts of child support and domestic maintenance to be in writing and signed

57. Payees (child support receiving carers and recipients of domestic maintenance) can elect for Inland Revenue to stop collecting amounts owed to them by the liable person. This is commonly referred to as a request for an "uplift" of arrears and can apply to overdue amounts and future amounts that are not yet payable (if child support has ended). The Child Support Act 1991 requires that an uplift must be in writing and be signed.

58. Many references to writing (or in writing and signed) have been removed from the Child Support Act. In 2015, the provisions for electing to end a child support formula assessment were amended to allow for the request to be given either by using the approved form or in another way approved by the Commissioner. Currently, a cancellation can be given in a recorded call. However, if the receiving carer does not want Inland Revenue to collect any part of the assessment payable until the cease date (whether it is in arrears or not yet due), they must then complete the uplift request separately because this is not able to be given during the recorded call.

59. We recommend that the requirement for payee uplifts to be in writing and signed be removed. This would allow for uplifts to be made in a way approved by the Commissioner. This would be consistent with the ability to cancel child support and would allow the request to be given in a recorded phone call. We consider that this would be a better customer experience and an efficiency gain for Inland Revenue.

Recommendation

Agree that the requirement for payee uplifts to be in writing and signed be removed and to allow for uplifts to be made in a way approved by the Commissioner of Inland Revenue.

Agreed/Not agreed

Exclusions to non-resident contractor tax

60. Non-resident contractors' tax (NRCT) must be withheld on payments made to non-resident contractors for services performed in New Zealand, unless an exemption is available. The non-resident contractor can apply this interim tax payment to their final end-of-year tax liability. If the non-resident contractor has no end-of-year tax liability they may be entitled to a refund of the NRCT withheld on the payments they receive.

61. The purpose of NRCT is to ensure that non-resident contractors do not avoid their obligations to pay tax in New Zealand. When a non-resident contractor can demonstrate that they will not have a final tax liability in New Zealand (for example, due to a double tax agreement) they are able to apply for an exemption from NRCT. There are compliance costs associated with this application.

62. s 9(2)(f)(iv) [redacted]

International shipping and aircraft operators

63. The scope of NRCT was broadened in 1990 to apply to all work that is undertaken by non-residents in New Zealand. As a result of this expansion, payments made to non-resident aircraft and shipping operators for their activities carried out in New Zealand became subject to NRCT.

64. Most non-resident aircraft and shipping operators would not be subject to income tax in New Zealand because of both our domestic law and international agreements. Despite the application of the NRCT rules to these operators as a matter of law, the Commissioner took the practical position, set out in a *Tax Information Bulletin*, of not seeking to apply the NRCT rules to non-resident aircraft and shipping operators.

65. In 1995, the Commissioner further clarified that NRCT would be applied to non-resident shipping operators when they were transporting New Zealand goods or domestic passengers between two New Zealand ports.

66. The positions taken by the Commissioner in 1990 and 1995 are still in effect. However, these positions are not easy to find because they are only recorded in 30-year-old bulletins. It is also unsatisfactory that the Commissioner's position is not reflected in tax legislation.

67. We recommend an amendment to codify the existing exclusions from NRCT for non-resident aircraft operators and shipping operators carrying international cargo. This amendment would clarify the non-application of NRCT for these operators and align legislation and long-standing practice.

68. We recommend this amendment be retrospective to 22 March 1990, when NRCT was broadened to cover all contract activity undertaken in New Zealand, to align with the Commissioner's practice in this period.

Recommendations

Agree to exclude non-resident aircraft and shipping operators from being subject to non-resident contractors' tax, except when they are transporting New Zealand goods or domestic passengers within New Zealand.

Agreed/Not Agreed

Agree to make this amendment retrospective to 22 March 1990.

Agreed/Not Agreed

Software-as-a-service

69. When the NRCT rules were expanded in 1990, software-as-a-service (SaaS) did not yet exist as a business model. SaaS involves the use of software without a physical representation, such as a subscription delivered via cloud services. As this model was not considered when the NRCT rules were enacted or reviewed the language and concepts of the NRCT rules in legislation do not map well onto SaaS contracts.

70. Due to this ambiguity, questions have been raised with Inland Revenue about whether NRCT should be withheld on SaaS contracts. For many SaaS contract cases, we have concluded that NRCT should not apply. However, questions continue to emerge around whether marginally different business practices or changes to arbitrary factors, such as how the software is accessed, would result in the contract being subject to different NRCT treatment.

71. Uncertainty in a contract's NRCT treatment tends to result in providers or payers contacting Inland Revenue to confirm the NRCT treatment. Generally, this contact

takes the form of an application for an NRCT exemption, which has associated administration and compliance costs for both the taxpayer and Inland Revenue, despite NRCT not being collected on SaaS contracts.

72. To limit these compliance and administration costs, we recommend an amendment to clarify that SaaS contracts are not subject to NRCT.

73. While considering this issue, we also considered whether NRCT should apply to SaaS contracts. The purpose of NRCT is to ensure non-resident contractors do not avoid New Zealand income tax. A SaaS provider that only has a connection to New Zealand via a New Zealand-based customer will not have final income tax liability. As such, they would not pose a "flight risk" and we do not consider it justified to make the contracts subject to NRCT.

74. We have received comments from the TSF on this proposed amendment. They support the clarification that NRCT does not apply to SaaS contracts and agree that including SaaS within the scope of NRCT would be clearly outside of the policy intent.

Recommendations

Agree to clarify that software-as-a-service contracts are not subject to non-resident contractor's tax.

Agreed/Not Agreed

Short selling with foreign shares

75. Short selling involves a person borrowing a share when they expect the price will fall and then selling it on the open market. They then buy the same share back on the open market later, hopefully for a lower price than they sold it for, and return it to their broker with the difference being their gain or loss.

76. When short selling with New Zealand shares:

76.1. the share borrower/user has taxable income under ordinary concepts from selling the shares to a third party, and

76.2. the share borrower/user has a deduction under ordinary concepts from purchasing identical/replacement shares from a third party.

77. This means that the net gain/loss for the share borrower/user from the short selling arrangement is fully taxable/deductible.

78. When short selling with foreign shares, the tax position is less clear because of the potential application of the foreign investment fund (FIF) rules. Inland Revenue's Tax Counsel Office has considered how the current law may apply to short selling involving foreign shares and, while they noted it was not clear how the law currently applied, their interpretation could result in taxpayers being required to pay tax on the gross proceeds from a short sell with no deduction for the purchase of the identical/replacement shares. For example, if the gross proceeds from the short sell were $100,000 and the cost of the replacement shares was $80,000, this interpretation would mean that the taxpayer may be subject to tax on the gross proceeds of $100,000, rather than the net gain of $20,000. This is not an appropriate tax result because it is overly harsh on taxpayers, and we are not aware of any taxpayers applying the law in this way.

79. We therefore recommend that amendments are made to clarify that the net gain/loss for a share borrower/user from short selling with foreign shares is fully taxable/deductible. This would make it clear that short selling with foreign shares

should have a similar tax treatment to short selling with New Zealand shares. It would also be broadly consistent with how synthetic short selling arrangements (contracts for difference) are taxed under the financial arrangement tax rules.

80. We recommend that the amendments are effective from 1 April 2026.

81. We have informally consulted with external stakeholders to understand how short selling with foreign shares is treated in practice. From this, we understand that short selling with foreign shares is not very common and may be undertaken more by individuals than larger corporates. Further, various treatments are being adopted by taxpayers with some attempting to apply the FIF rules. Overall, most stakeholders were broadly comfortable with what we are recommending. However, a minority thought that the FIF rules should generally apply to limit the taxable gains to 5% of the cost of the shares, with no deduction if there was a net loss from the short selling arrangement. We consider that short selling with foreign shares (when the shares are short sold before they are bought and only held momentarily) can be distinguished from holding foreign shares (when the shares are bought and held until they are sold), and that it is appropriate to fully tax the net gain/loss from short selling arrangements.

Recommendations

Agree to amend the law to clarify that the net gain/loss for a share borrower/user from short selling with foreign shares is fully taxable/deductible.

Agreed/Not Agreed

Agree to make these amendments effective from 1 April 2026.

Agreed/Not Agreed

Short process rulings and non-residents with income over $20 million

82. Short process rulings are a low-cost form of binding ruling targeted at small to medium-sized enterprises (SMEs) with annual gross income below $20 million. One of the features to attract SMEs to short process rulings is the fixed fee of $2,000. Other binding rulings have an upfront application fee and an hourly rate.

83. Because of how the eligibility criteria is drafted, large non-resident applicants (with income over $20 million) can meet the criteria for a short process ruling because their foreign-sourced income is excluded. This provides large non-resident applicants with an advantage over domestic applicants that is not intended. Non-resident applicants are rare, and they typically relate to cross-border employment issues.

84. To address this issue, non-resident applicants should have their worldwide income considered in determining whether they meet the eligibility criteria for a short process ruling. This income could be measured to the New Zealand tax year, or the applicant's most recently ended balance date if the Commissioner considers it reasonable in the circumstances (such as when the non-resident applicant is not preparing tax returns or accounts to a 31 March date in New Zealand). This would ensure short process rulings remain targeted at SMEs and would improve fairness between non-resident applicants and resident applicants.

85. This change is expected to have no or minimal impact on departmental other revenue, because the numbers of non-resident applicants with income over $20 million are very small, and to the extent this change affected them, we consider it likely that they would apply for a private binding ruling which has higher fees.

Recommendation

Agree that a non-resident's worldwide income should be considered when determining whether it is eligible for a short process ruling.

Agreed/Not Agreed

Available capital distribution amount

86. When a company is liquidated, the amount received by a shareholder is only a dividend to the extent that it is more than the available subscribed capital (ASC) and available capital distribution amount (ACDA) of the company. The ACDA of a company is therefore the amount of capital gains that can be distributed tax free when a company is liquidated.

87. The ACDA is intended to be a net amount (capital gains less capital losses), but this is not currently reflected in the legislation. The Tax System Forum agree that ACDA is intended to be a net amount. This is a rewrite issue and there is no fiscal impact because it is remedying a drafting error.

88. The ACDA formula currently limits the amount of capital gains to the amounts available for distribution, which is then reduced by any capital losses. This leads to an artificial reduction in ACDA that was not intended. We recommend an amendment to ensure that the net capital gain amounts are subject to the available for distribution test.

89. Similarly, on amalgamation only capital gain amounts that are available for distribution at the time of the amalgamation are inherited by the amalgamated company. We recommend an amendment to clarify that the amalgamated company should also inherit capital losses (that is, they should inherit the net amount).

Recommendations

Agree to an amendment to clarify that the capital gain amount in the ACDA formula should be a net amount.

Agreed/Not Agreed

Agree to an amendment to clarify that an amalgamated company should inherit capital losses as well as capital gains.

Agreed/Not Agreed

Agree that these amendments should apply retrospectively from the commencement of the Income Tax Act 2007.

Agreed/Not Agreed

Crypto-Asset Reporting Framework remedial amendment

90. The Crypto-Asset Reporting Framework (CARF) will apply from 1 April 2026 in New Zealand. The CARF provides for the collection and automatic exchange of information on cryptoassets.

91. As a default position, the CARF establishes a reporting obligation on New Zealand - based reporting crypto-asset service providers (RCASPs) in respect of non-residents only. This means that a New Zealand-based exchange is required to report to Inland

Revenue information in respect of the transactions of its non-resident users (to the extent they are resident in a jurisdiction that has implemented the CARF), and not New Zealand resident users.

92. All jurisdictions that have implemented the CARF are required to maintain a list of reportable jurisdictions to which information exchange applies under the CARF.

93. To enable domestic reporting, New Zealand will add itself to the list that it maintains of reportable jurisdictions. To support this approach, an amendment is required to clarify how the term "partner jurisdiction" in the CARF is to be read. Although New Zealand will be a reportable jurisdiction, "partner jurisdiction" must be read as not including New Zealand.

94. We also seek your approval to make small wording changes to the CARF if needed, so it better reflects the reporting duties of RCASPs.

Recommendations

Agree to an amendment that clarifies that any references to "partner jurisdiction" in the Crypto-Asset Reporting Framework should be read as not including New Zealand, unless the context requires otherwise.

Agreed/Not Agreed

Agree to further minor amendments to the Crypto-Asset Reporting Framework if necessary to better reflect the reporting duties of reporting crypto-asset service providers.

Agreed/Not Agreed

Agree that the amendment should take effect on 1 April 2026, being the date the Crypto-Asset Reporting Framework applies in New Zealand.

Agreed/Not Agreed

Cryptoasset portfolio investment entity eligibility

95. The portfolio investment entity (PIE) regime is designed to encourage investment by offering favourable tax treatment for income earned through certain managed funds.

96. As a result of some previous changes, PIEs can now hold cryptoassets as an eligible investment type. This gives PIEs greater flexibility to invest in cryptoassets and is desirable from a policy perspective because it provides neutral tax treatment between asset classes.

97. Although cryptoasset PIEs are now permitted, the law requires PIE income to be derived from certain specified income types (for example, interest, dividend, rent, etc). It is not clear under current law whether a cryptoasset PIE can generate staking income, which is the crypto equivalent of passive interest income.

98. We therefore recommend an amendment to make it explicit that staking income is an eligible income type for a PIE to generate. This will ensure it is clear that cryptoasset PIEs can generate passive income in a similar way to other asset classes, just as a crypto investor could do if they invested in cryptoassets directly.

99. This clarification is also important because the lack of certainty in the current law could result in the creation of inefficient investment vehicles that would hamper investment productivity. For example, a cryptoasset PIE may elect a cautious approach and not derive staking income because the current law is unclear. This

would not maximise returns to investors and would mean inefficiencies are created as a consequence of tax law.

Recommendations

Agree to an amendment clarifying that staking income is an eligible income type for a portfolio investment entity to generate.

Agreed/Not Agreed

Agree that the amendment should be retrospective to 1 January 2009, being the date that the first cryptoasset, Bitcoin, was created.

Agreed/Not Agreed

Defined benefit superannuation schemes

100. Defined benefit schemes guarantee eligible employees a specific retirement benefit amount for each participant based on factors such as the employee's salary and years of service.

101. This issue would involve two remedial changes to the rules for the taxation of defined benefit superannuation schemes providing life insurance. There are currently 63 such schemes, including the Government Superannuation Fund (eight schemes) and the National Provident Fund (four relevant schemes). All but two schemes have closed to new members.

Facilitate consolidation of schemes

102. The remaining schemes are small and uneconomic to run. Many schemes would likely be closed if it were possible, however, there is no workable alternative to leaving them in operation. Consolidating such schemes under an umbrella scheme would mitigate this issue. However, consolidation cannot be done under current law. This could be achieved by amending the ITA to allow umbrella schemes to qualify as exempt from the life insurance tax rules if it is an umbrella scheme that consists of employer plans that each individually would meet the existing requirements if they were stand-alone schemes.

Reduce compliance burden of notification requirement

103. Defined benefit superannuation schemes and other superannuation schemes that self-insure death, disability and/or serious illness benefits can apply to be taxed as a registered superannuation scheme as opposed to being taxed under the life-insurer taxation regime. Under the ITA, schemes are required to apply to the Financial Markets Authority (FMA) for this status annually. The FMA has advised us that this process is an unnecessary use of time and resources. Repealing this notification requirement would reduce the administrative burden for agencies and the compliance burden for scheme administrators.

Recommendations

Agree to an amendment to facilitate the consolidation of defined benefit superannuation schemes under an umbrella scheme.

Agreed/Not Agreed

Agree to repeal the annual notification requirement for defined benefit superannuation schemes to apply to be taxed as a registered superannuation scheme.

Agreed/Not Agreed

RDTI: Due date extension for September balance date customers

104. The Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 extended the due date for Research and Development Tax Incentive (RDTI) approval applications to the last day of the third month after the end of the income year.

105. This change means that the due date for applicants with a September balance date now falls on 31 December. This date falls within Inland Revenue's holiday shutdown period and these customers will be unsupported during this period. RDTI filing cannot be accepted or amended after the due date so there is a risk if customers incorrectly file their approval application due to being unsupported.

106. This issue could be resolved by extending the due date for September balance date customers to 15 January. This extension aligns with that applied to other tax due dates that fall within Inland Revenue's shutdown period.

107. This amendment would apply to due dates falling after 1 April 2026.

Recommendations

Agree to an amendment to extend the RDTI approval application due date for customers with a September balance date to the 15th day of the fourth month after the end of the income year (15 January), for due dates after 1 April 2026.

Agreed/Not Agreed

RDTI: Partnerships with non-aligned balance dates

108. The Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025 (the 2024-25 Act) introduced a provision allowing partners who are part of a partnership with a non-standard balance date, when filing their separate returns, to return partnership income in the corresponding income year as the partnership (the non-apportionment method). This change has created risk when interacting with the rules for how partnerships apply for the RDTI.

109. Each partner in the partnership applies for the RDTI individually with their own approval, tied to that partner's balance date. Before the recent change, when a partner and a partnership had non-aligned balance dates, an apportionment of the partnership's eligible R&D expenditure was required to match the partner's balance date. Inland Revenue could then match the claims made by each individual partner in relation to a particular R&D activity/claim.

110. However, if a partner returns their partnership income using the non-apportionment method, the periods for the purposes of returning income will misalign with the

periods for the purposes of applying for the RDTI. That is, partners applying for the RDTI could mistakenly include R&D expenditure from the wrong periods in their application. If an error is not picked up in time, because RDTI filings cannot be accepted or amended after the deadline, the partner could miss out on RDTI credits. There will also be administrative difficulties with:

110.1. matching R&D expenditure approved in the RDTI approval with expenditure returned in the income tax return, and

110.2. ensuring that customers claim and receive the correct share of partnership eligible R&D expenditure.

111. This change would mitigate these issues by ensuring that partners in partnerships that apply for the RDTI must apportion their partnership income according to the partner's balance date to align with how the RDTI is applied for.

112. The original change to partnerships in the 2024-25 Act applied retrospectively from 1 April 2008. As such, we consider that this amendment should apply for the 2019-20 income year (the start of the RDTI regime) to clarify that the non-apportionment method should apply to returning partnership income for all years in which the partners might apply for the RDTI.

Recommendations

Agree that partners in partnerships with an RDTI credit for a given year must apportion their partnership income according to the partner's balance date when returning partnership income for that same year.

Agreed/Not Agreed

Agree that this amendment should apply retrospectively for the 2019-20 income year (the start of the RDTI regime).

Agreed/Not Agreed

Changes to unclaimed money regime

113. Inland Revenue is responsible for administering unclaimed money (UCM) under the Unclaimed Money Act 1971 (the UMA). In 2021, a series of reforms were made to the UCM regime, including a time limit on an owner's ability to claim UCM. Among other things, these reforms reduced the previously indefinite time period to a period of 25 years.

114. The Minister of Revenue recently directed officials (IR2024/498 refers) to:

114.1. reduce the current 25-year time limit by five years, to a new time bar of 20 years, and

114.2. develop remedial measures that would improve the information associated with amounts of UCM.

Reduce current 25-year time bar to 20 years

115. As noted in prior advice (IR2024/498 refers), amending the existing time bar to 20 years would have a minimal impact on the Crown's financial position. The Crown has two categories of liability for UCM, namely:

115.1. recognised liability on the balance sheet based on expected claim trends, and

115.2. contingent liability, which represents the full amount that could be claimed.

116. A reduction in the time bar from 25 to 20 years is not expected to have any fiscal impact because unclaimed money from 21 to 25 years ago is not expected to be paid out to claimants and is therefore treated as a contingent liability for accounting purposes.

Improved information collection

117. The 2021 reforms produced a significant increase in UCM claims, largely because claiming is now significantly easier. This has led to an increased workload for Inland Revenue staff, who must navigate:

117.1. *Incomplete claims:* Holders of UCM often provide incomplete information when transferring UCM to Inland Revenue, requiring Inland Revenue staff to contact holders and seek further details about the ownership of the funds.

117.2. *Illegitimate claims:* We estimate that up to 79% (approximately four out of five) are made by people with no entitlement to the UCM claims.

118. Improving the quality of information associated with the money at the point it is transferred to Inland Revenue would reduce handling costs and help staff to process claims more quickly. We recommend holders of unclaimed money be required, as a matter of course, to supply Inland Revenue with the owner's:

- full name
- IRD number
- date of birth
- full address
- contact information, and
- account reference number.

119. We additionally recommend requiring holders to provide:

- the date of the of the owner's last interaction with the account
- the date the account was opened, and
- any other information held by the holder.

120. This would operate as a positive obligation upon the holder to supply this information upfront, rather than when it is requested by Inland Revenue.

121. We would recommend consultation through the select committee process to ensure that holders of UCM will have sufficient time to update their systems and implement the changes.

Recommendations

Agree to reduce the current time bar from 25 to 20 years.

Agreed/Not agreed

Agree to require holders of unclaimed money to supply Inland Revenue with the owner's particulars described above upfront, when they are available.

Agreed/Not agreed

Remedial amendments to schedule 32

122. We recommend five remedial changes to the list of overseas donee organisations in schedule 32 of the ITA:

    122.1. renaming three existing charities on the list (two of the changes are a result of the charities concerned changing the legal structure of their operations, for example, a new charitable trust is taking over the operation of an existing incorporated society, which will be wound up and the net assets transferred to the charitable trust), and

    122.2. removing two organisations that have ceased operations.

123. Further detail about these amendments is set out in Appendix 1 of this report.

Recommendations

Agree that "Engineers Without Borders New Zealand Incorporated" is changed to "Engineers Without Borders New Zealand", a new legal entity, on and from 5 March 2025. The old name should be repealed on 1 April 2026.

Agreed/Not agreed

Agree that "UN Women Aotearoa New Zealand Incorporated" is changed to "UN Women Aotearoa New Zealand", a new legal entity, on and from 1 April 2025. The old name should be repealed on1 April 2026.

Agreed/Not agreed

Agree that "New Zealand for UNHCR", an existing legal entity, is changed to "Aotearoa New Zealand for UNHCR" on and from 7 December 2022.

Agreed/Not agreed

Agree that Greater Mekong Subregion Tertiary Education Consortium Trust is removed from the Income Tax Act 2007.

Agreed/Not agreed

Agree that Register of Engineers for Disaster Relief New Zealand is removed from the Income Tax Act 2007.

Agreed/Not agreed

Relocate donation tax credit cap

124. In New Zealand, an individual can claim a donation tax credit of 33.33% when they make a donation over $5 to an approved organisation such as a school or charity. The amount of an individual's donations made in a tax year that are eligible for a tax credit are capped at the total amount of their taxable income.

125. Currently, the entitlement for the donation tax credit arises under the ITA. However, the rule capping the eligible donations to an individual's taxable income is located in the TAA. This separation may cause confusion and increase compliance costs because individuals must refer to two different Acts to calculate their donation tax credit.

126. We recommend relocating the donation tax credit cap from the TAA to the ITA. This change would reduce compliance costs because it would make it easier for individuals to calculate their donation tax credit.

Recommendations
Agree to an amendment to relocate the donation tax credit cap from the Tax Administration Act 1994 to the Income Tax Act 2007.
Agreed/Not Agreed

Minor amendments to tariff concession references in section 12 of GST Act

127. The New Zealand Customs Services collects GST and tariff duty on imported goods valued over $1,000. Tariff concessions exempt certain imported goods from duty, including GST. The Tariff concessions are listed in the GST Act.

128. On 25 November 2024, Cabinet [CAB-24-MIN-0458 refers] agreed to amend the Tariff and the GST Act to:

128.1. create a new Tariff concession for duty-free entry of inherited goods to better facilitate the importation of inherited goods, and

128.2. remove the redundant Tariff concession reference 75, which allows duty-free entry for gifts worth up to $110 or partial duty relief of $110 on gifts with values exceeding $110.

129. Cabinet's decision requires changes to the GST Act so your approval is sought to include the changes as part of the Bill. The changes to the GST Act will:

129.1. implement the new Tariff concession reference number for inherited goods, and

129.2. remove the concession 75 reference number.

Recommendations
Agree to introduce a new concession reference for inherited goods.
Agreed/Not Agreed
Agree to repeal redundant concession reference 75.
Agreed/Not Agreed

Employee contributions to complying superannuation funds

130. The reforms enacted as part of Budget 2025 included scheduled increases to KiwiSaver employer and employee contribution rates. The first increase is scheduled to occur on 1 April 2026, and will result in contribution rates rising from 3% to 3.5%. This will be followed by a further increase to 4% from 1 April 2028.

131. Complying superannuation funds (CSF) are workplace retirement savings schemes that largely mirror KiwiSaver scheme settings. Members of CSF who contribute sufficient funds are eligible for the government contribution.

132. Although the scheduled contribution rate increases will apply to employer contributions to CSFs, we have since identified that these changes will not flow through to employee contributions to CSFs as was intended.

133. This is because, for historical reasons, minimum employee contributions to CSFs are governed by a specific schedule of the ITA rather than the KiwiSaver Act 2006. Accordingly, we recommend a remedial change to the ITA to ensure that the scheduled rate increases apply to employee contributions to CSFs.

Recommendations

Agree to amend the Income Tax Act 2007 to ensure that the scheduled increases to employee KiwiSaver contribution rates enacted as part of Budget 2025 will also apply to employee contributions to complying superannuation funds.

Agreed/Not Agreed

Agree that the effective dates for rate increases to employee contributions to complying superannuation funds should align with the scheduled rate increases enacted as part of Budget 2025:

1. an increase in the employee contribution rate from 3% to 3.5% from 1 April 2026, and
2. a further increase in the employee contribution rate from 3.5% to 4% from 1 April 2028.

Agreed/Not Agreed

Replace reference to previous fringe benefit tax threshold

134. Changes were made to fringe benefit tax (FBT) thresholds as they are calculated using personal income tax thresholds, which were amended last year.

135. These changes came into effect 1 April 2025, and most references to the previous FBT thresholds were replaced with the corresponding new thresholds. However, one reference to the previous threshold remains, which we recommend amending to ensure the consistency of legislation.

Recommendations

Agree to replace the reference to the previous fringe benefit tax threshold with the new threshold.

Agreed/Not Agreed

Employee Share Scheme Remedials

136. Improvements to the employee share scheme rules are part of the Government's Tax and Social Policy Work Programme. Officials have identified two remedial changes that would reduce ambiguity in the application of the rules for taxpayers.

137. Both changes would apply from 1 April 2026, aligning with the application of the tax deferred employee share scheme changes announced as part of Budget 2025. Officials anticipate that further work may be progressed during the select committee phase, as feedback is received on the workability of the proposed deferral regime legislation, and the employee share scheme rules as a whole.

Timing of employee share scheme deductions remedial

138. Section DV 27 of the ITA governs what deductions persons who are party to an employee share scheme may take. It provides that an employer has an amount of expenditure or loss for an employee by reference to an amount equal to the employee's income.

139. However, there is a problem in identifying the timing of an employer's expenditure that is deemed to arise for employee share schemes costs. It is not clear on what date a deduction for these costs arises because there is no specific rule. In order to align with the intent of the rules this should be the share scheme taxing date.

140. The proposed amendment would provide that the expenditure or loss under the employee share scheme rules arises on the share scheme taxing date.

141. This amendment would apply from 1 April 2026.

142. This amendment would be fiscally neutral because it is clarifying the legislation in a way that is consistent with generally applied Inland Revenue operational guidelines.

Recommendations

Agree to an amendment that would provide that the expenditure or loss under the employee share scheme rules arises on the share scheme taxing date, applying from 1 April 2026.

Agreed/Not Agreed

Specifying share scheme taxing date for shares not yet in existence

143. Employee share schemes are taxed on the share scheme taxing date. The share scheme taxing date cannot occur until shares are held by, or for, the employee. In some cases, this is inconsistent with the policy intent of the share scheme taxing date arising when performance criteria are met, or an option is exercised. This can cause confusion and could lead to compliance issues.

144. This proposal seeks to amend the legislation to specify that the share scheme taxing date is the first date when shares are held by, or for the benefit of, an employee share scheme beneficiary, or when the beneficiary has an unconditional right to receive shares. This would provide clarity and increase consistency and compliance.

145. This amendment would apply from 1 April 2026.

146. This amendment would be fiscally neutral because it is clarifying the legislation in a way that is consistent with generally applied Inland Revenue operational guidelines.

Recommendations

Agree to an amendment that would specify that the share scheme taxing date is the earlier of the first date when shares are held by, or for the benefit of, an employee share scheme beneficiary, or when the beneficiary has an unconditional right to receive shares, and that the amendment would apply from 1 April 2026.

Agreed/Not Agreed

Appendix 1: Remedial amendments to schedule 32

Recommended change	Reason for change	Application date
Replace the reference to "Engineers Without Borders New Zealand Incorporated" to "Engineers Without Borders New Zealand	Engineers Without Borders New Zealand Incorporated was added to schedule 32 on 1 April 2022. It has restructured and changed its legal form from an incorporated society to a charitable trust. It is now operating as "Engineers Without Borders New Zealand". The governance, purposes and activities have not changed, with existing projects being taken over by the new charitable trust.	To ensure that fundraising arrangements are not disturbed, we recommend that the new entity be inserted with effect on and from 5 March 2025, and the name of the old entity be repealed on 1 April 2026.
Replace the reference to "UN Women Aotearoa New Zealand Incorporated" to "UN Women Aotearoa New Zealand"	UN Women Aotearoa New Zealand Incorporated was added to schedule 32 on 1 April 2019 (previously named UN Women National Committee Aotearoa New Zealand Incorporated). It has restructured and changed its legal form from an incorporated society to a charitable trust. It is now operating as "UN Women Aotearoa New Zealand". The governance, purposes and activities have not changed, with existing projects being taken over by the new charitable trust.	To ensure that fundraising arrangements are not disturbed, we recommend the new name be inserted with effect on and from 1 April 2025, and the name of the entity be repealed on 1 April 2026.
Replace the reference to "New Zealand for UNHCR" to "Aotearoa New Zealand for UNHCR"	New Zealand for UNHCR, was added to schedule 32 on 15 February 2022. It is a new entity that replaced the activities of an earlier entity "UNHCR" that had been given overseas donee status from the 2008–09 income year. The Trust has since changed its name to "Aotearoa New Zealand for UNHCR".	The name change should apply on and from 7 December 2022.
Remove the reference "Greater Mekong Subregion Tertiary Education Consortium Trust"	The Greater Mekong Subregion Tertiary Education Consortium Trust ceased operations in 2014 and should be removed from the list. The Trust remains inactive and appears to have no residual assets.	The removal should apply from the day after the date of Royal assent.
Remove the reference to "Register of Engineers for Disaster Relief New Zealand"	The Register of Engineers for Disaster Relief New Zealand ceased operations in 2016 and should also be removed from the list. The former chair of the Trust has confirmed that its activities have ceased.	The removal should apply from the day after the date of Royal assent.

POLICY

Tax policy report:	**Fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025-26, FBT Simplification, and Remedial Measures) Bill**

Date:	13 June 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/191

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	24 June 2025
Minister of Revenue	**Agree** to recommendations	24 June 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Peter Frawley	Policy Lead	s 9(2)(a)	☐
Philip Marshall	Bill Manager	s 9(2)(a)	☒
Hannah Simmonds	Bill Coordinator	s 9(2)(a)	☐

13 June 2025

Minister of Finance
Minister of Revenue

Fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025–26, FBT Simplification, and Remedial Measures) Bill

Executive summary

1. This report seeks your agreement to make remedial amendments to the following Acts, and to include these in the Taxation (Annual Rates for 2025–26, FBT Simplification, and Remedial Measures) Bill (the Bill):

    1.1 Income Tax Act 2007

    1.2 Tax Administration Act 1994, and

    1.3 Goods and Services Tax Act 1985.

2. These remedial amendments are intended to ensure the relevant tax law is consistent with the policy intent, and seek to maintain the coherence and integrity of the tax system.

3. While none of these remedial amendments are material enough to require Cabinet approval, they do require approval from both the Minister of Finance and the Minister of Revenue because they have fiscal implications.

Fiscal implications

4. We recommend that the fiscal implications associated with the remedial amendments in this report be managed through the Tax Policy Scorecard. The net fiscal impact of all these remedial amendments is neutral and would not change the Tax Policy Scorecard balance.

Consultation

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

6. The Tax System Forum was recently consulted on a list of items under consideration for inclusion in the Bill, and it was broadly supportive of the suite of remedials proposed.

Next steps

7. If you agree to the recommendations in this report, officials will develop legislative changes to give effect to the agreed remedial amendments. These will be included in the Bill, scheduled for introduction in August 2025.

Recommended action

We recommend that you:

1. **Indicate** in the body of this report where you agree or do not agree with a recommendation.

    Indicated Indicated

2. **Indicate** in the body of this report where you agree with the fiscal implications resulting from the recommended change.

    Indicated Indicated

3. **Note** the net fiscal impact of all the proposed changes on the Tax Policy Scorecard is neutral as follows:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: Other Persons	-	(0.200)	(0.200)	(0.200)
FBT	0.200	0.200	0.200	0.200
GST	(0.200)	-	-	-
Total Operating	-	-	-	-

    Noted Noted

4. **Agree** that approved amendments will be included in the Taxation (Annual Rates for 2025–26, FBT Simplification, and Remedial Measures) Bill, scheduled for introduction in August 2025.

    Agreed/Not agreed Agreed/Not agreed

s 9(2)(a)

Peter Frawley
Policy Lead
Inland Revenue

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025–26, FBT Simplification, and Remedial Measures) Bill

Purpose

8. This report seeks your agreement to make remedial amendments to the following Acts, and to include these in the Taxation (Annual Rates for 2025–26, FBT Simplification, and Remedial Measures) Bill (the Bill):

   8.1 Income Tax Act 2007

   8.2 Tax Administration Act 1994, and

   8.3 Goods and Services Tax Act 1985.

9. These remedial amendments are intended to ensure the relevant tax law is consistent with the policy intent, and seek to maintain the coherence and integrity of the tax system.

10. While none of these remedial amendments are material enough to require Cabinet approval, they do require approval from both the Minister of Finance and the Minister of Revenue because they have fiscal implications.

Fiscal implications

11. We recommend that the fiscal implications associated with the remedial amendments in this report be managed through the Tax Policy Scorecard. The net fiscal impact of all these remedial amendments is neutral and would not change the Tax Policy Scorecard balance.

12. At the start of June 2025, the Tax Policy Scorecard balance was $29.491 million. Two policy items recently reported as charges to the Tax Policy Scorecard (IR2025/187 refers) do not change that balance, assuming both proposals are approved as recommended.

Administrative implications

13. Inland Revenue can deliver the remedial changes included in this report based on our current work programme, and on what we understand the Government intends for Inland Revenue to deliver in the future. However, this Bill will reduce Inland Revenue's change capacity, and the resourcing of policy items within the Bill should be considered when thinking about Inland Revenue's ability to deliver future initiatives. While Inland Revenue proposes self-funding the departmental capital and operating costs to deliver these initiatives, this does create cost pressures and limits the department's ability to self-fund subsequent initiatives.

Consultation

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

15. The Tax System Forum was recently consulted on a list of items under consideration for inclusion in the Bill, and it was broadly supportive of the suite of remedials proposed.

Tax treatment of open loop cards provided to employees

16. Inland Revenue recently issued a "Question We've Been Asked" (QWBA) relating to the supply of open loop cards to employees. Open loop cards are prepaid cards co-branded with a credit card (or other payment network) processor that is accepted for payment by merchants anywhere the network processor's brand is accepted (that is, in the world, in-store or online) and can be used until the pre-loaded monetary value is depleted or the card expires.

17. The QWBA concludes that the supply of these open loop cards to employees should be subject to PAYE. Traditionally, taxpayers have applied fringe benefit tax (FBT) to the supply of these types of cards. This has been for simplicity in that the employer can meet their FBT liability when a stock of cards is purchased rather than when each individual card is given to an employee.

18. The calculation of FBT on these small value benefits is simple compared to the complex gross up calculation required for paying PAYE on these benefits, which also have social policy and KiwiSaver implications. This treatment would have significant compliance costs over FBT treatment for similar amounts of tax revenue.

19. We propose to deem the supply of open loop cards to employees to be subject to FBT rather than PAYE. This change was originally proposed as part of the issues paper *FBT – options for change*, issued by Inland Revenue in April 2025.[1]

20. Submissions received on that issue have been supportive of the proposed treatment outlined in the issues paper.

21. Technically, the change would have a fiscal impact to the extent that FBT payable exceeds a PAYE approach. However, we are unable to quantify the amount of that fiscal impact, but it is likely to be minor in nature and thus would be notionally recognised as a small and unquantifiable fiscal benefit.

22. The differing treatments would have an impact on the recipients' social policy obligations (if any). However, this has been accounted for in the small and unquantifiable fiscal benefit noted above.

Recommended action

Agree to deem open loop cards to be subject to fringe benefit tax and not as a PAYE payment.

Agreed/Not Agreed　　　　　　　　　　Agreed/Not Agreed

Note the following changes in tax revenue as a result of the decision to deem open loop cards to be subject to PAYE, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: FBT	0.200	0.200	0.200	0.200
Total Operating	**(0.200)**	**(0.200)**	**(0.200)**	**(0.200)**

Noted　　　　　　　　　　Noted

[1] Fringe benefit tax – options for change

Agree that the increase in tax revenue noted above be added to the Tax Policy Scorecard.

Agreed/Not Agreed Agreed/Not Agreed

Agree that this change would apply from 16 April 2025, the date the Question We've Been Asked was released.

Agreed/Not Agreed Agreed/Not Agreed

GST secondhand goods interaction with adjustment rules

23. The GST Act allows persons who acquire secondhand goods to claim back the GST embedded in the cost of those goods. The GST adjustment rules also allow GST to be claimed back in situations when a person registers for GST after acquiring the goods, so long as the goods are now used to make taxable supplies. We have identified a technical issue with the interaction of these rules.

24. The GST Act limits secondhand goods deductions for registered persons who acquire goods (typically land) from an associated unregistered person. In 2022, an amendment was made to ensure the correct amount of GST could be deducted when the associated unregistered supplier had purchased land from another unregistered person. This amendment applied for relevant supplies of secondhand goods made on or after 30 March 2022.

25. However, an unintended consequence can occur when a registered person purchased land prior to 30 March 2022 from an associated unregistered person and then began using the land to make taxable supplies after 30 March 2022. In such cases, the purchaser cannot claim a secondhand goods deduction under the GST adjustment rules. We recommend a remedial amendment to allow this.

26. This remedial amendment would have a minor fiscal cost that we are unable to quantify so we have used a notional fiscal cost of $0.2 million in the 2025–26 income year.

Recommended action

Agree to a remedial amendment so that the rule for secondhand goods acquired from an associated person can be applied by persons who changed their use of the secondhand goods to a taxable use after 30 March 2022.

Agreed/Not Agreed Agreed/Not Agreed

Agree that this change would apply from 30 March 2022.

Agreed/Not Agreed Agreed/Not Agreed

Note the following changes in tax revenue as a result of the recommendation above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: GST	(0.200)	-	-	-
Total Operating	**0.200**	**-**	-	-

Noted Noted

Agree that the reduction in tax revenue noted above be charged against the Tax Policy Scorecard.

Agreed/Not Agreed Agreed/Not Agreed

Donation tax credit clawback for refunded donations

27. In New Zealand, an individual can claim a donation tax credit of 33.33% when they make a donation over $5 to an approved organisation such as a school or charity. The amount of an individual's donations made in a tax year that are eligible for a tax credit are capped at the total amount of their taxable income. The purpose of this tax credit is to encourage charitable giving.

28. In some cases, a taxpayer may be refunded their donation by a donee organisation. It is the clear policy intent that any donation tax credit should be recovered in these circumstances. A person should not receive the benefit of a donation tax credit when they have not incurred the financial cost of the donation. However, under existing legislation, there is not a specific provision that allows the tax credit to be clawed back.

29. To ensure the donation tax credit rules achieve their policy intent, a legislative clawback mechanism should be enacted, allowing Inland Revenue to recover a tax credit if the related donation is refunded. The amendment should apply to donations returned to donors on or after the introduction of the Bill.

30. This amendment would raise a notional $0.1 million in the first year and $0.2 million in subsequent years for a total of $0.7 million over the forecast period.

Recommended action

Agree to enact a legislative clawback mechanism allowing Inland Revenue to recover a tax credit if the related donation is refunded.

Agreed/Not Agreed Agreed/Not Agreed

Agree that the amendment should apply to donations returned to donors on or after the introduction of the Bill.

Agreed/Not Agreed Agreed/Not Agreed

Note the following changes in tax revenue as a result of the recommendations above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: Other persons	0.100	0.200	0.200	0.200
Total Operating	**(0.100)**	**(0.200)**	**(0.200)**	**(0.200)**

Noted Noted

Agree that the increase in tax revenue noted above be added to the Tax Policy Scorecard.

Agreed/Not Agreed Agreed/Not Agreed

Exclude payments made to trustee of deceased estate from definition of pension

31. Under section CF 1 of the ITA, a pension is considered an income amount. A pension is defined as a gratuitous payment made to a person in return for services that the person provided to the payer. Such payments made to the person's family because of, and within one year after, their death, are excluded from the definition of pension, and therefore, are not income.

32. However, if the gratuitous payment is made to the trustee of a deceased individual's estate this may be considered income. In most circumstances, such payments would eventually end up in the hands of the family of that individual.

33. To align with the policy intent and the current exclusions, this amendment would specify that a gratuitous payment made to the trustee of the estate of an individual who has died is excluded from the definition of pension under section CF 1.

34. To ensure this amendment applies as intended, the contradiction in the definition that specifies that a pension is a "gratuitous payment made to a person in return for services" would be replaced with wording that emphasises that a pension is a gratuitous payment made to a person that provided services to the payer.

35. This amendment would apply from 1 April 2026.

36. The amendment is a taxpayer friendly change that would impact a small number of individuals, having a notional fiscal cost of $0.2 million per year over the forecast period.

Recommended action

Agree to an amendment providing that gratuitous payments made to the trustee of the estate of an individual who has died and would meet the definition of pension are excluded from this definition, with effect from 1 April 2026.

Agreed/Not Agreed Agreed/Not Agreed

Note the following changes in tax revenue as a result of the recommendation above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: Other persons	(0.050)	(0.200)	(0.200)	(0.200)
Total Operating	**0.050**	**0.200**	**0.200**	**0.200**

Noted Noted

Agree that the reduction in tax revenue noted above be charged against the Tax Policy Scorecard.

Agreed/Not Agreed Agreed/Not Agreed

Financial arrangement thresholds

37. The financial arrangements rules seek to spread the income/expenditure under financial arrangements over the life of those arrangements using a specified spreading method.

38. Smaller taxpayers are excluded from the financial arrangements rules when they meet certain criteria. These taxpayers are termed a "cash basis person" and essentially return income/expenditure from a financial arrangement on a cash basis rather than an accrual basis.

39. The criteria for a person to be classified as a cash basis person for an income year are that:

    39.1 income and expenditure under all financial arrangements for the income year does not exceed $100,000, or

    39.2 the absolute value of all financial arrangements to which the person is a party on every day of the income year does not exceed $1 million.

40. In addition, there is no difference between accrual and cash recognition exceeding $40,000.

41. Another compliance cost de minimis rule is the treatment of variable principal debt instruments (such as an overdraft, revolving credit mortgages or current account in a foreign currency), which are excluded from the financial arrangements rules if their total value does not exceed $50,000.

42. These thresholds have not been adjusted since 1999 and are now considered by taxpayers to be outdated, and this has led to anecdotal lower compliance of these rules.

43. We propose to update the thresholds for a taxpayer to be a cash basis person and in the definition of variable principal debt instrument as follows:

Threshold	Current value	Proposed value
Income and expenditure[2] OR	$100,000 or less	$200,000 or less
Total value of financial arrangements[3] AND	$1,000,000 or less	$2,000,000 or less
Deferral method threshold[4]	$40,000	$100,000
Variable principal debt instrument	$50,000	$100,000

44. These changes would lower compliance costs for affected taxpayers and should increase compliance in this area.

45. This change has a notional fiscal cost of $0.2 million per year for the forecast period.

46. These threshold changes should apply to a taxpayers' income year rather than a set date and therefore should apply for the 2026–27 and later income years.

Recommended action

Agree to change the thresholds for a taxpayer to be a "cash basis person" as follows:

Threshold	Current value	Proposed value
Income and expenditure OR	$100,000 or less	$200,000 or less
Total value of financial arrangements AND	$1,000,000 or less	$2,000,000 or less
Deferral method threshold	$40,000	$100,000
Variable principal debt instrument	$40,000	$100,000

Agreed/Not Agreed Agreed/Not Agreed

Note the following changes in tax revenue as a result of the recommendation above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: Other persons	(0.050)	(0.200)	(0.200)	(0.200)
Total Operating	**0.050**	**0.200**	**0.200**	**0.200**

Noted Noted

Agree that the reduction in tax revenue noted above be charged against the Tax Policy Scorecard.

Agreed/Not Agreed Agreed/Not Agreed

[2] This is the total for the income year.
[3] This needs to be met for everyday of the year.
[4] This essentially compares what the accrual basis income/expenses would have been to what the cash basis would be. This applies to the total outcome of returning all financial arrangements on a cash versus accrual basis.

Agree that the new thresholds would apply for the 2026–27 and later income years. Agreed/Not Agreed   Agreed/Not Agreed

Investment Boost

47. The legislation enabling the Investment Boost tax deduction was passed under urgency as part of Budget 2025. Due to the nature of the policy and the need to maintain Budget secrecy, it was not possible to consult with stakeholders before the Budget Bill's passage. Feedback from stakeholders after the Budget Bill passed has allowed us to identify some remedial changes necessary to ensure that the legislation functions as intended.

48. All the following proposed changes would apply retrospectively from 22 May 2025, the date on which the Investment Boost rules have effect.

49. These changes are considered to have a nil fiscal cost. However, if the low-value asset write-off threshold remedial is not progressed, there would be fiscal implications that would have to be managed. The other two remedials have been included in this report so the package can be considered as a whole.

50. Investment Boost is claimed in people's end-of-year tax returns, so few taxpayers are expected to have claimed Investment Boost before these changes are announced. To have claimed Investment Boost by that date, taxpayers must have both a non-standard balance date (in most cases a late balance date) and have filed early. All the following remedials align the legislation with the policy intent.

51. We have also received several submissions on increasing the scope of Investment Boost. Increasing Investment Boost's scope would be a policy change, rather than a remedial matter, with difficult trade-offs that require proper consideration. We recommend that any further work exploring options for expanding the scope of Investment Boost be handled through the ongoing tax and social policy work programme. Some submitters indicated that they were likely to contact Ministers directly with their proposals.

Low-value asset write-off threshold

52. To tie Investment Boost into the existing depreciation regime, the legislation reduces the "cost" of an asset by the amount of the Investment Boost deduction. For most of the depreciation regime this reduction is working as intended.

53. One aspect of the depreciation regime is the low-value asset write-off threshold. This rule allows the full cost of assets that would otherwise be depreciable property to be immediately deducted if their cost is under $1,000.

54. By lowering the "cost" of Investment Boost assets, the effective low-value asset write-off threshold has been unintentionally raised from $1,000 to $1,250. For example, a taxpayer could purchase a qualifying asset for $1,250, reduce its cost to $1,000 by claiming the Investment Boost deduction, and then deduct the remaining amount. This outcome was not intended, and if not undone would have a significant additional fiscal cost averaging $31 million per year over the next four years (assuming all eligible assets take the low-value asset deduction).

55. We recommend an amendment to return the low-value asset write-off threshold to $1,000, even if an Investment Boost deduction has been taken for the item.

Secondhand petroleum and mineral mining assets

56. Investment Boost is intended to only be available for new capital assets. Consultation has identified that assets acquired through petroleum or mining development expenditure are currently all eligible for Investment Boost, even if they are not new.

57. We recommend an amendment to ensure that Investment Boost is also only available for new assets acquired through petroleum or mining development expenditure.

58. We view it as less likely than not that transactions would occur in the forecast period, which would allow secondhand petroleum and mineral mining assets to receive Investment Boost. Consequently, we do not consider that this amendment would have a fiscal cost.

Associated persons rule

59. The Investment Boost rules include an integrity measure that provides that if a person disposes of an asset to an associated person and has claimed an Investment Boost deduction for that asset, the associated person is deemed to have also claimed the Investment Boost deduction.

60. The intention of this integrity measure is to ensure that when an asset is transferred between associated persons it maintains its tax book value, allowing Investment Boost to be recovered if the asset is then on-sold to a third party. The same approach is taken for depreciation.

61. As drafted, the integrity measure is currently broader than intended. In some circumstances, it deems an associated person to have claimed an Investment Boost deduction for an asset (giving that asset a lower cost base for depreciation) even if they acquired it at market value. In this scenario, the Investment Boost deduction would already have been clawed back from the transferor through the recognition of depreciation recovery income, resulting in the Investment Boost deduction being accounted for twice.

62. The intent is that the treatment be symmetrical, and that the Investment Boost deduction would not be transferred if the person transferring the asset has depreciation recovery income from the clawback of Investment Boost.

63. We recommend an amendment so that the integrity measure only applies in situations when the associated person functionally takes over the transferred asset as if they were its original owner.

Recommendations

Agree to return the low-value asset write-off threshold to $1,000, even if an Investment Boost deduction has been claimed for the asset.

Agreed/Not Agreed   Agreed/Not Agreed

Note there is no fiscal impact from agreeing to the above recommendation, but if you do not agree to it, there will be the following impact on revenue forecasts, with a corresponding impact on the operating balance and/or net core Crown debt, which would require funding:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: Company tax	(36.600)	(31.700)	(36.600)	(25.000)
Total Operating	**36.600**	**31.700**	**36.600**	**25.000**

Noted Noted

Agree to ensure that Investment Boost is only available for new assets, including those assets acquired through petroleum or mining development expenditure.

Agreed/Not Agreed Agreed/Not Agreed

Agree to amend the associated person integrity measure so that it only applies when the associated person functionally takes over the transferred asset as if they were its original owner.

Agreed/Not Agreed Agreed/Not Agreed

Agree to the above Investment Boost amendments applying retrospectively from 22 May 2025, when the Investment Boost rules came into force.

Agreed/Not Agreed Agreed/Not Agreed

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Further items for inclusion in the Taxation (Annual Rates for 2025-26) Bill**

Date:	1 July 2025	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2025/295

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendation	11 July 2025
Minister of Revenue	**Agree** to recommendations	11 July 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Bary Hollow	Principal Policy Advisor	s 9(2)(a)	☒

1 July 2025

Minister of Finance
Minister of Revenue

Further items for inclusion in the Taxation (Annual Rates for 2025-26) Bill

Purpose

1. This report seeks your agreement to include a number of additional items into the Taxation (Annual Rates for 2025-26) Bill (the Bill).

2. In particular, this report includes a number of items arising from the review of fringe benefit tax (FBT) which are worthy of proceeding with if the major items relating to FBT do not progress in the Bill. We consider placing these items on a separate track to the more major proposals is prudent to ensure these compliance cost savings measures are included in the Bill.

3. The report also includes an additional remedial amendment relating to the recently enacted Investment Boost policy.

4. The measures relate to:

    4.1 A change to the calculation method of subsidised transport benefits.

    4.2 Allowing taxpayers to file a group FBT return, with each member of the group joint and severally liable for any FBT payable.

    4.3 Modify the application of the motor vehicle tax value method to adjust for the effect of the Investment Boost deduction.

    4.4 Provide for options to pay FBT on global insurance policies.

    4.5 Align the treatment of FBT and PAYE to ensure that the treatment of the benefits provided is the same whether the employee is given a non-cash benefit or reimbursed for the purchase of a benefit.

    4.6 A remedial fix to ensure provisions relating to unclassified benefits provided to employees of an associate of the employer work as intended.

    4.7 s 18(c)(i) [redacted]

    4.8 Alignment of the treatment of Investment Boost for buildings and other attachments to land with other assets to ensure the Investment Boost is able to be claimed in respect of buildings and other attachments to land previously held as trading stock.

FBT value for subsidised transport

5. A specific FBT valuation rule applies in relation to subsidised transport provided by an employer in the business of providing transport to the public. The value of the transport is 25% of the highest fare the employer charges the public for the equivalent transport in terms of class, extent, and occasion within the quarter. This rule was set in 1985.

6. This valuation method is intended to represent a "stand-by" type of fare because often employees might not be guaranteed a seat until shortly before departure.

7. However, modern developments in pricing models mean this rule may require updating to reflect this intention. These developments mean that the highest fare charged for a certain route can be much higher than the average fare on the same route. This is particularly so for last minute fares in high demand seasons.

8. In the airline market, this can disadvantage domestic providers competing with offshore providers that can provide employees with more favourable subsidised transport terms.

9. We recommend bringing the treatment more in line with offshore jurisdictions and use 25% of the average fare for the respective month in which the benefit is provided to determine the value of the benefit

10. Submissions on the recent *FBT – Options for change* issues paper were generally supportive of this change.

11. This amendment has a fiscal cost as follows:

	$ million increase / (decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29** **& Outyears**
Tax Revenue: FBT on subsidised transport	0.000	(0.825)	(3.300)	(3.300)	(3.300)
Company tax	0.000	0.050	0.200	0.200	0.200
Total operating	**0.000**	**0.775**	**3.100**	**3.100**	**3.100**

12. This fiscal cost can be charged against the tax policy scorecard.

13. This amendment should apply to subsidised transport benefits provided after 1 April 2026.

Recommendations

Agree to amend the FBT value of subsidised transport benefits to 25% of the average fare the employer charges the public for the equivalent transport in terms of class, extent, and occasion within the month of travel.

Agree/Not agreed Agree/Not agreed

Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and apply to benefits provided after 1 April 2026.

Agreed/Not agreed Agreed/Not agreed

Note that this change has a fiscal cost of:

	$ million increase / (decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29** **& Outyears**
Tax Revenue: FBT on subsidised transport	0.000	(0.825)	(3.300)	(3.300)	(3.300)
Company tax	0.000	0.050	0.200	0.200	0.200
Total operating	**0.000**	**0.775**	**3.100**	**3.100**	**3.100**

Noted	Noted
Agree to charge that fiscal cost to the tax policy scorecard.	
Agreed/Not agreed	Agreed/Not agreed

FBT – Group returns

14. Submissions on *FBT – options for change* suggested a further compliance cost saving in filing FBT returns where a group of companies currently has to file individual returns for each entity within the group. Submissions suggested that allowing a group of companies to file a single FBT return would reduce compliance costs substantially for some taxpayers.

15. Officials agree that if a group of companies wishes to file a single FBT return across the group that this should be allowed with appropriate joint and several liability for any FBT payable on the group return.

16. We recommend that amendments be made to permit taxpayers who are in a group of companies to elect to file a joint FBT return and the entities who are filing under that joint return be joint and severally liable for any FBT liability arising, much like the provisions for GST and income tax grouping.

17. There are no fiscal implications to this change.

18. We recommend this amendment take effect for FBT quarters commencing 1 April 2026.

Recommendations	
Agree that taxpayers in a group of companies be able to elect to file a group FBT return for all entities in the group.	
N/A	Agree/Not agreed
Agree the members of the "FBT group" be jointly and severally liable for any FBT liability of the group.	
N/A	Agree/Not agreed
Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and apply for FBT quarters commencing 1 April 2026.	
N/A	Agreed/Not agreed

FBT – Modification of the tax book value option to account for Investment Boost

19. Currently taxpayers can choose to value motor vehicles for FBT purposes using original cost or the tax book value. Generally, for the first five years of ownership the cost base valuation is more economic but after five years the tax book value is generally better for taxpayers.

20. The tax book value option uses the depreciated value of the vehicle for tax purposes. The introduction of the Investment Boost accelerates that depreciation and will reduce the value of the motor vehicle benefit for FBT purposes.

21. FBT is an attempt to measure the remuneration effect of providing a non-cash benefit such as a motor vehicle. This benefit should not change because of the investment boost which is designed to incentivise investment in productive assets.

22. For FBT purposes the investment boost should be ignored in the calculation of the value of the motor vehicle as that is not a reflection of the value of the vehicle provided. However, the tax value of the vehicle should reflect the tax depreciation that would have been claimed on the motor vehicle absent the investment boost.

23. This will preserve the current valuation method.

24. There are no fiscal implications to this change.

25. We recommend this amendment take effect for FBT quarters commencing 1 April 2026.

Recommendations

Agree to amend the calculation of the tax book value for FBT purposes to ignore the impact of the investment boost on the calculation of the tax value for FBT purposes.

N/A Agreed/Not agreed

Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and apply for FBT quarters commencing 1 April 2026.

N/A Agreed/Not agreed

FBT – Global insurance policies

26. Submissions on *FBT – Options for change* supported clarifying the treatment of global insurance policies for FBT purpose. Global insurance policies are a certain types of insurance schemes based on global policies with one premium rate, no matter how many employees are covered by the policy.

27. An issue arises as to how this global cost should be apportioned across employees for FBT purposes. The issues paper suggested two options for accounting for these:

    27.1 divide the total contribution by the number of employees, or

    27.2 treat the payment of the global policy as a pooled benefit and pay FBT based on the applicable pooling rate.

28. Submissions were mixed as to which option was preferable and a number suggested providing both options which would have a similar FBT outcome but one has lower compliance costs.

29. We recommend these options be added to allow taxpayers flexibility on how these benefits should be treated whilst providing certainty as to the treatment of these.

30. There are no fiscal implications to this change.

31. We recommend this amendment take effect for FBT quarters commencing 1 April 2026.

Recommendations

Agree to allow taxpayers to account for FBT on global insurance policies by either dividing the total contribution by the number of employees or treating the payment of the global policy as a pooled benefit and pay FBT based on the applicable pooling rate at the option of the taxpayer.

N/A Agreed/Not agreed

Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and apply for FBT quarters commencing 1 April 2026.

N/A Agreed/Not agreed

FBT – Equalisation of FBT and PAYE

32. A recent legislative change was made that equalises the treatment of benefits which are provided (or reimbursed) to employees under the health and safety exemption from FBT. While this deals with an exempt benefit and the ability to claim an exemption, officials don't see any reason why this concept could not be adopted for other benefits which are subject to tax.

33. The issues paper *FBT – options for change* proposed that when an employer chose to provide a non-cash benefit to an employee by way of reimbursing that employee for the cost of the benefit, that should also be treated as a fringe benefit and subject to FBT (this approach would not apply to motor vehicles).

34. Submissions on the issues paper supported the proposal and given this, we recommend that a provision be included that: where an employer reimburses an employee for the purchase of a benefit that would have been an unclassified benefit had the employer provided the benefit directly, that benefit shall be subject to applicable FBT or PAYE at the employer's election.

35. Election would be made by paying tax on the elected basis through their FBT return or employer information schedule.

36. There are no fiscal implications to this change.

37. We recommend this amendment take effect for benefits provided on or after 1 April 2026.

Recommendations

Agree to include a provision that provides for an employer to pay FBT or PAYE in respect of the provision of an unclassified benefit depending on whether the employer provides the benefit or reimburses the employee and the employer's election.

N/A Agreed/Not agreed

Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and apply to benefits provided on or after 1 April 2026.

N/A Agreed/Not agreed

FBT – Unclaimed benefits provided by associated persons

38. Current FBT rules tax the provision of unclassified benefits made by the employer to their employees but also seek to tax unclassified benefits that are provided to the employees of persons associated with the employer. The wording of this provision is not clear and may not correctly subject the provision of those benefits to FBT.

39. We recommend the provision be amended to subject those benefits to FBT as it was always intended.

40. There are no fiscal implications to this change.

41. We recommend this amendment apply retrospectively back to the date the current provision was introduced 1 April 2022 with a savings provision for taxpayers who have filed their FBT returns on another basis.

Recommendations

Agree to a remedial amendment to ensure that FBT is correctly charged on unclassified benefits provided to employees of persons associated with the employer.

N/A Agreed/Not agreed

Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and apply retrospectively back to the date the current provision was introduced 1 April 2022 with a savings provision for taxpayers who have filed their FBT returns on another basis.

N/A Agreed/Not agreed

s 18(c)(i) [redacted]

[redacted] [redacted]

[redacted] [redacted]

[redacted] [redacted]

[redacted] [redacted]

[redacted] [redacted]

[redacted] [redacted]

[redacted] [redacted]

s 18(c)(i) [redacted]

[redacted]

[redacted] [redacted]

[redacted]

[redacted] [redacted]

[redacted]

[redacted] [redacted]

Investment boost – trading stock and buildings (and other fixtures to land)

49. A remedial amendment is required to ensure that buildings (and other fixtures to land) are treated in the same way as other assets eligible for Investment Boost. This remedial would sit alongside three other Investment Boost remedials that are being progressed in the Taxation (Annual Rates for 2025-26) Bill.

50. An asset is eligible for an Investment Boost deduction if it has never been used or available for use in New Zealand. The exception is where an asset has only ever been held as trading stock.

51. Subsequent to the enactment of the Investment Boost provisions it was bought to our attention during consultation that the standard definition of trading stock, which is used in the investment boost rules, excludes "land".

52. Under common law, buildings and other fixtures that may be eligible for Investment Boost are considered to be land. Therefore, under the current law, the owner of a newly constructed building, for example, may be unable to claim an Investment Boost deduction if the building was held for sale by a developer. This is because the building could be considered to be available for use by the developer and is not subject to the trading stock exception. This was not intended.

53. We recommend that for the purposes of Investment Boost, buildings and other fixtures to land are treated as trading stock in the same way as other depreciable property.

54. This amendment has no fiscal impact as it is clarifying the policy intent.

55. We recommend the amendment take effect from 22 May 2025, the date the other Investment Boost changes came into effect.

Recommendations

Agree that qualifying buildings (and other fixtures to land) be eligible for Investment Boost if they have only been held for sale and not used for any other purpose in New Zealand.

N/A Agreed/Not agreed

Agree that this amendment be included in the Taxation (Annual Rates for 2025-26) Bill and retrospectively apply from 22 May 2025.

N/A Agreed/Not agreed

Consultation

56. With the exceptions of the final three items, the remaining items resulting from proposals in the *FBT – options for* change issues paper were subject to public consultation and were supported by submitters including Chartered Accountants Australia New Zealand, Corporate Taxpayers Group and major accounting firms.

Next steps

57. If you agree to the proposed amendment officials will include these in the Taxation (Annual Rates for 2025-26). The proposals will then be subject to further consultation through the select committee process

s 9(2)(a)

Principal Policy Advisor
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Cabinet paper: Policy measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill**

Date:	4 June 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/187

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	10am Thursday 19 June 2025
Minister of Revenue	**Agree** to recommendations **Approve** and **lodge** the attached Cabinet paper with the Cabinet Office by **10am Thursday 19 June 2025**	10am Thursday 19 June 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Peter Frawley	Policy Lead	s 9(2)(a)	☐
Philip Marshall	Bill Manager	s 9(2)(a)	☒
Hannah Simmonds	Bill Coordinator	s 9(2)(a)	☐

4 June 2025

Minister of Finance
Minister of Revenue

Cabinet paper: Policy measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill

Executive summary

Purpose

1. This report seeks your agreement to the following policy proposals, and to include these proposals in the attached draft Cabinet paper:

    1.1 set the annual income tax rates for the 2025–26 tax year,

    1.2 tax treatment of digital nomads and other visitors,

    1.3 taxation of amounts paid to individuals selling excess electricity from their residential property,

    1.4 repeal section 17GB of the Tax Administration Act 1994,

    1.5 power to change FamilyBoost settings by Order in Council,

    1.6 powers for Commissioner of Inland Revenue to set certain rates under the Income Tax Act 2007 and the Tax Administration Act 1994,

    1.7 charities recommended for overseas donee status, and

    1.8 update tax information held by the New Zealand Police for proceeds of crime.

2. Items approved by Cabinet will be included in the Taxation (Annual Rates for 2025–26) Bill (the Bill) scheduled for introduction in August 2025.

3. Unless otherwise specified in this report, these changes would take effect on the day after the date of Royal Assent of the Bill.

Policy items previously, or yet to be, agreed to

4. We note that the following additional policy items will be seeking Ministerial and Cabinet approval separately to this report:

    4.1 GST and joint ventures,

    4.2 thin capitalisation settings for infrastructure,

    4.3 replace the trust disclosure provisions with Commissioner powers,

    4.4 s 9(2)(f)(iv) [redacted]

    4.5 FBT review changes.

5. We also note that the following items have already received Ministerial and Cabinet approval:

5.1 tax deferred employee share schemes (CAB-25-MIN-0126 and IR2025/126 refer), and

5.2 FIF rule changes – addition of revenue account method (CAB-25-MIN-0061) and IR2025/007 refer).

Consultation

6. In addition to the consultation outlined for each policy item in this report, the Treasury was consulted on the content of this report and the draft Cabinet paper. The Department of the Prime Minister and Cabinet was consulted on the draft Cabinet paper.

Regulatory Impact Assessments

7. The Ministry for Regulation has determined that the following policy items require the completion of a Regulatory Impact Statement:

6.1 tax treatment of digital nomads and other visitors,

6.2 taxation of amounts paid to individuals selling excess electricity from their residential property, and

6.3 repeal section 17GB of the Tax Administration Act 1994.

8. A Regulatory Impact Statement has been prepared for the repeal of section 17GB of the Tax Administration Act 1994 item and this is attached to the draft Cabinet Paper. A Quality Assurance panel at Inland Revenue has determined that this Regulatory Impact Statement partially meets the quality assurance criteria.

9. Regulatory Impact Statements for the remaining two items are still to be finalised. These will be provided to your offices prior to the lodgement of the draft Cabinet paper.

Next steps

10. The inclusion of the policy items in the Bill at introduction will require the draft Cabinet paper to be considered by the Cabinet Economic Policy Committee at its meeting on 25 June 2025 and confirmed by Cabinet on 30 June 2025.

11. If you agree to all the policy items in this report, please refer the attached Cabinet paper to the Cabinet Office for lodgement by 10am, Thursday 19 June 2025.

Recommended action

We recommend that you:

12. **Indicate** in the body of this report whether you agree or do not agree with each recommendation.

    Indicated Indicated

13. **Note** that unless otherwise agreed in this report, the changes proposed in this report would take effect on the day after the date of Royal Assent of the Bill.

    Noted Noted

14. **Note** that the Regulatory Impact Statement for the repeal of section 17GB of the Tax Administration Act 1994 item has been completed and is attached to the draft Cabinet paper.

    Noted Noted

15. **Note** that Regulatory Impact Statements for the following items are currently being finalised and will be provided to your offices before the lodging of the Cabinet paper:

    15.1 tax treatment of digital nomads and other visitors, and

    15.2 taxation of amounts paid to individuals selling excess electricity from their residential property.

    Noted Noted

16. **Approve** and **lodge** the attached Cabinet paper and regulatory impact assessments with the Cabinet Office by 10am Thursday 19 June 2025 for consideration by Cabinet Economic Policy Committee on 25 June 2025.

    Approved/Not approved Approved/Not approved

s 9(2)(a)

p.p.

Peter Frawley
Policy Lead
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Cabinet paper: Policy measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill

Purpose

12. This report seeks your agreement to the following policy proposals, and to include these proposals in the attached draft Cabinet paper:

    12.1 set the annual income tax rates for the 2025–26 tax year,

    12.2 tax treatment of digital nomads and other visitors,

    12.3 taxation of amounts paid to individuals selling excess electricity from their residential property,

    12.4 repeal section 17GB of the Tax Administration Act 1994,

    12.5 power to change FamilyBoost settings by Order in Council,

    12.6 powers for Commissioner of Inland Revenue to set certain rates under the Income Tax Act 2007 and the Tax Administration Act 1994,

    12.7 charities recommended for overseas donee status, and

    12.8 update tax information held by the New Zealand Police for proceeds of crime.

13. Items approved by Cabinet will be included in the Taxation (Annual Rates for 2025–26) Bill (the Bill) scheduled for introduction in August 2025.

14. Unless otherwise specified in this report, these changes would take effect on the day after the date of Royal Assent of the Bill.

Policy items previously, or yet to be, agreed to

15. We note that the following additional policy items will be seeking Ministerial approval separately to this report:

    15.1 GST and joint ventures,

    15.2 thin capitalisation settings for infrastructure,

    15.3 replace the trust disclosure provisions with Commissioner powers,

    15.4 s 9(2)(f)(iv)

    15.5 FBT review changes.

16. We also note that the following items have already received Ministerial and Cabinet approval:

    16.1 tax deferred employee share schemes (CAB-25-MIN-0126 and IR2025/126 refer), and

    16.2 FIF rule changes – addition of revenue account method (CAB-25-MIN-0061) and IR2025/007 refer).

Fiscal implications

17. The following policy items would have fiscal implications, which are described later in this report:

    17.1 tax treatment of digital nomads and other visitors,

    17.2 taxation of amounts paid to individuals selling excess electricity from their residential property, and

    17.3 charities recommended for overseas donee status.

18. The remaining five policy items would not have any fiscal implications.

Scorecard implications

19. If you agree to the policy decisions in this report and to manage them against the Tax Policy Scorecard, there will be no impact on the Between-Budget Contingency (BBC) or future Budget allowances. However, there will be a small impact on the operating balance and net debt from each change.

20. We note that Cabinet is still to make a decision on whether to approve the GST and joint ventures policy item, which may result in an additional $12 million being taken off the Scorecard.

Administrative implications

21. Inland Revenue can deliver these initiatives based on our current work programme, and on what we understand the Government intends for Inland Revenue to deliver in the future. However, this Bill would reduce Inland Revenue's change capacity, and the resourcing of policy items within the Bill should be considered when thinking about Inland Revenue's ability to deliver future initiatives. While Inland Revenue proposes self-funding the departmental capital and operating costs to deliver these initiatives, this does create cost pressures and limits the department's ability to self-fund subsequent initiatives.

Regulatory Impact Assessments

22. The Ministry for Regulation has determined that the following policy items require the completion of a Regulatory Impact Statement:

    22.1 tax treatment of digital nomads and other visitors,

    22.2 taxation of amounts paid to individuals selling excess electricity from their residential property, and

    22.3 repeal section 17GB of the Tax Administration Act 1994.

23. A Regulatory Impact Statement has been prepared for the repeal of section 17GB of the Tax Administration Act 1994 item and this is attached to the draft Cabinet Paper. A Quality Assurance panel at Inland Revenue has determined that this Regulatory Impact Statement partially meets the quality assurance criteria.

24. Regulatory Impact Statements for the remaining two items are still to be finalised. These will be provided to your offices prior to the lodgement of the draft Cabinet paper.

Set annual income tax rates for 2025–26 tax year

25. The Income Tax Act 2007 (ITA) requires the rates of income tax to be set each tax year by an annual taxing Act.

26. It is proposed that this Bill set the annual rates of income tax for the 2025–26 tax year at the same rates specified in schedule 1 of the ITA.

27. This would not have any fiscal or administrative implications.

Recommended action

28. **Agree** to set the annual rates of income tax for the 2025–26 tax year at the same rates specified in schedule 1 of the ITA.

    Agreed/Not agreed   Agreed/Not agreed

Tax treatment of digital nomads and other visitors

Background

29. In January 2025 the Government announced changes to the visitor visa requirements to allow visitors to work remotely while visiting New Zealand (known as digital nomads). Some visitors may just check and respond to their emails and send an invoice, others may engage in full-time work for much of their time in New Zealand. At the time, it was advised that anyone who intended to work remotely for more than 90 days should look at possible tax implications.

Proposal

30. The proposed changes seek to address tax issues that may discourage digital nomads and other visitor visa holders from staying in New Zealand for longer than 90 days, while maintaining the integrity of the underlying international tax rules. The proposed changes mean qualifying persons (we propose to call them "non-resident visitors") can enjoy the benefits of the new visitor visa requirements without triggering New Zealand tax consequences (subject to certain requirements), including not being required to file a New Zealand income tax return. For many situations, the proposed changes are likely to be aligning the law with current practice and behaviour.

31. There is a risk that a person who outstays the physical presence period will leave New Zealand without fulfilling their New Zealand tax obligations. s 18(c)(i) [redacted]

Definition of non-resident visitor

32. A non-resident visitor would be defined as a natural person who is:

    32.1 present in New Zealand for no more than 9 months in a given 18-month period, and

    32.2 not:

    32.2.1 working for a New Zealand employer, or

32.2.2 offering goods or services in New Zealand in exchange for income from either a New Zealand business or persons in New Zealand, or

32.2.3 engaged in income earning activity that requires or relies on the person being physically present in New Zealand, and

32.3 lawfully in New Zealand, under the immigration law, and

32.4 treated as a resident of another country for purposes of its income tax.

33. We are giving further consideration to whether there should be additional requirements, including a limit on how often a person can be treated as a non-resident visitor.

Income tax exemption for services income earned by non-resident visitor

34. Currently, income earned by a non-resident from providing services (such as employee or contractor income) while they are in New Zealand is exempt if they are in New Zealand on a visit of 92 days or less.[1] However, a non-resident visitor can remain in New Zealand on a visitor visa for much longer (generally up to 9 months). This 92-day period is generally extended to 183 days under New Zealand's double tax agreements (DTAs), but this is still shorter than 9 months and New Zealand does not have a DTA with many countries.

35. We recommend inserting an income tax exemption to allow a visitor to provide services, whether as an employee or otherwise, to a non-resident, when they are visiting New Zealand without the income being subject to New Zealand tax.

36. Like the existing 92-day exemption, the proposed exemption would only apply to income that is chargeable in a country that has a similar income tax regime to New Zealand, reducing the risk of the person seeking to use the exemption to earn income that is not taxed anywhere.

Permanent establishment

37. When a person is working remotely for their non-resident employer while visiting New Zealand, there is a possibility that work will result in the employer having a permanent establishment in New Zealand, and consequently the employer may become subject to New Zealand income tax on a portion of its business income.

38. While the OECD has published commentary (which Inland Revenue considers authoritative on applying New Zealand's DTAs) saying that ordinarily, a typical employee's home office would not give rise to a permanent establishment, one advisor has reported that due to this risk, some large employers have developed employment policies limiting the time that employees may be working remotely in a foreign country.

39. We recommend changes to the law so that the presence of a non-resident visitor does not result in New Zealand taxing the business income of their employer or service recipient.

Other employment taxes

40. Ordinarily, employment income that is subject to PAYE is subject to other deductions, and taxes, such as KiwiSaver, employer superannuation contribution tax (ESCT), ACC and FBT. We may need to include further changes required to ensure a non-resident employer is not subject to any withholding or other

[1] This exemption would apply to the type of income many digital nomads would earn while in New Zealand.

employment related taxes in respect of services income earned by a non-resident visitor.

41. When the non-resident visitor is receiving the proposed income exemption, combined with the foreign employer being deemed not to have a permanent establishment in New Zealand, then FBT or ESCT deductions will not apply to the non-resident visitor's employment income. Once the visitor ceases to meet the non-resident visitor criteria, then they may be subject to these employment taxes and deductions.

Residence of non-resident visitor and trusts

42. While a non-resident visitor may only be in New Zealand for a few months and not meet the 183-day tax residence test, other visitors may seek to stay in New Zealand for longer (up to 9 months). If the visitor becomes New Zealand resident, their worldwide income may be subject to New Zealand income tax.[2]

43. While in New Zealand a non-resident visitor may also be a settlor or trustee of a trust. In New Zealand, the residence of a trustee or trust settlor is a factor in determining the tax treatment of trust income and distributions. These rules are complex.

44. We recommend treating non-resident visitors as non-resident for New Zealand tax purposes, including the trust rules. This would apply regardless of whether the non-resident visitor undertakes remote work in New Zealand (that is, it would apply to a full-time tourist too). This will ensure that a non-resident visitor is not subject to New Zealand tax on their worldwide income, and their visit does not result in income from assets held on a trust for which they are a settlor or trustee being subject to New Zealand tax.

Residence of companies

45. While in New Zealand, a non-resident visitor, travelling in New Zealand for pleasure may be making decisions regarding a company incorporated outside New Zealand, potentially leading to the company becoming New Zealand tax resident (under the director control test). The tax residence of a director is not relevant in determining whether the director control test has been satisfied.

46. We recommend amending the director control test, to ensure that any actions of the non-resident visitor, while in New Zealand, would not be taken into account in applying the director control test. For integrity purposes, the exemption would only apply when the company is tax resident in another country.

47. This exemption will generally apply to directors whose companies otherwise have no connection with New Zealand. If the company has a branch in New Zealand, the taxation of the branch profits will not be affected by the non-application of the director control test.

Effect of ceasing to meet the requirements

48. If the person ceases to meet any of these requirements while remaining lawfully in New Zealand under immigration law (including ending their visitor visa by transferring to another visa) beyond the time limit, they (and any employer or affected trust or company) would cease to be entitled to the benefits of their non-resident visitor status, on a prospective basis. The time they had spent in New Zealand as a non-resident visitor would however be taken account of in determining whether they became resident in New Zealand under the 183-day test after they lost their non-resident visitor status.

[2] If the person is resident in a country that has a DTA with New Zealand, they may be subject to the residence tiebreaker rule in the DTA.

49. When a person ceases to be a non-resident visitor because they have over-stayed their visa, then they would lose non-resident visa status retrospectively, from the first day the person became a non-resident visitor. This is the same approach as the existing personal presence test.[3]

50. For an employee of a foreign company that is still in New Zealand after losing their non-resident visitor status, they may be required to register with Inland Revenue as an IR56 taxpayer (including being required to self-return PAYE on their income).

51. If the person ceases to meet the requirements while remaining in New Zealand, they may then have the benefit of either the existing 4-year transitional residence rule (which exempts them from taxation on non-New Zealand passive income), or a treaty residence tiebreaker rule (if they are tax resident in a country with which New Zealand has a tax treaty).

52. For these persons, only New Zealand-sourced income and services income would be subject to New Zealand income tax.

Other tax issues

53. The non-resident visitor would remain liable for tax as a non-resident on any New Zealand sourced income not from services. For example, non-resident withholding tax on any interest paid to the visitor from New Zealand.

54. For GST purposes, when a non-resident visitor is working for foreign clients, they will be making zero-rated supplies and could register for New Zealand GST, claiming GST inputs on their New Zealand business costs. If the non-resident visitor's turnover exceeds, or is likely to exceed, $60,000 in a 12-month period, they are required to register for GST in New Zealand even if their only supplies are to non-residents which would be zero-rated. This creates compliance costs for no benefit to the tax base. One option to mitigate these compliance costs is to ignore the value of supplies made by a non-resident visitor to their foreign client for the purpose of the GST registration threshold. This means GST registration could be avoided and would become voluntary.

Other issues

55. Where required, we propose including other appropriate integrity amendments that may be required to ensure the definition of non-resident visitor and proposed exemptions work as intended.

56. There are no significant administration costs. A qualifying person will no longer be required to file an income tax return in New Zealand.

Application date

57. We recommend the proposed definition of non-resident visitor and exemptions apply from 1 April 2026.

58. While the proposed application date is some time after the introduction of the visitor visa changes, a prospective date means there is time for potential visitors to New Zealand to seek tax advice about their particular circumstances ahead of the proposed rules being applied.

Consultation

59. We have undertaken limited targeted consultation with selected stakeholders, including a select group of members from the Corporate Taxpayers Group (CTG),

[3] A person who is in New Zealand for more than 183 days is resident from the first day in the period (although this test would be modified as described above for non-resident visitors).

Chartered Accountants Australia and New Zealand (CA ANZ), and the New Zealand Law Society (NZLS). Several members were supportive of the proposed changes. No significant concerns were raised by these stakeholders.

60. Members of the Tax System Forum provided high-level feedback. The feedback included general support for the proposal, given the status quo likely means visitors are working in New Zealand for foreign employers while unaware of the potential tax consequences.

Financial implications

61. The fiscal impact of the proposed income tax exemption and residence rules has been assigned a notional $200,000 fiscal cost per annum, over the forecast period.

62. We recommend this be accounted on the Tax Policy Scorecard as shown below:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	(0.050)	(0.200)	(0.200)	(0.200)
Total Operating	**0.050**	**0.200**	**0.200**	**0.200**

Administrative implications

63. The administration cost of the proposals is anticipated to be minimal.

Recommended action

64. We recommend that you:

(a) **Agree** to allow non-resident visitors (as defined) to be physically present in New Zealand for up to 9 months in an 18-month period without becoming New Zealand tax resident.

Agreed/Not agreed Agreed/Not agreed

(b) **Agree** to introduce an exemption for services income derived by a non-resident visitor from a non-resident employer or client, including an exemption for any withholding or other employment related taxes in respect of that services income, where the current law does not already achieve this.

Agreed/Not agreed Agreed/Not agreed

(c) **Agree** to introduce an exception so that the presence of a non-resident visitor in New Zealand does not result in their non-resident employer or services recipient having any of their business income taxed in New Zealand.

Agreed/Not agreed Agreed/Not agreed

(d) **Agree** to amend the director control test, to ensure any actions by a non-resident visitor would not be taken into account in applying the director control test when determining the tax residence of a company that is tax resident in another country.

Agreed/Not agreed Agreed/Not agreed

(e) **Agree** that a non-resident visitor's supplies to their non-resident client (which would be zero-rated) can be excluded for the purpose of determining whether they are required to register for GST in New Zealand.

Agreed/Not agreed Agreed/Not agreed

(f) **Agree** for officials to include appropriate integrity rules that may be required to ensure the proposed rules work as intended.

Agreed/Not agreed Agreed/Not agreed

(g) **Agree** to the above recommendations applying from 1 April 2026.

Agreed/Not agreed Agreed/Not agreed

(h) **Note** the following changes to tax revenue as a result of the decisions in recommendations 64(a) to (d) and (g), with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	(0.050)	(0.200)	(0.200)	(0.200)
Total Operating	**0.050**	**0.200**	**0.200**	**0.200**

Noted Noted

(i) **Agree** for the tax revenue fiscal cost of the proposed changes noted in recommendation 64(h) to be accounted for against the Tax Policy Scorecard.

Agreed/Not agreed Agreed/Not agreed

Taxation of amounts paid to individuals selling excess electricity from their residential property

Background

65. We have previously reported to you on the tax issues that arise when an individual supplies excess electricity back to the network from their residential property (IR2025/137 refers).

66. In summary, Inland Revenue's Tax Counsel Office has indicated that in many instances, the amounts an individual derives from the sale of excess electricity back to the network from their residential property are likely to be assessable income. Where individuals are deriving small amounts of income, the compliance costs associated with these tax obligations are likely to be disproportionately high compared to any tax revenue. We also expect that many taxpayers are in a loss-making position in relation to the sale of electricity due to depreciation, interest and other related expenses outweighing any income.

67. Our previous report noted that the Energy Competition Task Force is proposing initiatives which would likely exacerbate the existing tax issues. The Electricity Authority's Board will make a decision on the proposals in late June 2025, which will likely be made public in mid-July 2025. The initiatives are proposed to take effect in the first half of 2026.

Proposal

68. The default position under a broad-base low-rate approach is that income derived from the sale of excess electricity should be subject to income tax. However, a departure could be justified for individuals earning relatively small amounts of income on compliance cost grounds. The mixed-use asset rules are a precedent for this approach, where income derived from the use of a mixed-use asset in an income year can be treated as exempt income if it is less than $4,000.

69. We recommend introducing an annual income tax exemption for up to $2,000 of income derived by an individual from the sale of electricity from their residential property, where amounts equal to or below a threshold would be treated as exempt income. Individuals below the threshold would not need to return or pay tax on that income. However, they would no longer be entitled to deductions for expenditure relating to the sale of electricity.

70. The exemption should apply to income derived by individuals supplying excess electricity from their residential premises. It should not apply to income derived by an individual supplying electricity from commercial premises, or where an individual is in the business of selling electricity. This is because it is unlikely that apportionment issues would arise, and businesses should be better equipped to deal with the tax implications generally.

71. We do not have access to comprehensive income data to assist with determining an appropriate threshold. However, the Electricity Authority estimates that the average system capacity in New Zealand is 5.1 kilowatts, generating approximately 6,200 kilowatt-hours (kWh) and exporting 4,300 kWh back to the network per year. Applying a relatively high 20 cent buy-back rate (ie, the amount the retailer pays the individual per kWh supplied), this average system would generate $860 in income per year from the sale of excess electricity (against which deductions could be claimed).

72. We expect that a $2,000 threshold would cover the large majority of individuals selling excess electricity from their residential premises. One stakeholder indicated that some individuals do derive income exceeding $2,000 per year. However, we expect that this would require a level of generation that would far exceed what is required for private use. In these cases, we think it is appropriate for individuals to be subject to income tax and reporting requirements.

73. We recommend that this change apply for the 2026-27 and later income years.

International comparisons

74. The United Kingdom provides a tax exemption for income derived from the sale of excess electricity where:

    74.1 it is generated by a system that meets the energy source (eg, wind and solar) and capacity requirements (not exceeding 50 kilowatts)

    74.2 the system is installed at or near the individual's domestic premises, and

    74.3 the individual intends to generate electricity mainly for household use.

75. The Australian Tax Office's position is that the amounts are generally not assessable income when the arrangement is private or domestic in nature. This depends on factors such as the size of the system, and whether the individual generates electricity primarily for private use.

Consultation

76. Stakeholders in the tax community and energy sector agreed that individuals selling excess electricity from their residential premises are likely to face disproportionate compliance costs in meeting their tax obligations. Most stakeholders supported the proposal to introduce a targeted income tax exemption, subject to design details.

77. Some stakeholders suggested alternative thresholds up to $10,000 for reasons such as that this may help to future-proof the policy, and that a lower threshold may not accommodate the high compliance costs.

Financial implications

78. Introducing a $2,000 income tax exemption for income derived by individuals supplying excess electricity from their residential premises has been assigned a notional $200,000 fiscal benefit per annum over the forecast period. This is because we expect many individuals to be in a tax loss position in relation to the supply of excess electricity due to depreciation, interest and other related expenses outweighing any income.

Administrative implications

79. This proposal is expected to have a low administrative impact on Inland Revenue. However, guidance on the changes will be required and we will need to determine whether information we currently hold is sufficient to assess compliance for individuals who may exceed the threshold.

Recommended action

80. We recommend that you:

(a) **Agree** to introduce an annual income tax exemption for up to $2,000 of income derived by an individual (who is not in the business of selling electricity) from the sale of excess electricity from a residential property to the network, with application for the 2026–27 and later income years.

Agreed/Not agreed Agreed/Not agreed

(b) **Note** the following changes to tax revenue as a result of recommendation 80(a), with a corresponding impact on the operating balance and/or on net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	0.050	0.200	0.200	0.200
Total Operating	**(0.050)**	**(0.200)**	**(0.200)**	**(0.200)**

Noted Noted

(c) **Agree** that the increase in tax revenue noted in recommendation 80(b) be added to the Tax Policy Scorecard.

Agreed/Not agreed Agreed/Not agreed

Repeal section 17GB of Tax Administration Act 1994

Background

81. We previously reported to you with options to amend section 17GB of the Tax Administration Act 1994 (TAA) (IR2024/409 refers). Section 17GB allows the Commissioner of Inland Revenue (the Commissioner) to collect information solely for policy purposes. The options we reported to you included legislative and non-legislative amendments to section 17GB. Officials recommended retention of section 17GB, with greater restriction on the use of information.

Proposal

82. You have since indicated that you wish to repeal section 17GB. We seek confirmation of this decision to repeal section 17GB.

83. The draft Cabinet paper attached includes the proposal to repeal section 17GB. We understand your reasons for repeal are primarily about taxpayer privacy.

Consultation

84. We undertook targeted stakeholder consultation on five options. Stakeholders had a range of views and there was no consensus on whether to retain, amend, or repeal section 17GB (IR2024/409 refers).

85. We have also consulted the Office of the Privacy Commissioner, the Treasury and the Ministry of Justice on the contents of prior advice.

86. The Tax System Forum have been consulted on the repeal of section 17GB. Most members support the repeal. We note a risk raised by a group member that repeal could lead to an interpretation that the general information gathering power (section 17B) in the TAA does not allow the Commissioner to collect information for purposes explicitly related to policy purposes.

Financial implications

87. There are no financial implications associated with repealing section 17GB.

Recommended action

88. We recommend that you:

(a) **Agree,** in relation to section 17GB of the Tax Administration Act 1994, to EITHER:

(i) Retain section 17GB and restrict the use of information collected under section 17GB to policy purposes and restrict disclosure to information where individuals cannot be identified (officials' recommendation),

Agreed/Not agreed Agreed/Not agreed

OR

(ii) Repeal section 17GB.

Agreed/Not agreed Agreed/Not agreed

Powers for Commissioner to set certain rates under Income Tax Act 2007 and Tax Administration Act 1994

Background

89. The ITA and the TAA contain several provisions allowing the periodic setting of interest or other rates by Order in Council. These include:

    89.1 the rules in the TAA setting use of money interest rates for underpayments or overpayments of tax.

    89.2 the rules in the ITA that impose FBT when employment-related loans are made at less than a prescribed rate of interest.

    89.3 the rules in the ITA setting a deemed rate of return for certain interests in foreign investment funds.

90. Although each of these three rate-setting mechanisms are well established, and mechanical in nature, the requirement that they be set by Order in Council places considerable resourcing requirements on Ministers and Cabinet.

Proposal

91. We propose that the power to set each of these three rates be statutorily vested in the Commissioner. The powers would follow the same processes that are currently used for setting these rates. We propose to include in the legislation the formulas currently used to set these rates where those are not currently stated.

92. The three new powers would be secondary legislation but take the form of Commissioner determinations. A number of precedents exist for this within the Inland Revenue Acts. The powers would be accompanied by clear obligations on the Commissioner to publish details of these rates in a timely fashion and would be subject to regulatory review.

Consultation

93. Targeted consultation has been conducted with the Treasury, Legislation Design and Advisory Committee (LDAC), NZLS, CTG and CA ANZ. CA ANZ and CTG are supportive of the proposal from the perspective of efficiency. LDAC indicate no major issues provided administrative delegation criteria are met.

Financial implications

94. There are no fiscal implications.

Administrative implications

95. There are minimal administrative impacts, but these would include establishing appropriate delegated authorities within Inland Revenue to set the rates, some changes to existing guides and call centre scripts, and some amended forms of external communication of the decisions. The proposals would be fully absorbed in current baseline spending.

Recommended action

96. We recommend that you:

(a) **Agree** to legislative amendments to statutorily vest the three rate-setting powers in the Commissioner by determination.

Agreed/Not Agreed Agreed/Not Agreed

Power to change FamilyBoost settings by Order in Council

Background

97. FamilyBoost is a childcare tax credit that provides financial assistance to caregivers paying early childhood education fees. Eligible families can claim a rebate of 25% of fees, up to a maximum payment of $975 a quarter. The tax credit abates for households with an income between $35,000 to $45,000 a quarter, with families above this threshold not receiving any tax credit.

98. The FamilyBoost settings (such as rebate percentage and income thresholds) are currently set in the ITA. As such, changes to these settings can only be made through amending legislation and not through regulations.

99. The ability to change the policy settings using regulation was not included in the original policy because you agreed FamilyBoost payments would not be automatically indexed. However, the ability to change the rates on a more frequent basis is now considered desirable to support the achievement of FamilyBoost policy outcomes.

Proposal

100. We recommend introducing the ability for changes to the FamilyBoost policy settings to be made by an Order in Council.

101. The Order in Council would only be able to change the settings in a way that increases, not decreases, payments or the eligible population This would ensure any changes made are beneficial to recipients. Any changes that decrease payments would have to be made through primary legislation.

102. This change would provide the Government with greater flexibility to make future policy setting changes to ensure FamilyBoost is achieving its original policy intention. It would be consistent with similar existing powers for amending Working for Families tax credits.

Consultation

103. We consider that the proposal is consistent with LDAC guidelines, but we were unable to consult with LDAC within the time available.

Financial implications

104. This policy change has no financial implications.

Administrative implications

105. This policy change has no administrative or system implications for Inland Revenue.

Recommended action

106. We recommend that you:

(a) **Agree** to introduce the ability for FamilyBoost policy settings to be changed by Order in Council.

Agreed/Not Agreed Agreed/Not Agreed

Charities recommended for overseas donee status

Background

107. We recommend three New Zealand charities be granted overseas donee status by adding them to schedule 32 of the ITA. The charities we recommend be granted overseas donee status on and from 1 April 2025 are:

107.1 Days for Girls NZ

107.2 EduTech Nepal Foundation, and

107.3 Revive Afghanistan NZ.

108. Monetary donations to these charities would become eligible for tax benefits, such as the donation tax credit. Overseas donee status is an exception to the policy framework that generally limits tax benefits to donations to charities with New Zealand purposes.

109. Since 1978, Cabinet has applied the following criteria to assess requests for overseas donee status. The basic criteria for adding an organisation to the list of approved "overseas" charities:

(i) *the funds of the charity should be principally applied towards:*

the relief of poverty, hunger, sickness or the ravages of war or natural disaster; or

the economy of developing countries; or*

raising the educational standards of a developing country;*

(ii) *charities formed for the principal purpose of fostering or administering any religion, cult or political creed should not qualify;*

**developing countries recognised by the United Nations.*

[CM 78/14/7 refers]

110. The eligible purposes set out in the criteria are aligned with the Government's overseas development objectives (disaster relief, provision of humanitarian aid, and assisting developing countries).

Charities we recommend for overseas donee status

111. The three charities we recommend below meet Cabinet's approval criteria (CM 78/14/7 refers). They are largely involved in the relief of poverty, the relief of sickness, or improving education outcomes in developing countries. All are registered under the Charities Act 2005 and have adequate procedures for the accountability of funds applied to projects outside New Zealand.

Days for Girls NZ

112. Days for Girls NZ is a chapter of Days for Girls International and currently provides reuseable feminine hygiene products to women in Pacific Island countries.

EduTech Nepal Foundation

113. EduTech Nepal Foundation builds and resources modern computer labs in Nepal with the purpose and intent of raising educational outcomes in poor communities using the latest version of teaching materials and learning tools.

Revive Afghanistan NZ

114. Revive Afghanistan NZ works in Afghanistan and New Zealand. Its overseas activities include working with Afghan charitable organisations for the betterment of the Afghan people and to help the community, with a specific focus on improving water infrastructure and distributing emergency aid.

Consultation

115. The Treasury, the Ministry of Foreign Affairs and Trade (Partnerships, Humanitarian and Multilateral Division) and the Department of Internal Affairs (Charities Services) have been consulted in the preparation of this report. These agencies' comments have informed the recommendations in this report.

Legislative vehicle and application date

116. In 2016, LDAC provided advice to Inland Revenue confirming that the use of legislation to grant overseas donee status is appropriate

117. The additions should apply on and from 1 April 2025. Monetary donations received from that date would be eligible for tax benefits. The recommended application date gives the charities certainty for marketing and fundraising purposes.

118. Inland Revenue's systems can work with an application date of 1 April 2025 because individuals would be able to claim the donations tax credit for receipted monetary donations as part of Inland Revenue's 2025–26 return cycle, starting on 1 April 2025. Companies and Māori authorities would be allowed deductions for monetary donations made during the 2025–26 income year.

Financial implications

119. The estimated financial implications of adding the three charities recommended in this report over the forecast period 2024/25 to 2028/29 is $0.815 million. The financial implications will be treated as a forecasting change and reflect the increasing cost of the policy to allow tax benefits for donations to New Zealand-based overseas aid charitable organisations. The revenue estimates are based on projections made by the charities about the monetary donations they expect to receive for the forecast period. There is no impact on the Tax Policy Scorecard.

Administrative implications

120. The additions to the donee list do not have any administrative or systems implications for Inland Revenue.

Recommended action

121. We recommend that you:

(a) **Agree** that the following charities be added to the list of organisations with overseas donee status in the Income Tax Act 2007:

(i)	Days For Girls NZ	Agreed/Not agreed	Agreed/Not agreed
(ii)	EduTech Nepal Foundation	Agreed/Not agreed	Agreed/Not agreed
(iii)	Revive Afghanistan NZ	Agreed/Not agreed	Agreed/Not agreed

(b) **Agree** that the charities in recommendation 121(a) that you have approved are given overseas donee status on and from 1 April 2025.

Agreed/Not Agreed Agreed/Not Agreed

(c) **Note** the following changes as a result of the decisions in recommendations 121(a) and (b) above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	(0.178)	(0.197)	(0.212)	(0.228)
Total Operating	**0.178**	**0.197**	**0.212**	**0.228**

Noted Noted

(d) **Note** that the changes in recommendation 121(c) do not have an impact on Budget allowances or the Tax Policy Scorecard.

Noted Noted

Update tax information held by New Zealand Police for proceeds of crime

Background

122. Since 2009, the New Zealand Police (the Police) has had the capability to request Inland Revenue supply information[4] about a person, for the purposes of administering the proceeds of crime regime (under the Criminal Proceeds (Recovery) Act 2009 (CPRA)). Inland Revenue can only provide information for the purpose of the Police establishing whether a prima facie case exists for taking a civil recovery action under the CPRA.

123. In some situations, after CPRA restraint or forfeiture proceedings have been initiated against a person, and a prima facie case has been established, it can take up to several years for a forfeiture hearing application to progress to a hearing, particularly when tax evasion is one of the significant criminal offences alleged.

124. Because a person's affairs change over time, the information already held by the Police can become inaccurate. To support the Police's proceeds of crime activities

[4] This can include information about a person's current and previous tax affairs, tax class, income, tax paid, tax refunds, tax adjustments, expenditure and liabilities.

and ensure good decision-making occurs by both the Police and the Courts, the information supplied to the Police by Inland Revenue should be able to be periodically updated.

Proposal

125. We recommend amending Inland Revenue's permitted disclosure rules to allow Inland Revenue to disclose updated information to the Police, after a prima facie case has been established. This updated information would maintain the accuracy of Inland Revenue information already held by the Police, for the purposes of administering the proceeds of crime regime.

126. It is crucial that the Commissioner of Police is able to access the most accurate information available when filing evidence in CPRA proceedings. This includes being able to receive updated Inland Revenue information relevant to the case. Accuracy of information is one of the 13 privacy principles that govern how agencies can collect, store, use and share personal information.

127. Updated information would mean the latest version of the information that has previously been shared under the existing law (that is, before the relevant prima facie has been established). The Police could not request information about an individual who was not part of the original information request, or new information (that differs from information that was previously been disclosed). The Police would be required to hold both the original information and the updated information until all CPRA proceedings against the person have been concluded.

128. We recommend the proposed changes apply from 1 April 2026.

Importance of accuracy of information

129. Accuracy of information is important. Poor information can lead to unfair outcomes and poor decision making. This impacts individuals and the Police. The onus is on the Commissioner of Police, as a model litigant, to ensure the evidence relied on for forfeiture is complete, accurate, reliable and able to be tested at the forfeiture proceeding, if required.

Subject to same requirements as current disclosures under CPRA

130. The updated information shared with the Police will be subject to the same existing operational procedures, data transfer requirements, confidentiality, storage requirements and information destruction requirements the original information disclosures are currently subject to in the CPRA and operational memorandum of understanding. This means both the original and updated information will be destroyed as soon as the information is no longer required.

131. Like now, the information sharing process (and the records pertaining to the information disclosed) will be administered by authorised persons within a specialised and compartmentalised unit within Inland Revenue.

132. As it is now, the information disclosed cannot be used to support criminal proceedings that may be ongoing concurrently. There are separate, well-established mechanisms for the Police and other agencies to seek Inland Revenue information for the purposes of prevention, detection, investigation or providing evidence of serious crime.[5]

[5] Approved Information Sharing Agreement between Inland Revenue and NZ Police, NZ Customs Services and Serious Fraud Office (known as the Serious Crime AISA). Similarly, information disclosed by Inland Revenue under the Serious Crime AISA cannot be used for CPRA proceedings.

133. Further changes for information sharing for proceeds of crime regime will likely require amendments to the CPRA. Ministry of Justice officials have advised that changes to the CPRA information sharing provisions are not currently on their work programme.

Consultation

134. We have consulted with the Police, the Ministry of Justice and the Office of the Privacy Commissioner.

135. The proposed change to provide information to the Police after the prima facie case has been established is supported by the Police. The proposal will support CPRA proceedings by ensuring that the Police have access to accurate and up-to-date information about a respondent's declared income and tax status. This will enable more effective and efficient use of the Police's asset recovery resource.

136. Office of the Privacy Commissioner officials are generally comfortable with the proposed change. They acknowledge the proposal will provide updated information that is based on what was shared as part of the initial information sharing disclosure, however the proposal should be limited so not to provide further (unrelated) information about the individual or about another individual.

Financial implications

137. This proposal has no fiscal implications from the point of view of Inland Revenue administered tax or social policy.

Administrative implications

138. The administration cost of the proposal is anticipated to be minimal.

Recommended action

139. We recommend that you:

(a) **Agree** to amend the permitted disclosure rules to enable Inland Revenue to share updated information that has previously been disclosed to the New Zealand Police by Inland Revenue.

Agreed/Not agreed Agreed/Not agreed

(b) **Agree** the amendment will apply from 1 April 2026.

Agreed/Not agreed Agreed/Not agreed

Consultation

140. In addition to the consultation outlined for each policy initiative in this report, the Treasury was consulted on the content of this report and the draft Cabinet paper. The Department of the Prime Minister and Cabinet was consulted on the draft Cabinet paper.

Next steps

141. The inclusion of the eight policy items in the Bill at introduction will require the draft Cabinet paper to be considered by the Cabinet Economic Policy Committee at its meeting on 25 June 2025 and confirmed by Cabinet on 30 June 2025.

142. If you agree to all the policy initiatives in this report, please refer the attached Cabinet paper to the Cabinet Office for lodgement by 10am Thursday 19 June 2025.

143. If Cabinet agrees to the recommendations, officials will develop legislative changes to give effect to the policy proposals. These will be included in the Bill scheduled for introduction in August 2025.

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Policy Committee

MEASURES FOR INCLUSION IN THE TAXATION (ANNUAL RATES FOR 2025–26) BILL

Proposal

1. This paper seeks agreement to seven general policy measures that require changes to tax legislation.

Relation to Government priorities

2. The measures in this paper promote Government priorities by maintaining the integrity of the tax system and making it easier for taxpayers to meet their obligations.

Executive summary

3. I recommend amendments to tax legislation to give effect to the following seven policy proposals, for inclusion in the Taxation (Annual Rates for 2025–26) Bill (the Bill):

    3.1. set annual income tax rates for the 2025–26 tax year

    3.2. tax treatment of digital nomads and other visitors

    3.3. repeal section 17GB of the Tax Administration Act 1994

    3.4. power to change FamilyBoost settings by Order in Council

    3.5. powers for Commissioner of Inland Revenue to set certain rates under the Income Tax Act 2007 and the Tax Administration Act 1994

    3.6. charities recommended for overseas donee status, and

    3.7. update tax information held by NZ Police for proceeds of crime.

4. Unless otherwise specified, I recommend that the above changes would take effect on the day after the date of Royal assent of the Bill.

Set annual income tax rates for 2025–26 tax year

5. The Income Tax Act 2007 requires the rates of income tax to be set in legislation each tax year. I propose that the Bill set the annual rates of income tax for the 2025–26 tax year at the same rates specified in schedule 1 of the Income Tax Act 2007.

Tax treatment of digital nomads and other visitors

6. In January 2025, the Coalition Government announced changes to the visitor visa requirements to allow visitors to work remotely while visiting New Zealand (known as digital nomads). At the time, it was advised that anyone who intended to work remotely for more than 90 days should look at possible tax implications.

7. Given the nature of the work being undertaken by remote workers, s 18(c)(i) [redacted]

8. The proposed changes seek to address tax issues that may discourage digital nomads and other visitor visa holders from staying in New Zealand for longer than 90 days, while maintaining the integrity of the underlying international tax rules. Broadly the proposed changes allow a digital nomad to enjoy the benefits of the new visitor visa requirements without triggering New Zealand tax consequences (subject to certain requirements). The proposed changes would be in addition to what a person may receive under a Double Tax Agreement (DTA)[1].

Definition of a non-resident visitor

9. I propose to create a new definition of non-resident visitor. This would be a person who is physically in New Zealand for a short period and only engages in remote work with foreign employers or clients.

10. A non-resident visitor would be defined as a natural person who is:

    10.1. present in New Zealand for no more than 9 months in a given 18-month period, and

    10.2. not working for a New Zealand employer, nor offering goods or services in New Zealand in exchange for income from either a New Zealand business or persons in New Zealand, nor engaged in income earning activity that requires or relies on the person being physically present in New Zealand, and

    10.3. lawfully in New Zealand, under New Zealand immigration law, and

    10.4. treated as a resident of another country for purposes of their income tax.

Income tax exemption for services income earned by a non-resident visitor

11. Currently, services income earned by a non-resident (such as employee or contractor income) while they are in New Zealand is exempt if they are visiting New Zealand for 92 days or less. A non-resident visitor can remain in New Zealand on a general visitor visa for much longer (generally, up to 9 months). This 92-day period is usually extended to 183 days under our DTAs.

[1] Where a person is tax resident under the domestic law of two countries, these agreements allocate a single tax jurisdiction (using the DTA's residence tiebreaker rules), to avoid double taxation of income.

12. I propose an income tax exemption to allow a visitor to provide services, whether as an employee or otherwise, to a non-resident, when they are visiting New Zealand without the income being subject to New Zealand tax. This exemption would only apply to income that is chargeable in a country that has a similar income tax regime to New Zealand (similar to the existing 92-day rule), reducing the risk of the person seeking to use the exemption to earn income that is not taxed anywhere.

13. I also propose further changes where they are required to ensure a non-resident employer is not subject to any withholding or other employment related taxes in respect of services income earned by a non-resident visitor, where the current law does not already achieve this.

Permanent establishment

14. A person working remotely for their non-resident employer while visiting New Zealand may result in the employer having a permanent establishment in New Zealand. Consequently, the employer becoming subject to New Zealand income tax on a portion of its business income.

15. I propose changes to the law so that the presence of a non-resident visitor does not result in New Zealand taxing the business income of their employer or service recipient.

16. It has been reported that some large employers' employment policies limit the time that employees may be working remotely in a foreign country. The proposed changes would reduce the tax risk faced by these businesses while allowing the non-resident visitor to remain in New Zealand for longer.

Residence of a non-resident visitor and trusts

17. Currently, if a visitor stays in New Zealand and satisfies the 183-day tax residence test, they may become New Zealand resident.

18. I propose treating non-resident visitors as non-resident for New Zealand tax purposes, including the trust rules. This would apply regardless of whether the non-resident visitor undertakes remote work in New Zealand. This exemption would ensure a non-resident visitor is not subject to New Zealand tax on their worldwide income[2] and that their visit does not result in any trust of which they are a settlor or trustee becoming subject to New Zealand tax.

Residence of companies

19. While in New Zealand, a non-resident visitor may be making decisions regarding a company that was incorporated outside New Zealand, potentially leading to the company becoming New Zealand tax resident (under a director control test).

[2] If the person is resident in a county which has a DTA with New Zealand, they may be protected from New Zealand tax by the residence tie-breaker rule in the DTA.

20. I propose amending the director control test, to ensure that any actions of the non-resident visitor, while in New Zealand, would not be taken into account in applying the director control test. For integrity purposes, the exemption would only apply where the company is tax resident in another country.

21. The exemption would apply to directors whose companies otherwise have no connection with New Zealand. If the company has a branch in New Zealand, the taxation of the branch profits would not be affected by the non-application of the director control test.

Goods and Services Tax

22. Non-resident visitors who make or expect to make more than $60,000 of sales to a non-resident client in a 12-month period will be required to register for GST in New Zealand. All their sales will be zero-rated as exports, meaning no GST is payable on the services. This creates compliance costs that could be avoided if non-resident visitors are given the option to ignore the sales they make to their non-resident client for the purpose of determining whether they are required to register for GST.

Other issues

23. A person would remain liable for tax as a non-resident on any New Zealand sourced income not from services. For example, non-resident withholding tax on any interest paid to the visitor on a loan to a New Zealand resident.

24. If a person ceases to meet the qualifying criteria for any reason other than overstaying their visa, they (and any employer or affected trust or company) would cease to be entitled to the proposed concessions, on a prospective basis. The time they had spent in New Zealand as a non-resident visitor would however be taken account of in determining whether they became resident in New Zealand under the 183-day test after they lost their non-resident visitor status.

25. Where a non-resident visitor has ended their visa by overstaying their visa, then New Zealand's tax rules would apply retrospectively, from the first day the person became a non-resident visitor. This stricter approach has been taken for many years under the existing physical presence residence test[3].

26. If a person ceases to meet the requirements while remaining in New Zealand, they may then have the benefit of either the existing 4-year transitional residence rule (which exempts them from taxation on non-New Zealand passive income), or a treaty residence tiebreaker rule (if they are tax resident in a country with which New Zealand has a tax treaty). For these persons, only New Zealand-sourced income and services income would be subject to New Zealand income tax.

[3] If a person is present in New Zealand for more than 183 days in a 12-month period, they are resident in New Zealand from the first day of physical presence in that period (although this test would be modified as described above for non-resident visitors).

27. I propose Cabinet delegates authority to the Minister of Revenue on the detailed design of the proposed changes, where those changes are in line with Cabinet's decisions.

28. I recommend that these changes apply from 1 April 2026.

Repeal section 17GB of Tax Administration Act 1994

29. Section 17GB of the Tax Administration Act 1994 (section 17GB) allows the Commissioner of Inland Revenue to collect information for a purpose relating to the development of policy for the improvement or reform of the tax system. A wide range of financial information could potentially be collected under section 17GB. For example, section 17GB was used by Inland Revenue in the High Wealth Individuals research project to collect financial and asset holdings information.

30. I have concerns that section 17GB gives insufficient weight to the privacy interests of taxpayers. I directed Inland Revenue to review section 17GB and consider options for addressing these concerns. Officials proposed several options, including legislative and non-legislative amendments:

    30.1. repealing section 17GB,

    30.2. having tighter restrictions on what the information collected under section 17GB could be used for, and

    30.3. providing some compensation to taxpayers who are required to comply with an information request under section 17GB.

31. After considering the options, I propose that section 17GB be repealed. I consider this to be the best option for protecting the privacy interests of taxpayers.

Power to change FamilyBoost settings by Order in Council

32. FamilyBoost is a childcare tax credit that provides financial assistance to caregivers paying early childhood education fees.

33. Changes to the FamilyBoost settings (such as rebate percentage and income thresholds) can currently only be made through amending legislation and not through regulations.

34. I propose to introduce the ability for changes to the FamilyBoost policy settings to be made by an Order in Council.

35. The Order in Council would only be able to change the policy settings in a way that benefits the recipients, either by increasing the payment amount or the population eligible to apply. Any changes to policy settings that decrease the payment amount or the population eligible would have to be made through primary legislation.

36. This change would provide the Government with greater flexibility to make future policy setting changes to ensure FamilyBoost is achieving the original policy intention.

Powers for Commissioner of Inland Revenue to set certain rates under the Income Tax Act 2007 and the Tax Administration Act 1994

37. The Income Tax Act 2007 and the Tax Administration Act 1994 contain several provisions allowing the periodic setting of certain rates by Order in Council. These include:

    37.1. rules that set the use of money interest rates for underpayments or overpayments of tax,

    37.2. rules that impose fringe benefit tax when employment-related loans are made at less than a prescribed rate of interest, and

    37.3. rules that set a deemed rate of return on foreign investment funds.

38. Although each of these mechanisms are well established and mechanical in nature, the requirement that they be set by Order in Council places considerable resourcing requirements on Ministers and Cabinet.

39. I therefore propose that the power to set each of these three rates be statutorily vested in the Commissioner as secondary legislation. The powers would follow the same processes that are currently used for setting these rates. I propose to include in the legislation the formulas currently used where those are not already stated.

Charities recommended for overseas donee status

40. "Overseas donee status" is a specific exception in the Income Tax Act 2007 that overrides the general policy of limiting donation-related tax benefits, such as the donation tax credit, to charities that have New Zealand-only purposes. This status is granted through legislative amendment and is intended for a specific class of registered charity that operates internationally. In 2016, Legislation Design and Advisory Committee (LDAC) confirmed that the use of legislation was appropriate for granting this status.

41. Cabinet has longstanding criteria for granting overseas donee status, CM 78/14/7 refers. The purposes of the charities I am recommending come within Cabinet's approval criteria. All the charities recommended in this paper have adequate procedures for the accountability of funds applied to projects and can demonstrate a track record of activity, as per Cabinet's expectations set out in CBC Min (09) 12/2.

42. The recommended charities are seeking overseas donee status to grow their New Zealand donor bases and increase the scope and scale of their in-country activities.

43. I recommend that the following charities be granted overseas donee status on and from 1 April 2025:

43.1. Days for Girls NZ, a chapter of Days for Girls International and currently provides reuseable feminine hygiene products in Pacific Island countries,

43.2. EduTech Nepal Foundation, which builds and resources modern computer labs in Nepal with the purpose and intent of raising educational outcomes in poor communities, and

43.3. Revive Afghanistan NZ, which works with in-country Afghan charitable organisations that have a focus on improving water infrastructure and distributing emergency aid.

Updating tax information held by NZ Police for proceeds of crime

44. Since 2009, under the Criminal Proceeds (Recovery) Act 2009 (CPRA), the New Zealand Police (Police) has had the capability to request Inland Revenue to supply information about a person, for the purposes of administering the proceeds of crime regime. Inland Revenue can only provide information for the purpose of the Police establishing whether a prima facie case exists for taking a civil recovery action under the CPRA.

45. In some situations, after CPRA restraint or forfeiture proceedings have been initiated against a person, and a prima facie case has been established, it can take up to several years for a forfeiture hearing application to progress to a hearing, particularly where tax evasion is one of the significant criminal offences alleged. Over time, Inland Revenue-supplied information already held by Police can become inaccurate and should be periodically updated.

46. I propose amending Inland Revenue’s permitted disclosure rules to enable Inland Revenue to share updated information with Police, after a prima facie case has been established, to maintain the accuracy of Inland Revenue information that is already held by the Police.

47. Updated information would be the latest version of the information that has previously been disclosed to Police before the relevant prima facie has been established.

48. The proposed changes are supported by the Police. The changes will support CPRA proceedings by ensuring that the Police have access to accurate and up-to-date information about a respondent’s declared income and tax status. This will enable access to the most accurate information available when filing evidence in CPRA proceedings and ensure more effective and efficient use of Police’s asset recovery resource.

49. The updated information would be subject to the same existing operational procedures, data transfer requirements, confidentiality, storage requirements and information destruction requirements the original information disclosures are currently subject to in the CPRA and operational Memorandum of Understanding.

50. The information sharing process (and the records pertaining to the information disclosed) would continue to be administered by an authorised person within a specialised and compartmentalised unit within Inland Revenue.

51. I recommend that this change apply from 1 April 2026.

Cost-of-living implications

52. There are no cost-of-living implications associated with any of the proposals in this paper.

Financial implications

53. The Minister of Finance and I have agreed that the tax treatment of digital nomads and other visitors proposal would be managed through the Tax Policy Scorecard[4] mechanism.

54. The estimated financial implications of the proposal to grant overseas donee status to the three charities referred to in paragraphs 43.1 to 43.3 would be a decrease to revenue of $0.815 million over the forecast period, 2024/25 to 2028/29. The financial implications would be treated as a forecasting change.

55. The remaining proposals have no financial implications.

Legislative implications

56. Implementing these proposals requires changes to the Income Tax Act 2007, the Tax Administration Act 1994, and the Goods and Services Tax Act 1985.

57. If approved, I propose including the legislative changes resulting from these proposals in the Bill, scheduled for introduction in August 2025.

58. The Bill holds a category 5 priority on the 2025 Legislation Programme (to proceed to select committee by the end of 2025).

Impact analysis

Regulatory Impact Assessment

59. Quality Assurance panels at Inland Revenue have reviewed the Regulatory Impact Statements prepared by Inland Revenue for the tax treatment of digital nomads and other visitors proposal and the repeal section 17GB of Tax Administration Act 1994 proposal and consider that the information and analysis summarised in the Regulatory Impact Statements partially meet the quality assurance criteria.

60. The Ministry for Regulation has determined that the following proposals are exempt from the requirement to provide a Regulatory Impact Statement:

[4] The Tax Policy Scorecard is a memorandum account that allows the fiscal impacts of tax policy changes to be offset against one another, rather than being managed through Budget allowances or the between-Budget contingency. Use of the Scorecard requires joint Minister of Finance and Minister of Revenue agreement.

60.1. set annual income tax rates for the 2025–26 tax year, on the grounds it is solely for the annual setting of income tax rates where the rates remain unchanged,

60.2. power to change FamilyBoost settings by Order in Council, on the grounds that it has no or only minor economic, social, or environmental impacts,

60.3. powers for Commissioner to set certain rates under Income Tax Act 2007 and Tax Administration Act 1994, on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities,

60.4. charities recommended for overseas donee status, on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities, and

60.5. updating tax information held by NZ Police for proceeds of crime, on the grounds that it has no or only minor economic, social, or environmental impacts.

Climate Implications of Policy Assessment

61. For each of the proposals, the Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply because the threshold for significance is not met.

Population implications

62. The charities I am recommending for overseas donee status specifically target development and aid for communities in both Asia and the Pacific.

63. There are no specific population implications associated with any of the remaining proposals in this paper.

Human rights

64. In respect of the proposal for updating tax information held by NZ Police for proceeds of crime, the existing rights have already been addressed as part of the existing proceeds of crime regime, under the Criminal Proceeds (Recovery) Act 2009. The proposed change only seeks to update information already held by the Police, information that was provided under the existing information sharing rules established by the enactment of the Criminal Proceeds (Recovery) Act 2009.

65. There are no human rights implications associated with any of the remaining proposals in this paper.

Consultation

66. In addition to the specific consultation undertaken for the proposals outlined below, the Treasury and the Department of the Prime Minister and Cabinet were consulted on the contents of this Cabinet paper.

Tax treatment of digital nomads and other visitors

67. The Ministry of Foreign Affairs and Trade and the Ministry of Business, Innovation and Employment (Immigration) were consulted on the proposal.

Repeal section 17GB of Tax Administration Act 1994

68. My officials have consulted the Office of the Privacy Commissioner, Statistics New Zealand and the Ministry of Justice on the review of section 17GB of the Tax Administration Act 1994.

Power to change FamilyBoost settings by Order in Council

69. My officials consider that the proposal is consistent with LDAC guidelines, but were unable to consult with LDAC within the time available.

Powers for Commissioner to set certain rates under Income Tax Act 2007 and Tax Administration Act 1994

70. My officials have undertaken targeted consultation with the Treasury, LDAC, New Zealand Law Society, the Corporate Taxpayers Group (CTG) and CA ANZ. CA ANZ and CTG are supportive of the proposal from the perspective of efficiency.

Charities recommended for overseas donee status

71. The Ministry of Foreign Affairs and Trade (Partnerships, Humanitarian and Multilateral Division) and the Department of Internal Affairs (Charities Services) have been consulted regarding the charities recommended for overseas donee status. These agencies have been informed of the recommendations in this paper.

Updating tax information held by NZ Police for proceeds of crime

72. The New Zealand Police, the Ministry of Justice and the Office of the Privacy Commissioner were consulted on the proposal. The Office of the Privacy Commissioner had no comments.

Communications

73. I will make an announcement regarding the proposals in this paper when the Bill is introduced (currently scheduled for August 2025). A commentary on the Bill will also be released at this time. Inland Revenue will publish details of the new legislation on the Tax Policy website after the Bill is enacted.

Proactive Release

74. I propose to delay the proactive release of this Cabinet paper, associated minutes, and key advice papers until after the introduction of the Bill. The expected introduction date is August 2025.

Recommendations

The Minister of Revenue recommends that the Committee:

Annual rates of income tax for the 2025–26 tax year

1. **Agree** to set the annual rates of income tax for the 2025–26 tax year at the same rates currently specified in schedule 1 of the Income Tax Act 2007.

Tax treatment of digital nomads and other visitors

2. **Agree** to allow non-resident visitors (as defined) to be physically present in New Zealand for up to 9 months in a given 18-month period without becoming New Zealand tax resident.

3. **Agree** to introduce an exemption for services income derived by a non-resident visitor from a non-resident employer or client, including an exemption for any withholding or other employment related taxes in respect of that services income, where the current law does not already achieve this.

4. **Agree** to introduce an exception so that the presence of a non-resident visitor in New Zealand does not result in their non-resident employer or services recipient having any of their business income taxed in New Zealand.

5. **Agree** to amend the director control test, to ensure that any actions by a non-resident visitor would not be taken into account in applying the director control test when determining the tax residence of a company that is tax resident in another country.

6. **Agree** that for GST purposes, a non-resident visitor's supplies to their non-resident client (which would be zero-rated) can be excluded for the purpose of determining whether they are required to register for GST in New Zealand.

7. **Authorise** the Minister of Revenue to take further decisions on the detailed design of the proposed changes, where those changes are in line with Cabinet's decisions.

8. **Agree** that the decisions in recommendations 2 to 6 apply from 1 April 2026.

9. **Note** the following changes in tax revenue as a result of the decisions in recommendations 2 to 5 and 8, with a corresponding impact on the operating balance and/or in net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	(0.050)	(0.200)	(0.200)	(0.200)
Total Operating	**0.050**	**0.200**	**0.200**	**0.200**

10. **Note** the Minister of Finance and I have agreed that the operating balance impact in recommendation 9 above be charged against the Tax Policy Scorecard.

Repeal section 17GB of the Tax Administration Act 1994

11. **Agree** to repeal section 17GB of the Tax Administration Act 1994.

Power to change FamilyBoost settings by Order in Council

12. **Agree** to introduce the ability for FamilyBoost policy settings to be changed by Order in Council.

Powers for Commissioner to set certain rates under the Income Tax Act 2007 and Tax Administration Act 1994

13. **Agree** to statutorily vest rate-setting powers for use of money interest, FBT prescribed rate of interest, and the FIF deemed rate of return, in the Commissioner instead of by Orders in Council.

14. **Agree** to include in legislation the rate-setting formulas currently used where those are not already legislated.

Charities recommended for overseas donee status

15. **Agree** that the following charities be given overseas donee status and listed in schedule 32 of the Income Tax Act 2007, with effect on and from 1 April 2025:

    15.1. Days for Girls NZ

    15.2. EduTech Nepal Foundation, and

    15.3. Revive Afghanistan NZ.

16. **Note** the following changes to tax revenue as a result of recommendation 15, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	(0.178)	(0.197)	(0.212)	(0.228)
Total Operating	**0.178**	**0.197**	**0.212**	**0.228**

17. **Note** that the changes in recommendation 16 do not have an impact on Budget allowances or the Tax Policy Scorecard.

Updating tax information held by NZ Police for proceeds of crime

18. **Agree** to amend the permitted disclosure rules to enable Inland Revenue to share updated information that has previously been disclosed to the New Zealand Police by Inland Revenue.

19. **Agree** that recommendation 18 above will apply from 1 April 2026.

Next steps

20. **Agree** that the above recommendations be included in the Bill scheduled for introduction in August 2025.

21. **Authorise** the Minister of Revenue to make minor and technical changes to the policies included in this paper before introduction of the Bill.

Authorised for lodgement

Hon Simon Watts
Minister of Revenue

Cabinet Expenditure and Regulatory Review Committee

Minute of Decision

Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill

Portfolio Revenue

On 24 June 2025, the Cabinet Expenditure and Regulatory Review Committee (EXP):

Annual rates of income tax for the 2025/26 year

1 **agreed** to set the annual rates of income tax for the 2025–26 tax year at the same rates currently specified in Schedule 1 of the Income Tax Act 2007;

Tax treatment of digital nomads and other visitors

2 **agreed** to allow non-resident visitors (as defined in the paper under EXP-25-SUB-0052) to be physically present in New Zealand for up to 9 months in a given 18-month period without becoming a New Zealand tax resident;

3 **agreed** to introduce an exemption for services income derived by a non-resident visitor from a non-resident employer or client, including an exemption for any withholding or other employment-related taxes in respect of that services income, where the current law does not already achieve this;

4 **agreed** to introduce an exception so that the presence of a non-resident visitor in New Zealand does not result in their non-resident employer or services recipient having any of their business income taxed in New Zealand;

5 **agreed** to amend the director control test, to ensure that any actions by a non-resident visitor would not be taken into account in applying the director control test when determining the tax residence of a company that is tax resident in another country;

6 **agreed** that for GST purposes, a non-resident visitor's supplies to their non-resident client (which would be zero-rated) can be excluded for the purpose of determining whether they are required to register for GST in New Zealand;

7 **authorised** the Minister of Revenue to take further decisions on the detailed design of the changes proposed above, where those changes are in line with Cabinet's decisions;

8 **agreed** that the decisions in paragraphs 2 to 6 above apply from 1 April 2026;

9 **noted** the following changes in tax revenue as a result of the decisions in paragraphs 2 to 5 and 8 above, with a corresponding impact on the operating balance and/or in net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue - Other persons	(0.050)	(0.200)	(0.200)	(0.200)
Total Operating	**0.050**	**0.200**	**0.200**	**0.200**

10 **noted** that the Minister of Finance and the Minister of Revenue have agreed that the operating balance impact in paragraph 9 above will be charged against the Tax Policy Scorecard;

Repeal section 17GB of the Tax Administration Act 1994

11 **agreed** to repeal section 17GB of the Tax Administration Act 1994 (which allows the Commissioner of Inland Revenue to collection information for a purpose relating to the development of policy for the improvement or reform of the tax system);

Power to change FamilyBoost settings by Order in Council

12 **agreed** to introduce the ability for FamilyBoost policy settings to be changed by Order in Council;

Powers for Commissioner to set certain rates under the Income Tax Act 2007 and Tax Administration Act 1994

13 **agreed** to statutorily vest rate-setting powers for use of money interest, Fringe Benefit Tax prescribed rate of interest, and the Foreign Investment Fund deemed rate of return, in the Commissioner of Inland Revenue instead of by Orders in Council;

14 **agreed** to include in legislation the rate-setting formulas currently used where those are not already legislated;

Charities recommended for overseas donee status

15 **agreed** that the following charities be given overseas donee status and listed in schedule 32 of the Income Tax Act 2007, with effect on and from 1 April 2025:

15.1 Days for Girls NZ;

15.2 EduTech Nepal Foundation;

15.3 Revive Afghanistan NZ;

16 **noted** the following changes to tax revenue as a result of the decision in paragraph 15 above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts:				
Tax Revenue - Other persons	(0.178)	(0.197)	(0.212)	(0.228)
Total Operating	**0.178**	**0.197**	**0.212**	**0.228**

17 **noted** that the changes in paragraph 16 above do not have an impact on Budget allowances or the Tax Policy Scorecard;

18 **invited** the Minister of Revenue to report back to EXP on the feasibility of establishing a regulation-making power to assign overseas donee status by Order in Council;

Updating tax information held by NZ Police for proceeds of crime

19 **agreed** to amend the permitted disclosure rules to enable Inland Revenue to share updated information that has previously been disclosed to the New Zealand Police by Inland Revenue;

20 **agreed** that the decision in paragraph 19 above will apply from 1 April 2026;

Next steps

21 **agreed** that the above decisions be included in the Taxation (Annual Rates for 2025-26) Bill, which has a category 5 priority on the 2025 Legislation Programme (to proceed to select committee by the end of 2025);

22 **authorised** the Minister of Revenue to make minor and technical changes to the policies included in the paper under EXP-25-SUB-0052 before the introduction of the Bill.

Sam Moffett
Committee Secretary

Present:
Hon David Seymour (Chair)
Hon Nicola Willis
Hon Chris Bishop
Hon Simeon Brown
Hon Paul Goldsmith
Hon Judith Collins KC
Hon Mark Mitchell
Hon Simon Watts
Hon Brooke van Velden
Hon Nicole McKee
Hon Shane Jones
Hon Casey Costello
Hon Andrew Hoggard

Officials present from:
Office of the Chair
Officials Committee for EXP
Inland Revenue

Cabinet

Minute of Decision

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

Report of the Cabinet Expenditure and Regulatory Review Committee: Period Ended 27 June 2025

On 30 June 2025, Cabinet made the following decisions on the work of the Cabinet Expenditure and Regulatory Review Committee for the period ended 27 June 2025:

Not in scope [redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
EXP-25-MIN-0052	**Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill** Portfolio: Revenue	CONFIRMED
Not in scope [redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

Not in

Rachel Hayward
Secretary of the Cabinet

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Policy Committee

FURTHER MEASURES FOR INCLUSION IN THE TAXATION (ANNUAL RATES FOR 2025–26) BILL

Proposal

1. This paper seeks agreement to three further general policy measures that require changes to tax legislation.

Relation to Government priorities

2. The measures in this paper promote Government priorities by maintaining the integrity and coherence of the tax system, and by making it easier for taxpayers to meet their obligations.

Executive summary

3. I recommend amendments to tax legislation to give effect to the following three policy proposals for inclusion in the Taxation (Annual Rates for 2025–26) Bill (the Bill):

   3.1. Income derived from residential sale of excess electricity.

   3.2. Replace the legislative provisions for trust disclosures with Commissioner powers.

   3.3. Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement.

4. Cabinet previously agreed to other general policy measures for inclusion in the Bill [CAB-25-MIN-0061 and CAB-25-MIN-0126 refer].

Income derived from residential sale of excess electricity

5. Inland Revenue's technical interpretation is that in many cases, the amounts an individual derives from the sale of excess electricity from their residential property back to the network are likely to be assessable income under current law.

6. Officials expect that tax compliance among these individuals is likely to be low. However, in many cases, the compliance costs associated with the tax implications are likely to be disproportionate to any tax revenue. It would also be resource-intensive for Inland Revenue to monitor the compliance of these individuals, who may often be in a tax loss position due to their expenses outweighing any income.

7. The Electricity Authority and the Commerce Commission have jointly established the Energy Competition Task Force, which is proposing initiatives that aim to incentivise the supply of excess electricity back to the network at peak times. The initiatives are proposed to take effect in the first half of 2026 and would exacerbate existing tax issues.

8. I therefore recommend introducing a tax exemption for income derived by an individual from the sale of excess electricity from a residential property to the network. Under the exemption, individuals would not need to pay tax on or file a tax return for income derived from the sale of excess electricity. However, they would no longer be entitled to deductions for expenditure relating to this activity.

9. Inland Revenue has limited access to data about the income derived by individuals supplying excess electricity. However, based on the Electricity Authority's estimates and applying a 20 cent buy-back rate[1], the average solar system would generate approximately $800 per year from the sale of excess electricity. A larger system may generate up to $2,000 of income per year under current market conditions. As noted above, many individuals operating these systems would be in a tax loss position from their sale of excess electricity due to their expenses outweighing any income.

10. I recommend that these changes apply for the 2026–27 and later income years.

Replace legislative provisions for trust disclosures with Commissioner powers

11. In December 2020, the previous Government introduced additional disclosure provisions in the Tax Administration Act 1994 for domestic trusts, which were applied for the 2021–22 and later income years.

12. These provisions set out the additional information that trustees are required to provide in their annual return. They require trustees to disclose financial information and details of settlements, distributions, settlors, beneficiaries, and persons with powers to add or remove trustees (powers of appointment). They also provide a retrospective collection power for the same information for periods beginning after the end of the 2013–14 income year.

13. I consider that the trust disclosure provisions are unnecessary because the Commissioner can collect trust information under the Commissioner's general powers. I therefore propose that the legislative trust disclosure provisions be repealed.

14. I also recommend that consequential amendments are made to the Tax Administration (Financial Statements—Domestic Trusts) Order 2022 to retain the minimum standards for domestic trusts preparing financial statements. This would ensure that Inland Revenue is still receiving consistent data that can be used for compliance purposes.

[1] The amount the retailer pays the individual per kilowatt-hour supplied.

15. It is possible that repealing the legislative provisions could adversely affect New Zealand's Anti-Money Laundering/Countering Financing of Terrorism rating with the Financial Action Task Force (FATF), given that the enactment of these provisions was cited by FATF as contributing to the increase in New Zealand's rating. This risk may be mitigated to the extent that the Commissioner continues to collect the same information under his general powers after the legislative provisions are repealed.

16. The Commissioner is currently considering what trust disclosure information will continue to be collected. Therefore, the Commissioner may continue to collect substantially the same information under his general powers.

17. I recommend that these changes apply for the 2026–27 and later income years.

Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement

18. I have reviewed the current disclosure provisions available to Inland Revenue to disclose information to other agencies in a timely manner to address Government priorities and conclude that a new disclosure mechanism is required. This paper proposes such a legislative exception to the confidentiality rule in the tax legislation.

19. The Government has information that is siloed within Inland Revenue. If Inland Revenue could operate in a more coordinated way, this would assist other government agencies to deliver certain core functions, respond to policy challenges quickly, and lead to greater government-wide administrative efficiency, especially for law enforcement. The current confidentiality provisions in the tax legislation limit Inland Revenue's ability to disclose information in a timely manner when the Government considers that disclosure is within the social licence and warranted for the benefit of New Zealanders. Examples include the inability to disclose all necessary information to combat organised crime or when the disclosure would be to the benefit of a person, such as verifying entitlement to a government subsidy. The existing disclosure methods, Approved Information Sharing Agreements (AISA) or legislation, do not provide a timely way for Inland Revenue to disclose information in certain situations to enable the Government to act quickly when required. However, they do enable a full public consultation to occur.

20. The proposal would introduce a new provision in tax legislation to enable the Commissioner to disclose information to another government agency pursuant to a Ministerial agreement, like the Ministerial agreements to disclose information under the Customs and Excise Act 2018. These agreements give the relevant Ministers the power to agree to the disclosure of information.

21. Information would be disclosed to assist the other agency to undertake certain functions and duties, namely:

21.1. to determine entitlement to or eligibility for government assistance; or

21.2. the prevention, detection, investigation, prosecution, or punishment of potential, suspected, or actual offences and removing the financial benefit of crime.

22. To achieve this, an amendment would be required to provide an exception to the confidentiality rule in the tax legislation.

23. The agreement would set out the type or class of information to be disclosed, the purposes for which the information is accessed, the uses to which the information is put to fulfil the other agency's functions, and the safeguards for the protection of personal information or commercially sensitive information that is disclosed. One such safeguard is that Inland Revenue is not required to disclose the information if disclosure would undermine the integrity of the tax system or the commercial confidentiality of information. This would protect Inland Revenue's ability to continue to collect information and tax in the future.

24. The agreement would also set out the storage and disposal arrangements for the disclosed information, and who in the other agency can access the information. Restrictions would also be placed on the on-sharing of information by the other agency.

25. As Minister of Revenue, I would be required to consult with the Office of the Privacy Commissioner and have regard to any comments by the Privacy Commissioner. This consultation would also be a further check on whether social license exists for this disclosure of information and whether the safeguards are sufficient as public consultation will not occur on these agreements.

26. This proposal would be a timelier method to enable Inland Revenue to disclose information when legislation or the AISA process under the Privacy Act 2020 take too long. However, this proposal would not enable Inland Revenue to receive information from other agencies when other information collection mechanisms, such as an AISA, legislation, or use of Inland Revenue's information collection powers, would be more appropriate.

27. To increase the transparency of these Ministerial agreements, I propose that the existence of the agreement, the parties to the agreement, the purpose for disclosure, the classes of information to be disclosed, and the use the information would be put to, be disclosed on Inland Revenue's website.

28. The department would also be required to report on the operation of each Ministerial agreement in its annual report. There would also be the ability for the Privacy Commissioner to raise concerns about any Ministerial Agreements with me.

29. I recommend that the information disclosure provision apply from 1 April 2026.

Cost-of-living implications

30. There are no cost-of-living implications associated with any of the proposals in this paper.

Financial implications

Income derived from residential sale of excess electricity

31. The introduction of a tax exemption for income derived by an individual from selling excess electricity from their residential property has been assigned a notional $200,000 fiscal benefit per year over the forecast period, with a corresponding impact on the operating balance and/or on net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29**
Crown Revenue and Receipts: Tax Revenue - Other persons	0.050	0.200	0.200	0.200
Total Operating	**(0.050)**	**(0.200)**	**(0.200)**	**(0.200)**

32. The proposal has been assigned a positive fiscal impact because officials expect that many individuals would be in a tax loss position in relation to the sale of excess electricity under current market conditions. However, the assigned fiscal benefit takes into account the low likelihood this net income stream is currently being declared.

33. The Minister of Finance and I have agreed that the increase in tax revenue noted in paragraph 32 be added to the Tax Policy Scorecard mechanism.[2]

Replace legislative provisions for trust disclosures with Commissioner powers

34. There are no financial implications associated with the proposal to replace the legislative provisions for trust disclosures with Commissioner powers.

Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement

35. The introduction of an information disclosure via Ministerial agreement would not have any administrative or fiscal impact. However, the individual agreements that would follow in future may have a fiscal impact on the other agency and/or Inland Revenue.

[2] The Tax Policy Scorecard is a memorandum account that allows the fiscal impacts of tax policy changes to be offset against one another, rather than being managed through Budget allowances or the between-Budget contingency. Use of the Scorecard requires joint Minister of Finance and Minister of Revenue agreement.

Legislative implications

36. Implementing these proposals requires changes to the Income Tax Act 2007 and the Tax Administration Act 1994.

37. If approved, I propose including the legislative changes resulting from these recommendations in the Bill scheduled for introduction in August 2025.

38. The Bill holds a category 5 priority on the 2025 Legislative Programme (to proceed to select committee by the end of 2025).

Impact analysis

Regulatory impact assessment

39. The Quality Assurance panel at Inland Revenue has reviewed the Regulatory Impact Statement (RIS) for *Income derived from residential sale of excess electricity* prepared by Inland Revenue and considers that the information and analysis summarised in the RIS meets the quality assurance criteria.

40. The Quality Assurance panel at Inland Revenue has reviewed the RIS for *Ministerial agreements for the disclosure of information* prepared by Inland Revenue and considers that the RIS partially meets the quality assurance criteria. It outlines the status quo clearly and presents a case for the proposed change. However, the Panel notes that the overall clarity and depth of the analysis were hindered by compressed timeframes. Consultation was limited to one government stakeholder, and no quantitative analysis was included. While the nature of the proposal may constrain the availability of such data, broader engagement and more time for development could have strengthened the RIS. Despite these limitations, the Panel considers that the RIS provides sufficient information to support informed decision-making by Cabinet.

41. The Ministry for Regulation has determined that the proposal to replace the legislative provisions for trust disclosures with Commissioner powers is exempt from the requirement to prepare a RIS. This is on the grounds that it has no or only minor economic, social, or environmental impacts.

Climate implications of policy assessment

42. For each of the proposals, the Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply because the threshold for significance is not met.

Population implications

43. There are no specific population implications associated with any of the proposals in this paper.

Human rights

44. The amendment to introduce Ministerial agreements for the disclosure of information to another government agency would not in itself have implications at this point. However, any implications of future disclosures under specific Ministerial agreements will be raised with relevant Ministers before concluding the agreement.

Consultation

45. In addition to this specific consultation undertaken for the proposals outlined below, the Treasury and the Department of the Prime Minister and Cabinet were consulted on the contents of this Cabinet paper.

Income derived from residential sale of excess electricity

46. My officials have undertaken targeted consultation with members of the tax community and the energy sector, who agreed that there would likely be disproportionate compliance costs under the current tax law for individuals selling excess electricity from their residential property in many cases.

47. The Ministry of Business, Innovation and Employment was informed of this proposal.

Replace legislative provisions for trust disclosures with Commissioner powers

48. The Ministry of Justice was informed of this proposal and does not support the repeal of the legislative provisions.

Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement

49. Officials have consulted with the Office of the Privacy Commissioner and their comments are as follows.

50. The Privacy Commissioner has concerns as it relates to the proposed changes to enable Inland Revenue to disclose tax information to other government agencies. He believes the disapplication of principles 10 and 11 of the Privacy Act in the proposal is unjustified. The Privacy Commissioner is of the view that there are existing mechanisms to facilitate the sharing of the types of information Inland Revenue are proposing including Approved Information Sharing Agreements under the Privacy Act 2020 and the broad information sharing provisions available under Section 18F of the Tax Administration Act 1994. Should the proposal proceed, the Privacy Commissioner’s office will continue working with officials on this proposal.

51. Due to the timeframe for including this item in the Bill, consultation has not occurred with other interested stakeholders. However, if Cabinet agrees to this proposal, officials intend to give the New Zealand Law Society, Privacy Foundation New Zealand, and other interested stakeholders an indication of the proposal to assist them to make a submission during the Select Committee process.

Communications

52. I will make an announcement regarding the proposals in this paper when the Bill is introduced (currently scheduled for August 2025). A commentary on the Bill will also be released at this time. Inland Revenue will publish details of the new legislation on the Tax Policy website after the Bill is enacted.

Proactive release

53. I propose to delay the proactive release of this Cabinet paper, associated minutes, and key advice papers until after the introduction of the Bill. The expected introduction date is August 2025.

Recommendations

The Minister of Revenue recommends that the Committee:

Income derived from residential sale of excess electricity

1. **Agree** to introduce a tax exemption for income derived by an individual from the sale of excess electricity from their residential property, with application for the 2026–27 and later income years.

2. **Note** the following changes in tax revenue as a result of the decision in recommendation 1, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29**
Crown Revenue and Receipts: Tax Revenue - Other persons	0.050	0.200	0.200	0.200
Total Operating	**(0.050)**	**(0.200)**	**(0.200)**	**(0.200)**

3. **Note** the Minister and Finance and I have agreed that the fiscal benefit noted in recommendation 2 be added to the Tax Policy Scorecard.

Replace legislative provisions for trust disclosures with Commissioner powers

4. **Agree** to repeal the legislative trust disclosure provisions in the Tax Administration Act 1994.

5. **Agree** to make consequential amendments to the Tax Administration (Financial Statements—Domestic Trusts) Order 2022.

6. **Agree** that recommendations 4 and 5 take effect for the 2026–27 and later income years.

7. **Note** that if the legislative trust disclosure provisions are repealed, the Commissioner of Inland Revenue may continue to collect substantially the same information under the Commissioner's general powers.

Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement

8. **Agree** to amend the Tax Administration Act 1994 to introduce a legislative ability for Inland Revenue to disclose information to another government agency, pursuant to a Ministerial agreement, to enable the other agency to carry out its functions relating to:

   8.1. to determine entitlement to or eligibility for government assistance; or

   8.2. the prevention, detection, investigation, prosecution, or punishment of potential, suspected, or actual crime

8.3. and removing the financial benefit of crime

9. **Note** there are no fiscal implications as a result of introducing this provision. However, future agreements may have fiscal implications.

10. **Agree** that this information disclosure provision apply from 1 April 2026.

Next steps

11. **Agree** that the above recommendations be included in the Taxation (Annual Rates for 2025–26) Bill (the Bill) scheduled for introduction in August 2025.

12. **Authorise** the Minister of Revenue to make minor and technical changes to the policies included in this paper before introduction of the Bill.

Authorised for lodgement

Hon Simon Watts

Minister of Revenue

Cabinet Economic Policy Committee

Minute of Decision

Further Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill

Portfolio **Revenue**

On 23 July 2025, the Cabinet Economic Policy Committee **referred** the submission under ECO-25-MIN-0109, revised as appropriate in light of discussion at the meeting, to Cabinet on 28 July 2025.

Rachel Clarke
Committee Secretary

Present:
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Simeon Brown
Hon Brooke van Velden
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston
Hon Mark Mitchell
Hon Todd McClay
Hon Tama Potaka
Hon Simon Watts
Hon Andrew Hoggard
Hon Nicola Grigg
Hon Mark Patterson
Hon James Meager
Hon Scott Simpson
Simon Court MP

Officials present from:
Office of the Prime Minister
Inland Revenue
Officials Committee for ECO

Cabinet

Minute of Decision

Further Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill

Portfolio Revenue

On 28 July 2025, following reference from the Cabinet Economic Policy Committee, Cabinet:

Income derived from residential sale of excess electricity

1 **agreed** to introduce a tax exemption for income derived by an individual from the sale of excess electricity from their residential property, with application for the 2026–27 and later income years;

2 **noted** the following changes in tax revenue as a result of the decision in paragraph 1 above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue Minister of Revenue	**2025/26**	**2026/27**	**2027/28**	**2028/29**
Crown Revenue and Receipts: Tax Revenue - Other persons	0.050	0.200	0.200	0.200
Total Operating	(0.050)	(0.200)	(0.200)	(0.200)

3 **noted** that the Minister of Finance and the Minister of Revenue have agreed that the fiscal benefit noted in paragraph 2 above will be added to the Tax Policy Scorecard;

Replace legislative provisions for trust disclosures with Commissioner powers

4 **agreed** to repeal the legislative trust disclosure provisions in the Tax Administration Act 1994;

5 **agreed** that consequential amendments arising from the decision in paragraph 4 be made to the Tax Administration (Financial Statements—Domestic Trusts) Order 2022;

6 **agreed** that the decisions in paragraphs 4 and 5 above take effect for the 2026–27 and later income years;

7 **noted** that the Commissioner of Inland Revenue may continue to collect substantially the same information under the Commissioner's general powers;

7.1 Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement

8 **agreed** to amend the Tax Administration Act 1994 to introduce a legislative ability for Inland Revenue to disclose information to another government agency, pursuant to a Ministerial agreement, to enable the other agency to carry out its functions relating to:

8.1 determining entitlement to or eligibility for government assistance;

8.2 the detection, investigation, prosecution, or punishment of suspected or actual crimes punishable by terms of imprisonment of two years or more;

8.3 removing the financial benefit of crime;

9 **noted** that there are no fiscal implications as a result of introducing the above information disclosure provision, but that future agreements may have fiscal implications;

10 **agreed** that the above information disclosure provision apply from 1 April 2026;

Next steps

11 **agreed** that the above decisions be included in the Taxation (Annual Rates for 2025–26) Bill (the Bill), which holds a category 5 priority on the 2025 Legislation Programme (to be referred to select committee by the end of 2025);

12 **authorised** the Minister of Revenue to make minor and technical changes to the policies included in the paper under CAB-25-SUB-0255 before introduction of the Bill.

Rachel Hayward
Secretary of the Cabinet

POLICY

Tax policy report:	**Cabinet paper – Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill: Approval for introduction**

Date:	24 July 2025	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2025/325

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations	4 August 2025
	Authorise the lodgement of the attached Cabinet paper	10am, Thursday 14 August 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Peter Frawley	Policy Lead	s 9(2)(a) [redacted]	☒
Philip Marshall	Bill Manager	s 9(2)(a) [redacted]	☐
Hannah Simmonds	Bill Coordinator	s 9(2)(a) [redacted]	☐

24 July 2025

Minister of Revenue

Cabinet paper – Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill: Approval for introduction

Purpose

1. This report asks you to authorise the lodgement of the attached draft Cabinet paper and draft departmental disclosure statement with the Cabinet Office by 10am, Thursday 14 August 2025. This will be considered at the Cabinet Legislation Committee (LEG) meeting on Thursday 21 August 2025. We will provide you with a copy of the draft Bill ahead of lodgement.

2. The Cabinet paper seeks approval for the introduction of the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill (the Bill) on 26 August 2025. The Cabinet paper recommends the Bill be referred to the Finance and Expenditure Committee following its first reading. The Bill contains the items listed below.

Further approval sought for updated information for proceeds of crime

3. This report also seeks your agreement to include a consequential amendment to the Criminal Proceeds (Recovery) Act 2009 (CPRA) in the Bill. This amendment is required to give effect to decisions previously agreed to by Cabinet [CAB-25-MIN-0224 refers]. The CPRA is administered by the Ministry of Justice. Cabinet approval is required to include the proposed amendment in the Bill.

Further approval sought for remedial items

4. This report seeks your agreement to two additional KiwiSaver remedials relating to complying superannuation funds (CSFs).

5. It also seeks your approval for the non-resident contractors' tax (NRCT) clarification for non-resident shipping and aircraft operators to take effect on 1 April 2026 instead of retrospectively from 22 March 1990 as previously agreed.

Procedural matters

6. We have drafted the Cabinet paper and the Bill on the basis you will agree to the recommendations in this report. Please advise us if you would like us to make any changes to the Cabinet paper.

7. On 1 August 2025, we will be providing the Bill to the Ministry of Justice for Bill of Rights Act 1990 (BORA) vetting. We will advise you if any issues arise from this process.

Summary of proposed Bill content

Policy items approved by Cabinet

8. The Bill contains amendments on the following measures, as previously agreed by Cabinet:

   8.1 foreign investment fund – revenue account method [ECO25-MIN-0020 & CAB-25-MIN-0061]

   8.2 tax deferred employee share schemes [CAB-25-MIN-0126]

   8.3 setting the annual rates of income tax for the 2025−26 tax year [EXP-25-MIN-0052 & CAB-25-MIN-0224]

   8.4 tax treatment of digital nomads and other visitors [EXP-25-MIN-0052 & CAB-25-MIN-0224]

   8.5 repealing section 17GB of the Tax Administration Act 1994 [EXP-25-MIN-0052 & CAB-25-MIN-0224]

   8.6 power to change FamilyBoost settings by Order in Council [EXP-25-MIN-0052 & CAB-25-MIN-0224]

   8.7 powers for Commissioner of Inland Revenue to set certain rates under the Income Tax Act 2007 and the Tax Administration Act 1994 [EXP-25-MIN-0052 & CAB-25-MIN-0224]

   8.8 granting three charities overseas donee status [EXP-25-MIN-0052 & CAB-25-MIN-0224], and

   8.9 updating tax information held by NZ Police for proceeds of crime [EXP-25-MIN-0052 & CAB-25-MIN-0224].

Policy items still to be approved by Cabinet

9. The Bill contains amendments for the following measures, that are scheduled to be considered by Cabinet before the LEG meeting for this Bill on 21 August 2025:

   9.1 income derived from residential sale of excess electricity

   9.2 replace legislative provisions for trust disclosures with Commissioner powers

   9.3 enable Inland Revenue to disclose information to another government agency under a Ministerial agreement, and

   9.4 GST and unincorporated joint ventures.

Remedial items

10. The Bill contains remedial amendments you have previously agreed to in the following reports:

   10.1 Fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025–26, FBT Simplification, and Remedial Measures) Bill (13 June 2025, IR2025/191 refers)

   10.2 Non-fiscal remedial measures for inclusion in the Taxation (Annual Rates for 2025–26) Bill (17 June 2025, IR2025/190 refers), and

10.3 Further items for inclusion in the Taxation (Annual Rates for 2025–26) Bill (11 July 2025, IR2025/295 refers).

Maintenance items

11. The Bill contains several minor maintenance items, consisting mainly of correcting minor faults of expression, readers' aids and incorrect cross-references.

Further approvals sought for policy items

Further approvals sought for updated information disclosed for proceeds of crime regime

12. Currently, as part of the proceeds of crime regime under the CPRA, Inland Revenue can disclose information about a person to a New Zealand Police (Police) "authorised person" for the purposes of establishing whether a prima facie case exists for taking civil recovery action. A person's affairs can change over time, so the Inland Revenue information held by Police can become inaccurate (IR2025/187 refers).

13. Cabinet previously agreed to amend Inland Revenue's information disclosure rules to allow the Commissioner of Inland Revenue to disclose updated information to the Police, after a prima facie case has been established, to ensure the information already held by the Police remains accurate [EXP-25-MIN-0052 & CAB-25-MIN-0224]. This was to be achieved by amendments to the Tax Administration Act 1994 in the Bill, which would take effect from 1 April 2026.

14. Following Cabinet decisions, it has become clear that consequential amendments to the CPRA are also required to ensure the updated information disclosed to a Police authorised person can be used effectively under the CPRA. The amendments are required to give effect to Cabinet decisions.

15. The proposed consequential amendments would be made to an existing section of the CPRA that manages the information disclosure rules between Inland Revenue and the Police for the purposes of the proceeds of crime regime.

16. We recommend including these consequential amendments to the CPRA in the Bill to ensure Inland Revenue can disclose updated information to a Police authorised person so the information can be used effectively under the proceeds of crime regime. This amendment would apply from 1 April 2026.

17. Police and Ministry of Justice officials are comfortable with the inclusion of these consequential amendments to the CPRA. Parliament's House Office (in the Office of the Clerk) has confirmed the proposed amendments can be made in the Bill.

Further approvals sought for remedial items

Additional KiwiSaver remedials relating to complying superannuation funds

18. The Bill contains a non-fiscal remedial that will ensure that the increases to employee contributions enacted as part of Budget 2025 will also apply to employee contributions to CSFs (IR2025/190 refers). CSFs are workplace retirement savings schemes that largely mirror KiwiSaver scheme settings.

19. We have subsequently become aware of two further non-fiscal remedials that are required to ensure that the changes implemented as part of Budget 2025 will also apply to CSFs. These are:

19.1 *Temporary rate reduction:* Budget 2025 introduced the ability for members to take a temporary rate reduction and contribute at 3% when an increase in contribution rates would create financial difficulties for members. However, the ability to take a temporary rate reduction is not currently available to members of CSFs.

19.2 *Allowing employers to match their employees' contribution rates:* Budget 2025 allowed employers to contribute to their employees' KiwiSaver accounts at the reduced rate of 3% when their employees take a rate reduction. This does not currently extend to CSFs to allow employers to contribute to their employees' accounts at the rate of 3%.

20. We recommend these two further remedials be included in the Bill to ensure that the retirement savings changes that were part of Budget 2025 also apply to CSFs. We do not consider these remedials present additional fiscal implications beyond those considered as part of Budget 2025.

International shipping and aircraft operators

21. The Bill contains a remedial change to confirm the Commissioner's position that NRCT does not apply to non-resident aircraft and shipping operators. The Commissioner's view was published in Tax Information Bulletins in 1990 and 1995.

22. We previously recommended that the proposed change apply retrospectively to 22 March 1990, to align with the Commissioner's practice (IR2025/290 refers). However, our preferred legislative approach is now for the change to be prospective to prevent unnecessary legislative complexity. We have confirmed that a prospective date would be acceptable from an operational standpoint and therefore recommend this legislative confirmation takes effect from 1 April 2026.

Departmental disclosure statement

23. A draft departmental disclosure statement is attached to accompany the LEG paper in accordance with Cabinet guidelines. The draft departmental disclosure statement must also be lodged alongside the LEG paper in accordance with Cabinet guidelines.

24. The departmental disclosure statement must be finalised by Inland Revenue and sent to the Parliamentary Counsel Office two working days before the introduction of the Bill. It will be made publicly available when the Bill is introduced.

New Zealand Bill of Rights Act 1990

25. We believe the provisions in the Bill are consistent with the rights and freedoms affirmed by the BORA. The Ministry of Justice will soon be undertaking the required BORA vetting of the Bill. Although not expected, we will advise if any issues arise from this process.

Ministerial consultation

26. We recommend that the Bill is introduced in the House shortly after Cabinet approves it for introduction. To achieve this, Ministerial consultation will need to occur in advance of Cabinet's final decision.

27. We can provide you with additional information on the contents of the Bill to support your office's caucus consultation in relation to the introduction of the Bill.

Proactive release

28. We propose that the Cabinet paper, Cabinet minutes and key advice papers be proactively released after the Bill is introduced.

Next steps

29. We have drafted the attached Cabinet paper and associated documents on the basis that you agree to the recommendations in this report. Please advise if there are any changes to the paper that you wish to make.

30. To be considered at the LEG meeting on Thursday 21 August 2025, the Cabinet paper needs to be lodged with the Cabinet Office by **10am on Thursday 14 August 2025.** The draft departmental disclosure statement must also be lodged with the Cabinet Office at this time.

31. We will provide you with a copy of the draft Bill ahead of this lodgement date.

32. We will liaise with your office to arrange publicity for the introduction of the Bill.

33. We recommend that you refer a copy of this report to the Minister of Finance.

Treasury consultation

34. Treasury were informed about this report.

Recommended action

We recommend that you:

1. **Note** the contents of this report, attached draft Cabinet paper, and draft departmental disclosure statement.

   Noted

Further approvals sought to updated information disclosed for proceeds of crime

2. **Note** that Cabinet previously agreed to amend tax legislation to enable Inland Revenue to disclose updated Inland Revenue information to the Police for the purposes of the proceeds of crime regime [EXP-25-MIN-0052 & CAB-25-MIN-0224].

   Noted

3. **Agree** to include the consequential amendments to the Criminal Proceeds (Recovery) Act 2009 in the Bill to support the proposal referred to in recommendation 2.

   Agreed/Not agreed

4. **Agree** that the amendments to the Criminal Proceeds (Recovery) Act 2009 apply from 1 April 2026.

   Agreed/Not agreed

Further approvals sought for remedial items

5. **Agree** to extend the ability to take a temporary rate reduction to members of complying superannuation funds.

   Agreed/Not agreed

6. **Agree** that a temporary rate reduction should be available to members of complying superannuation funds from 1 April 2026.

   Agreed/Not agreed

7. **Agree** to allow employers to contribute at the matching rate of 3% when their employees are members of complying superannuation funds.

   Agreed/Not agreed

8. **Agree** that the matching employer rate facility should apply from 1 April 2026.

   Agreed/Not agreed

9. **Agree** that the legislative confirmation that non-resident shipping and aircraft operators are excluded from non-resident contractors' tax should apply from 1 April 2026.

   Agreed/Not agreed

Next steps

10. **Agree** to the proactive release of the Cabinet paper, Cabinet minutes and key advice papers after the Bill is introduced.

    Agreed/Not agreed

11. **Authorise** the lodgement of the attached Cabinet paper and associated documents with the Cabinet Office by **10am Thursday 14 August 2025**.

    Authorised/Not authorised

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

    Referred/Not referred

s 9(2)(a)

Peter Frawley
Policy Lead
Inland Revenue

Hon Simon Watts
Minister of Revenue
/ /2025

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Legislation Committee

TAXATION (ANNUAL RATES FOR 2025–26, COMPLIANCE SIMPLIFICATION, AND REMEDIAL MEASURES) BILL: APPROVAL FOR INTRODUCTION

Proposal

1 This paper seeks the Cabinet Legislation Committee's agreement to introduce the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill (the Bill) on 26 August 2025. The Bill introduces amendments to the:

- 1.1 Income Tax Act 2007 (ITA)
- 1.2 Tax Administration Act 1994 (TAA)
- 1.3 Goods and Services Tax Act 1985 (GST Act)
- 1.4 KiwiSaver Act 2006
- 1.5 Unclaimed Money Act 1971
- 1.6 Child Support Act 1991
- 1.7 Student Loan Scheme Act 2011
- 1.8 Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025
- 1.9 Taxation (Budget Measures) Act 2025, and
- 1.10 Criminal Proceeds (Recovery) Act 2009 (CPRA), subject to Cabinet agreement sought in this paper.

2 This paper also seeks Cabinet's agreement to consequentially amend the CPRA to give effect to the policy decisions previously agreed [EXP-25-MIN-0052 & CAB-25-MIN-0224].

3 The Bill holds a category 5 priority on the 2025 Legislative Programme (to be referred to a select committee within the year).

4 Inland Revenue is currently in the process of preparing the Bill. Accordingly, a draft of the Bill (and associated draft departmental disclosure statement) is

enclosed. The Bill is likely to undergo further technical revisions prior to introduction.

Policy

5 The Bill would implement the policy items listed below. A Bill is necessary because amendments to existing legislation are required to implement the proposed policy changes.

Amendments to CPRA to allow for updated Inland Revenue information disclosed for proceeds of crime regime

6 Currently, as part of administering the proceeds of crime regime (under the CPRA), a New Zealand Police “authorised person” can request Inland Revenue to disclose information about a person, for the purposes of establishing whether a prima facie case exists for taking civil recovery action. A person’s affairs can change over time, so the Inland Revenue information held by Police can become inaccurate.

7 Cabinet previously agreed to amend Inland Revenue’s permitted disclosure rules in the TAA to allow Inland Revenue to disclose updated information to the Police, after a prima facie case has been established, to ensure the information already held by the Police remains accurate [EXP-25-MIN-0052 & CAB-25-MIN-0224].

8 Following Cabinet decisions, it has become clear that to give effect to Cabinet decisions, associated amendments to the Inland Revenue information disclosure rules in the CPRA are also required.[1] The amendments are required to ensure the disclosed updated information can be used effectively by the Police under the CPRA.

9 I propose to amend the CPRA to give effect to Cabinet’s earlier decisions and to include the amendments in the Bill. These amendments would ensure Inland Revenue can disclose updated information to the Police, after a prima facie case has been established.

10 I recommend these amendments apply from 1 April 2026.

Policy items with Cabinet approval

Foreign investment fund – revenue account method [ECO-25-MIN-0020 & CAB-25-MIN-0061]

11 The Bill proposes amendments to introduce the revenue account method (RAM), a new calculation method to determine a taxpayer’s foreign investment fund (FIF) income. The RAM would generally allow illiquid foreign shares acquired prior to a taxpayer’s immigration to New Zealand to be taxed on a realisation basis, that is, on dividends derived and 70% of gains or losses on disposal.

[1] The associated amendments would be to an existing section of the Criminal Proceeds (Recovery) Act 2009 that specifies the information disclosure rules between Inland Revenue and the Police.

12 For taxpayers who are generally liable to tax in another country on the disposal of their foreign shares based on their citizenship or right to work in that country, the Bill proposes to allow them to apply the RAM to all their foreign shares. This means the taxpayer would be taxed on a realisation basis on their foreign shares regardless of the characteristics of those shares or when the taxpayer acquired them.

13 Taxpayers would be eligible to apply the RAM if they were a non-tax resident for at least five years prior to becoming a New Zealand resident. They must also become a New Zealand resident and not a transitional resident, on or after 1 April 2024.

14 I recommend these amendments apply retrospectively to eligible shares from 1 April 2025.

Tax deferred employee share schemes [CAB-25-MIN-0126]

15 Announced as part of Budget 2025, the Bill proposes changes that would allow unlisted companies to elect into a regime where the tax liability for employees who receive shares or share options as part of an employee share scheme can, generally, be deferred until a liquidity event. At the point of a liquidity event, it is easier to value the shares, and the employee will generally have the ability to raise the funds to cover their tax liability.

16 The employee share scheme tax deferral regime is not mandatory. For the purposes of deferred employee share scheme shares, this Bill would define a liquidity event as the listing of the company, the sale or cancellation of the shares, and a payment of a dividend in respect of the shares.

17 I recommend these amendments apply from 1 April 2026.

Set annual income tax rates for the 2025–26 tax year [EXP-25-MIN-0052 & CAB-25-MIN-0224]

18 The ITA requires the rates of income tax to be set in legislation each tax year. The Bill proposes that the annual rates of income tax for the 2025–26 tax year be set at the rates currently specified in schedule 1 of the ITA.

Tax treatment of digital nomads and other visitors [EXP-25-MIN-0052 & CAB-25-MIN-0224]

19 The Bill introduces measures to enable certain visitors to New Zealand (to be called “non-resident visitors”), including returning New Zealand citizens and permanent residents that are non-resident for tax purposes, to undertake remote work without triggering New Zealand tax consequences for themselves, their non-resident employer, or their non-resident business (as relevant).

20 The key features of the legislation include:

20.1 A visitor present in New Zealand for 9 months in an 18-month period would be deemed to be a non-resident visitor.

20.2 The non-resident visitor would be deemed to be a non-resident for New Zealand income tax purposes.

20.3 The non-resident visitor's personal and professional services income earned through remote work would be deemed to be exempt income and the non-resident could elect not to include that income in determining whether the GST registration threshold has been met.

20.4 The non-resident visitor's presence in New Zealand would not impose New Zealand tax obligations on their non-resident employer.

21 Several integrity rules are proposed to ensure the rules work as intended. Importantly, the non-resident visitor must adhere to New Zealand immigration requirements, (meaning they must be here lawfully), and cannot undertake work for a New Zealand employer or client. Their remote work must not rely on the person being physically present in New Zealand. The non-resident visitor must be a tax resident of another jurisdiction, and their income must be chargeable in that or another country with a similar income tax regime to New Zealand.

22 Further, non-tax rules such as social policy entitlements and student loan repayment requirements will apply under the existing settings. Consistent with the transitional residence rules, if a non-resident visitor or their partner are eligible for social assistance (such as Working for Families or the Best Start tax credit), then upon application both the applicant and their partner are immediately treated as having ceased to be non-resident visitors.

23 I recommend these amendments apply from 1 April 2026.

Repeal section 17GB of the Tax Administration Act 1994 [EXP-25-MIN-0052 & CAB-25-MIN-0224]

24 The Bill proposes to repeal section 17GB of the TAA. Section 17GB allows the Commissioner of Inland Revenue (the Commissioner) to collect information for a purpose relating to the development of policy for the improvement or reform of the tax system. This repeal would protect the privacy interests of taxpayers.

25 I recommend these amendments apply from the day after the date of Royal assent.

Power to change FamilyBoost settings by Order in Council [EXP-25-MIN-0052 & CAB-25-MIN-0224]

26 The Bill proposes to introduce the power to change the FamilyBoost policy settings via an Order in Council. This power would be limited to expanding eligibility or increasing the amount payable to recipients. Any changes to FamilyBoost policy settings that adversely affect recipients would have to be made through primary legislation.

27 I recommend these amendments apply from the day after the date of Royal assent.

Powers for Commissioner of Inland Revenue to set certain rates under the Income Tax Act 2007 and the Tax Administration Act 1994 [EXP-25-MIN-0052 & CAB-25-MIN-0224]

28 The Bill proposes to streamline the process of setting use of money interest (UOMI), fringe benefit tax (FBT) prescribed rate, and the deemed rate of return (DRR) for foreign investment funds under the TAA and the ITA. These rate-setting powers would be statutorily vested in the Commissioner as determinations, which would be treated as secondary legislation.

29 The powers would follow the same processes that are currently used for setting these rates. The formulas used to set these rates would be included in primary legislation where they are not already legislated. Decisions made would be reviewable secondary legislation under the Legislation Act 2019.

30 Transitional provisions would ensure continuation of existing Orders in Council until the effective date of any determinations that were also introduced for each of these rates.

31 I recommend these amendments take effect on the day after the date of Royal assent.

Granting three charities overseas donee status [EXP-25-MIN-0052 & CAB-25-MIN-0224]

32 The Bill proposes that three registered charities with overseas purposes be granted overseas donee status and included in schedule 32 of the ITA.

33 The additions to the list are proposed to have effect from 1 April 2026.

Update tax information held by NZ Police for proceeds of crime [EXP-25-MIN-0052 & CAB-25-MIN-0224]

34 The Bill proposes new information disclosure rules to enable the Commissioner to disclose Inland Revenue information to the New Zealand Police, after a prima facie case has been established against an individual. These new information disclosure rules are intended to ensure that any Inland Revenue information previously disclosed to the Police to establish a prima facie case against a person, remains accurate and up to date.

35 It is proposed to amend the CPRA to ensure information disclosed can be used effectively under the proceeds of crime regime.

36 I recommend these amendments take effect from 1 April 2026.

Income derived from residential sale of excess electricity [ECO-25-MIN-0109 & CAB-25-MIN-0255]

37 The Bill proposes a tax exemption for income derived by an individual from the sale of excess electricity from a residential property to the network. The amendments are intended to reduce compliance costs for these individuals, which are likely to be disproportionate in many cases. Officials expect that tax compliance in this area is low, and that many individuals would be in a tax loss position in relation to the sale of electricity due to expenses outweighing any income.

38 Under the exemption, individuals would not need to pay tax on, or file a tax return for, income derived from the residential sale of excess electricity. However, they would no longer be entitled to deductions for expenditure relating to this activity.

39 I recommend these amendments apply for the 2026–27 and later income years.

Replace legislative provisions for trust disclosures with Commissioner powers [ECO-25-MIN-0109 & CAB-25-MIN-0255]

40 In December 2020, the previous Government introduced additional disclosure provisions in the TAA for domestic trusts, which were applied for the 2021–22 and later income years.

41 The Bill proposes to repeal these specific disclosure provisions in the TAA. This would help improve legislative clarity by removing redundant provisions because the Commissioner can collect trust information under their general powers.

42 The Bill also proposes consequential amendments to the Tax Administration (Financial Statements—Domestic Trusts) Order 2022 to retain the minimum standards for domestic trusts preparing financial statements. This would ensure that Inland Revenue is still receiving consistent data that can be used for compliance purposes.

43 I recommend these amendments apply for the 2026–27 and later income years.

Enable Inland Revenue to disclose information to another government agency under a Ministerial agreement [ECO-25-MIN-0109 & CAB-25-MIN-0255]

44 The Bill proposes that a new provision be introduced to the TAA to enable the Commissioner to disclose information to another government agency pursuant to a Ministerial agreement. These agreements would give the Minister of Revenue and the other Minister the power to agree to the disclosure of information:

44.1 to determine entitlement to or eligibility for government assistance

44.2 to prevent, detect, investigate, prosecute, or punish potential, suspected, or actual offences, and

44.3 to remove any financial benefits of crime.

45 This would assist other government agencies to deliver certain core functions, respond to policy challenges more quickly, and lead to greater government-wide administrative efficiency, especially for law enforcement.

46 I recommend these amendments take effect from 1 April 2026.

GST and unincorporated joint ventures [EXP-25-MIN-0065 & CAB-25-MIN-0263]

47 The Bill proposes to amend the GST Act to resolve problems with the unincorporated body rules as they apply to joint ventures.

48 It is proposed that the rules be amended to allow the members of a joint venture to choose to individually account for GST on supplies made or received in the course of the venture under their own GST registrations rather than registering the joint venture separately, consistent with common practices in some industries. This would resolve issues with some joint ventures being unable to register and minimise compliance costs associated with certain joint venture activities.

49 I recommend these amendments take effect on 1 April 2026. As a taxpayer-friendly measure, it is also proposed that tax positions taken by joint venture members for taxable periods before 1 April 2026 would be validated, provided those positions were taken consistently with the amendments.

Items not requiring Cabinet approval

50 The Bill contains a number of remedial amendments that do not require Cabinet approval. These remedial amendments support the coherence and integrity of the tax system and ensure the relevant tax law is consistent with the original policy intent. The Bill also contains various maintenance items. These correct minor faults of expression, readers' aids, incorrect cross-references, and update statutory lists.

Impact analysis

51 Regulatory Impact Statements were prepared, where required, for the policy items in the Bill. The following were submitted at the time that Cabinet Committee approval for the policy items was sought:

51.1 Regulatory Impact Statement: *Repeal of Section 17GB*, 3 June 2025

51.2 Regulatory Impact Statement: *Tax treatment of digital nomads and other visitors*, 11 June 2025

51.3 Regulatory Impact Statement: *Income derived from residential sale of excess electricity*, 2 July 2025

51.4 Regulatory Impact Statement: *Ministerial agreements for the disclosure of information*, 9 July 2025, and

51.5 Regulatory Impact Statement: *GST and joint ventures*, 17 July 2025.

52 A Regulatory Impact Statement for *Tax deferred employee share schemes* has been submitted with this paper. The Quality Assurance Panel at Inland Revenue has reviewed this and considers that the information and analysis summarised in the Regulatory Impact Statement partially meets the quality criteria of the Regulatory Impact Analysis framework. The Quality Assurance Panel commented:

> The analysis was prepared under time constraints, and while there has been consultation with the industry on option 2, there was only limited consultation on option 3. However, subject to

these limitations, the analysis is otherwise complete, clear and convincing.

53 The Ministry for Regulation has determined that the following proposals are exempt from the requirement to provide a Regulatory Impact Statement:

53.1 setting annual income tax rates for the 2025–26 tax year, on the grounds it is solely for the annual setting of income tax rates when the rates remain unchanged

53.2 foreign investment fund – revenue account method, on the grounds that it has no or only minor economic, social, or environmental impacts

53.3 power to change FamilyBoost settings by Order in Council, on the grounds that it has no or only minor economic, social, or environmental impacts

53.4 powers for Commissioner to set certain rates under Income Tax Act 2007 and Tax Administration Act 1994, on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities

53.5 replace legislative provisions for trust disclosures with Commissioner powers, on the grounds that it has no or only minor economic, social, or environmental impacts

53.6 charities recommended for overseas donee status, on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities, and

53.7 updating tax information held by NZ Police for proceeds of crime, on the grounds that it has no or only minor economic, social, or environmental impacts.

Compliance

54 The Bill complies with:

54.1 the principles of the Treaty of Waitangi

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

54.3 the disclosure statement requirements (the draft disclosure statement is attached)

54.4 the principles and guidelines set out in the Privacy Act 2020

54.5 relevant international standards and obligations, and

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

55 The Bill is currently being evaluated for its consistency with the New Zealand Bill of Rights Act 1990 by the Ministry of Justice as part of its usual vetting process.

Consultation

56 The main policy measures within this Bill have generally been developed in accordance with the Generic Tax Policy Process (GTPP). It is a very open and interactive engagement process between the public and private sectors. This process helps to ensure that tax and social policy changes are well thought through. The GTPP is designed to ensure better, more effective policy development through the early consideration of all aspects, and likely impacts, of proposals. The GTPP increases opportunities for public consultation.

57 The GTPP means that major tax initiatives are normally subject to public scrutiny at all stages of their development. As a result, Inland Revenue and Treasury officials have the opportunity to develop more practical options for reform by drawing on information provided by the private sector and the people who will be affected.

Relevant government departments or other public bodies

58 In developing the proposals set out in the Bill, Inland Revenue consulted with the Department of Internal Affairs (Charities Services, Racing), the Department of the Prime Minister and Cabinet, the Electricity Authority, the Legislation Design and Advisory Committee, the Ministry of Business, Innovation and Employment, the Ministry of Foreign Affairs and Trade, the Ministry of Justice, the Ministry of Social Development, the Financial Markets Authority, the Office of the Privacy Commissioner, and the New Zealand Police.

Relevant private sector organisations and public consultation processes

59 Targeted consultation was undertaken during the policy process with relevant external stakeholders. The feedback provided by these stakeholders was taken into account when finalising policy proposals. The attached draft departmental disclosure statement provides further information on the various parties consulted and the form in which consultation was undertaken for the policy items in the Bill.

The government caucus and other parties represented in Parliament

60 The government caucus will be consulted on this Bill before its proposed introduction.

Binding on the Crown

61 A number of Inland Revenue Acts currently bind the Crown (including the ITA). This amending Bill does not alter the status quo in this respect – the amendments follow the position of the principal Acts.

Allocation of decision-making powers

62 The Bill does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

Associated regulations

63 No regulations are required to bring the proposed Bill into force.

Other instruments

64 The Bill proposes a new Order in Council mechanism to amend the FamilyBoost settings that are contained in the ITA.

65 The Bill proposes to repeal certain Order in Council mechanisms that allow the periodic setting of UOMI rates, the FBT prescribed rate, and the DRR for foreign investment funds. These powers will instead be statutorily vested in the Commissioner as delegated secondary legislation via determinations.

66 The explanatory note to the Bill sets out the reasons why these changes to regulations are required.

Definition of Minister/department

67 The Bill does not contain a new definition of Minister, department, or chief executive.

Commencement of legislation

68 Each provision of the Bill comes into force on the date specified in the Bill for that provision.

Parliamentary process

69 The Bill should be introduced on 26 August 2025, referred to the Finance and Expenditure Committee and reported back to the House in February 2026.

70 Because the Bill sets the annual income tax rates for the 2025–26 tax year and a number of the proposals in the Bill have an application date of 1 April 2026, the Bill should be enacted by the end of March 2026.

Communications

71 The Minister of Revenue will make an 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 publish details of the new legislation in an Act commentary released on the Tax Policy website after the Bill is enacted.

Proactive release

72 The Minister of Revenue proposes 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

The Minister of Revenue recommends that the Committee:

1 **Note** that changes previously agreed to by Cabinet [EXP-25-MIN-0052 & CAB-25-MIN-0224] to enable Inland Revenue to disclose updated information for the purposes of the proceeds of crime regime also require amendments to the Criminal Proceeds (Recovery) Act 2009.

2 **Agree** to amend the Criminal Proceeds (Recovery) Act 2009 to ensure that updated information disclosed by the Commissioner of Inland Revenue can be used by a Police authorised person to effectively administer the proceeds of crime regime.

3 **Agree** that the amendments to the Criminal Proceeds (Recovery) Act 2009 apply from 1 April 2026.

4 **Note** that the Bill sets the annual income tax rates for the 2025–26 tax year.

5 **Note** that the Bill makes substantive, remedial, and technical amendments to the:

5.1 Income Tax Act 2007

5.2 Tax Administration Act 1994

5.3 Goods and Services Tax Act 1985

5.4 KiwiSaver Act 2006

5.5 Unclaimed Money Act 1971

5.6 Child Support Act 1991

5.7 Student Loan Scheme Act 2011

5.8 Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025

5.9 Taxation (Budget Measures) Act 2025, and

5.10 Criminal Proceeds (Recovery) Act 2009 (subject to Cabinet agreement to recommendations 2 and 3 above).

6 **Approve** the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill for introduction, subject to sufficient support in the House of Representatives.

7 **Agree** that the Bill be introduced on 26 August 2025.

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

8.1 referred to the Finance and Expenditure Committee for consideration

8.2 reported back to the House in February 2026

8.3 enacted by 31 March 2026.

Authorised for lodgement

Hon Simon Watts
Minister of Revenue

Cabinet Legislation Committee

Minute of Decision

Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill: Approval for Introduction

Portfolio **Revenue**

On 21 August 2025, the Cabinet Legislation Committee:

1 **noted** that in June 2025, the Cabinet Expenditure and Regulatory Review Committee agreed to enable Inland Revenue to disclose updated information for the purposes of the proceeds of crime regime [EXP-25-MIN-0052], and that this also requires amendments to the Criminal Proceeds (Recovery) Act 2009;

2 **agreed** to amend the Criminal Proceeds (Recovery) Act 2009 to ensure that updated information disclosed by the Commissioner of Inland Revenue can be used by a Police authorised person to effectively administer the proceeds of crime regime;

3 **agreed** that the amendments to the Criminal Proceeds (Recovery) Act 2009 apply from 1 April 2026;

4 **noted** that Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill (the Bill) sets the annual income tax rates for the 2025–26 tax year;

5 **noted** that the Bill makes substantive, remedial, and technical amendments to the:

5.1 Income Tax Act 2007;

5.2 Tax Administration Act 1994;

5.3 Goods and Services Tax Act 1985;

5.4 KiwiSaver Act 2006;

5.5 Unclaimed Money Act 1971;

5.6 Child Support Act 1991;

5.7 Student Loan Scheme Act 2011;

5.8 Taxation (Annual Rates for 2024–25, Emergency Response, and Remedial Measures) Act 2025;

5.9 Taxation (Budget Measures) Act 2025;

5.10 Criminal Proceeds (Recovery) Act 2009 (giving effect to the decisions in paragraphs 2 and 3 above);

6 **approved** the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill [IRD 27087/4.0] for introduction;

7 **authorised** Inland Revenue to continue to make technical revisions to the Bill prior to its introduction;

8 **agreed** that the Bill be introduced by 26 August 2025;

9 **agreed** that the Government propose that the Bill be:

9.1 referred to the Finance and Expenditure Committee for consideration;

9.2 reported back to the House in February 2026;

9.3 enacted by 31 March 2026.

Tom Kelly
Committee Secretary

Present:
Hon David Seymour
Rt Hon Winston Peters
Hon Chris Bishop (Chair)
Hon Paul Goldsmith
Hon Brooke van Velden
Hon Judith Collins KC
Hon Tama Potaka
Hon Simon Watts
Hon Nicole McKee
Hon Casey Costello
Hon Chris Penk
Hon James Meager
Hon Andrew Hoggard
Stuart Smith, MP
Todd Stephenson, MP
Jamie Arbuckle, MP

Officials present from:
Officials Committee for LEG
Office of the Leader of the House
Office of the Minister of Defence

CAB-25-MIN-0287

Cabinet

Minute of Decision

Report of the Cabinet Legislation Committee: Period Ended 22 August 2025

On 25 August 2025, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 22 August 2025:

Not in scope [redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
LEG-25-MIN-0166	**Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill: Approval for Introduction** Portfolio: Revenue	CONFIRMED
Not in scope [redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

Not in scope

Rachel Hayward
Secretary of the Cabinet

Item 15

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Outcome of consultation on the effects of FIF rules on immigration**

Date:	10 February 2025	**Priority:**	High
Security level:	Sensitive - Budget	**Report number:**	IR2025/007

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	12 February 2025
Minister of Revenue	**Agree** to recommendations **Refer** a copy of this report to the Ministers of Immigration and Science, Innovation and Technology for their information. **Lodge** the finalised Cabinet paper by 10am on Thursday, 20 February for the Cabinet Economic Policy Committee to consider at their meeting on Wednesday, 26 February.	12 February 2025 20 February 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Sam Rowe	Policy Lead	s 9(2)(a)	☐
Casey Plunket	Special Policy Advisor	s 9(2)(a)	☒

10 February 2025

Minister of Finance
Minister of Revenue

Outcome of consultation on the effects of FIF rules on immigration

Executive summary

Purpose

1. This report briefs you on the outcome of the recent public consultation on the effects of the foreign investment fund (FIF) rules on immigration, seeks your approval of our recommended policy solution and our recommend funding approach, and seeks your authorisation to lodge the attached draft Cabinet paper for Cabinet approval.

Context and background

2. New Zealand residents holding a portfolio (less than 10%) interest in a foreign company are generally taxed under the FIF regime annually on deemed income from that company. The deemed income is usually 5% of the value of the interest at the beginning of the year (but can be reduced to as low as zero if dividends plus the change in the New Zealand dollar value of the investment is less than 5%). This ensures that residents do not have a tax-driven incentive to invest in foreign companies rather than New Zealand ones.

Problem definition

3. While there are good reasons for continuing with the FIF regime, it discourages non-residents with significant portfolio investments from staying in New Zealand for longer than four years (during which period they are not subject to the FIF regime). They are familiar with and can accept paying tax when they realise their investment, but are much less willing to pay tax on deemed income, unrepresented by cash flow. This is especially a problem if the investment is not easily able to be sold. It is also especially a problem if the person is subject to tax in another country on a realisation basis, since that can lead to double taxation. The New Zealand Institute of Economic Research (NZIER) published a paper in April 2024 arguing that all FIF interests acquired before migrating to New Zealand should be ring-fenced and only dividends received and gains on disposal should be taxed.

Options to address the problem

4. Accordingly, in December last year you approved the release of an issues paper proposing a reform of the FIF rules to address the negative effect they have on attracting desirable migrants to come to and stay in New Zealand. Submissions on the paper closed on 27 January, and we are now reporting back to you on the submissions and our recommended option.

Submissions

5. We report more fully below on the submissions. In summary, they strongly support the need for reform, but are generally in favour of a wider scope both for eligible persons (all residents rather than only migrants) and for investments (all investments for all persons, rather than a more limited scope). Most are in favour

of taxing dividends and realised gains (the revenue account method) but many also favour extending the existing attributable foreign income and deferral methods in some way.

Officials' recommended option

Eligible taxpayers

6. Officials recommend that this reform only apply to migrants who become fully tax resident on or after 1 April 2025. Extending it to all New Zealand taxpayers would raise broader issues that were not properly raised in the consultation process and which it would be difficult to address fully in the time available. If a broader reform process is thought desirable, that could be undertaken as a separate project once other work and priorities allow.

7. However, in line with submissions, officials do recommend expanding:

   1.1 The category of migrants to whom the reform applies, to cover anyone who has not been resident during the previous five years before coming to New Zealand (and who become fully tax resident on or after 1 April 2025).

   1.2 The category of eligible taxpayers, to include a family trust if the principal settlor is an eligible migrant.

Eligible investments

8. Officials do not recommend extending the reform significantly beyond what was proposed in the discussion document, that is:

   1.3 Pre-migration illiquid investments; and

9. For migrants who continue to be taxed on capital gains on a citizenship basis (primarily US citizens), all investments in foreign shares.

10. Changing the treatment of these investments will address the issue raised in the NZIER report. It solves the most pressing issues faced by migrants who cannot easily sell their pre-migration investments and by those facing the possibility of double taxation. Limiting the reform to these situations improves horizontal equity – the idea that once a person becomes New Zealand resident, they should be taxed in the same way as other New Zealand residents with the same investments and in materially the same situation. This is also broadly the solution requested in the NZIER report.

11. This will require the drawing of some boundaries through legislation. In response to submissions officials do propose to allow certain follow-on investments made after a person has become New Zealand resident but in relation to pre-migration investments to be subject to the reform. We also propose some extension in relation to shares acquired as a result of foreign employment.

Method

12. We recommend allowing an eligible investor to elect, with effect for the year they first become subject to the FIF regime, to be taxable on dividends and gains on sale on their eligible investments (the revenue account method), rather than being subject to the current FIF methods. This was supported by submissions. Losses on sale would only be able to be offset against gains on sale (and not other types of income), in the same or any future year.

13. We recommend that this approach be buttressed with an exit tax, which would deem a person who has applied the revenue account method to sell their investments for market value immediately before ceasing to be New Zealand resident (and have taxable gain or loss as a result). This was generally not supported by submitters.

The biggest concern expressed was that an exit tax would, like the current FIF rules, be taxing deemed income and this could discourage migrants from coming to New Zealand in the first place. However, a reasonable minority recognised that it is important for coherence, that is already adopted in relation to some other assets (including FIFs), and that it exists in many other countries that tax capital gains.

Rate

14. Following submissions, we recommend discounting any gains or losses on sale by 30%, so that the highest effective rate of tax would be 27.3%. Some discount is necessary to bring the rate closer to what investors would experience in other countries (which usually provide a discount for capital gains). However, a very low rate would set an undesirable precedent. We note that for a 39% marginal rate taxpayer, the rate would be similar to the top portfolio investment entity rate, which already applies to FIF income earned through a portfolio investment entity.

Next steps

15. If you agree to proceed with the recommended FIF reform the draft Cabinet paper, subject to your feedback, could be lodged by 10am on Thursday, 20 February with the Cabinet Economic Policy Committee for consideration at their meeting on Wednesday, 26 February. This would allow a Cabinet decision to be made in time for an announcement to be made in March should the Government wish to do so.

16. If approved, we would continue to report back and seek your agreement to various policy decisions of a minor and technical nature. We note that stakeholders expressed a strong desire to review our proposed solution (including draft legislation) and make further submissions. This will not be possible if the reform were included in budget legislation. Accordingly, we would aim to include the reform in the next Annual Rates Taxation Bill, usually introduced in August of each year and passed before 31 March the following year. However, the reform could be given retrospective effect to the start of the 2025-26 tax year.

Background

1. The New Zealand Institute of Economic Research published a paper in April 2024 which argued that our foreign investment fund (FIF) rules are discouraging desirable migrants from coming to and staying in New Zealand.

2. The FIF rules were introduced to remove a tax-driven incentive for New Zealand tax residents to invest in foreign enterprises over domestic ones. The rules achieve this by taxing the resident on deemed dividends calculated as 5% of the opening value of their FIF interests, or actual gains if the total return is lower than 5%. Net losses are generally not deductible. Different rules can or must be applied if the investment is more than 10% of the foreign enterprise.

3. Many taxpayers find taxation of notional income burdensome. They prefer being taxed on a realisation basis. Those coming to New Zealand are generally more accustomed to a capital gains tax as this is the norm in their home jurisdiction. In particular, they object to being taxed on investments on which they have suffered an economic loss. (This is not uncommon under the FIF rules. It is compensating for the fact that economic gain is not always fully taxed either, due to the 5% annual cap).

4. From a practical standpoint, taxing notional income can give rise to liquidity issues if those investments do not pay enough dividends to cover the tax liability or are hard to sell. For such FIF interests, taxpayers would have to fund their FIF tax liability with other sources of income, assets, or borrowing. In addition to the liquidity issue, some taxpayers may face double taxation. The most common case of double taxation relates to United States (US) citizens, who are taxed by the US on a citizenship basis. It is uncertain whether they can claim the foreign tax credits arising from paying their FIF tax to offset any US capital gains tax from the eventual disposal of their FIF interests.

5. The Government has stated that attracting highly skilled, well connected, and wealthy migrants to stay in New Zealand is a priority. This objective aligns with the Government's priority to boost capital investment in New Zealand, particularly in the technology and IT space. Accordingly, on 1 December 2024 the Minister of Revenue agreed for Inland Revenue to release an issues paper for public consultation on the effects of the FIF rules on immigration [IR2024/458 refers]. The issues paper proposed three solutions and sought feedback on them. This report briefs you on the feedback we received, seeks your approval of our recommended policy solution, and seeks your authorisation to lodge the attached draft Cabinet paper to Cabinet for approval.

Consultation

6. Public consultation opened on 6 December 2024 and closed on 27 January 2025. We received 98 submissions. Key themes arising from these submissions were:

   6.1 There was broad support for realisation-based taxation of FIF interests and the revenue account method.

   6.2 Removing the 10% interest threshold required for using the existing attributable FIF income method by itself would not achieve the stated policy objectives, but this was worth doing in addition to implementing the revenue account method.

   6.3 Horizontal equity concerns were raised regarding the proposal applying to migrants only. There was general support for any amendment to apply to everyone, including New Zealand tax residents who have never left New Zealand.

6.4 If any concession were available only to migrants, many submitters did not believe there should be a distinction between pre-migration and post-migration assets, or between liquid and illiquid assets.

6.5 The general consensus was that taxing any gain on realisation at the taxpayer's marginal income tax rate would not achieve the goal of the reform. Generally, submitters suggested a flat rate or discounting the taxable income by 50% to arrive at an effective tax rate of half the taxpayer's marginal tax rate.

6.6 There was general consensus that whichever method we implement should be optional so taxpayers can choose the method that works best for them.

6.7 Some submitters were concerned that there was not enough time to undertake a wider reform of the FIF regime or outbound international tax settings generally. In light of these concerns, those submitters advocated for changes to be implemented narrowly to begin with while a wider review of the FIF regime is undertaken.

Scope

7. Submitters generally considered that any changes made should apply to all New Zealand tax residents on the basis of ensuring horizontal equity – that is, for people in the same economic situation to be treated the same by the tax system. A 'favourable' change in the FIF rules available only to migrants would appear to be a preferential treatment and might erode public trust in the fairness of the tax system. Furthermore, submitters said it seemed counter to the aim of attracting and retaining talent in New Zealand if residents with similar FIF assets were motivated to leave New Zealand because the changes did not apply to them.

8. Similar submissions on fairness were received on the distinction between pre- and post-migration assets. Practical challenges were also raised, including the difficulties of determining and recording the distinction, and misalignment with capital commitment cycles of private investments (in that further investments might be required post migration in relation to interests acquired pre-migration). Submitters also raised concern relating to the treatment of pre-migration assets following common business practices such as share restructuring, and mergers and acquisitions.

9. There was also a clear majority against the changes applying to illiquid assets only. Submissions on this point focused on achieving the objective of appealing to migrants, and believed the restriction to illiquid assets would fail to achieve this objective. Some argued this may impact investors' and enterprises' business decisions, where individuals may be motivated to primarily invest in illiquid assets before migrating to New Zealand and businesses are incentivised against getting listed for the benefit of their shareholders.

10. There was no clear consensus on whether an 'unlisted share' was a good proxy for an illiquid asset. Commercial and personal insights from venture-capital and start-up sectors were against this definition, on the basis that listed shares may be illiquid due to reasons including contractual obligations, insufficient market liquidity and employment-related restrictions. There would also be instances where an unlisted share would be liquid, such as unlisted shares readily tradeable on private secondary markets.

Special treatment for double taxation

11. Most submitters agreed double taxation is an issue that needs to be resolved. They favoured the proposal for tax residents subject to double taxation to have the option

to apply the revenue account method to all FIF interests, irrespective of liquidity or whether they were acquired after migrating to New Zealand. However, concerns were raised on the proposed eligibility requirement that a tax resident would need to be subject to double taxation of 15% or more. This is because the capital gains tax rates in relevant foreign jurisdictions are often progressive, which can result in boundary issues as taxpayers may fall below 15% in some years.

12. Should a taxpayer no longer be subject to double taxation (because they renounce their citizenship of the other country), we proposed that they should apply the revenue account method with the same limitations as all other migrants who are not subject to citizenship-basis taxation by another jurisdiction. Submitters supported this proposal, but the opinion was split between whether the taxpayer should also have to perform a "wash-up" calculation to transition all their liquid FIFs to a different FIF method.

Expanding the attributable FIF income method

13. Currently, taxpayers with interests of 10% or more in a FIF may choose to calculate their FIF income under the attributable FIF income method. Under this method, if the FIF passes an active business test, only dividends are taxed. If it does not pass the test, shareholders are taxed on their share of the FIF's passive income as it is earned by the FIF. Any gain from the disposal of the FIF interests is not taxed unless the interest is held on revenue account.

14. One of the three consulted proposals was removing the 10% threshold required to access the attributable FIF income method, provided the shareholder played an active role in the company (such as an employee or director). Submitters who expressed a view did not agree the removal of the threshold would achieve the outcome by itself, with most noting the method was often not available due to the information requirements and complexity.

15. However, there are cases where executives and founders who have used the method fall below 10% shareholding in their company as their stake is diluted during expansion. So while submitters noted the expansion of AFI would not meet the policy aim, the removal of the threshold would allow access to those who have previously used AFI.

Revenue account method

16. The revenue account method taxes FIF interests on dividends received and capital gains on disposal. The consultation paper outlined key discussion points based on the revenue account method only being available to migrants and their illiquid investments acquired before migration.

17. The revenue account method was broadly supported, with submitters believing the method was the simplest and most taxpayer friendly out of the three proposed.

Optionality

18. Most submitters on optionality agreed using the revenue account method should be elective. Common sentiments informing this opinion were about retaining flexibility in the FIF regime so taxpayers could choose the method best suited for their investment portfolio.

Rates

19. Most submitters consider taxing capital gains at the taxpayer's marginal income tax rate too high. Submissions generally advocated for a flat tax rate of no more than 20%, although some advocated for aligning the tax rates with the prescribed

investor rates which are capped at 28% and currently used for portfolio investment entity incomes. Other submissions advocated for the taxable income to be discounted so that only half the FIF income under the revenue account method is taxable. Others suggested inflation-adjusting the cost basis of FIF interests so that only the real gains (rather than nominal gains) are taxed.

Exit tax

20. For the purposes of the revenue account method, the majority of submitters were against deeming a disposal of FIF interests upon the cessation of a person's New Zealand tax residence status. Concerns related to cashflow issues to fund the liability and the resulting disincentive against migration in anticipation of the risk of being 'locked-in' to New Zealand. Those in agreement noted the importance of the exit tax to maintain the integrity of the tax system, though they proposed alternative times for payment. The most common alternative proposed was for the exit tax payable to be deferred until the FIF interest is disposed of, which would mitigate cashflow concerns, but raises compliance issues given the taxpayer would no longer be a New Zealand resident.

Losses

21. Submissions broadly supported allowing losses under the revenue account method and most agreed for these losses to be carried forward into future years. There was general support for losses arising under the revenue account method to be ring-fenced and to only offset FIF income derived under the revenue account method.

Deferral method

22. The proposed third method, the deferral method, would impose the current FIF rules on a realisation basis, similar to how foreign superannuation funds are currently taxed.

23. The method calculates the taxable FIF income at sale by deeming the asset to have been acquired for a cost such that it returns 5% income each year, and adding an interest component to account for the benefit from delaying tax until sale. The FIF income is capped at 100% of the disposal proceeds, reached when the interest is held for more than 26 years.

24. Submissions generally did not support this method with concerns mainly about the method continuing to tax notional income. Secondly, submitters were concerned about the potential for the capital itself to be taxed, rather than just the capital gain, if any. This might mean tax payable under this method would not be creditable in the US as a result it being akin to a wealth tax.

25. A minority of submissions considered the deferral method better suited shares with no readily available market valuation. However, they submitted the method should be introduced in addition to the revenue account method to replace the existing cost method and deemed rate of return method.

Option analysis

26. This reform started as a project to prevent the FIF regime from deterring foreigners and returning New Zealanders with business skill and capital from coming to live in New Zealand. This was in response to a report from the NZIER which highlighted the issue and requested a solution targeted at migrants. As noted by NZIER, the FIF regime was particularly problematic for migrants who have shares they cannot easily sell and for people who remain subject to tax in another country even once they become New Zealand resident (such as US citizens).

27. Although the consultation has brought up other issues with the FIF regime, the original problem was not about the tax rules that apply to New Zealand residents in general on their foreign shares. Trying to make wider changes to the FIF regime to address these issues now risks missing important issues or not engaging with stakeholders about the right issues due to the need for a rapid solution. If the Government wants to consider these wider issues, we recommend it does so as part of a further project so they can be fully considered and consulted on.

28. Accordingly, we recommend implementing the revenue account method on a narrow basis that targets the original problem raised by NZIER. We recommend that the revenue account method would only apply to illiquid FIF interests that were acquired before a person comes to New Zealand, plus follow-on investments and shares acquired as a result of employment while non-resident. FIF interests (liquid or illiquid) acquired after becoming a New Zealand tax resident would generally not be eligible for the revenue account method.

29. We also recommend that New Zealand tax residents who are subject to tax on capital gains on a citizenship basis in another jurisdiction be allowed to apply the revenue account method on all FIF interests. For these taxpayers, there would be no distinction between liquid and illiquid FIF interests acquired before or after coming to New Zealand.

30. We outline below our recommended policy settings. However, some of the technical details of the proposal would require further work. We will report to you on these at a later date.

Eligibility and application date

31. For a person to be eligible for the revenue account method, we recommend the person must have been a non-resident for a period of five years or more. For returning New Zealanders, the revenue account method would not apply to FIF interests acquired before the start of the five year period.

32. We recommend allowing an eligible person who becomes fully tax resident on or after 1 April 2025 to make a one-time election to apply the revenue account method on eligible FIF interests. In this context, "fully tax resident" means someone who is a New Zealand tax resident and is not a transitional resident. So it would apply to people who arrived here up to four years before that date (from 1 April 2021), but whose transitional residence period ended on or after 1 April 2025. These people would be able to elect to apply the revenue account method on eligible FIF interests from 1 April 2025 onwards.

33. We understand that you may wish to include people who came to New Zealand during the COVID-19 lockdowns. An alternative approach is to allow eligible people who becomes fully tax resident on or after 1 April 2024 into the regime. This would cover everyone who came to New Zealand on or after 1 April 2020, provided they meet the other criteria of having been a non-resident for a period of five years or more before coming to New Zealand. This is feasible, though it would create some transitional complexities.

34. Further we recommend that a family trust be able to use the revenue account method if the principal settlor is a person who meets the eligibility criteria for individuals.

35. Eligible taxpayers would be able to make an election in the year they become subject to the FIF regime to return income on their illiquid FIF interests under the revenue account method. If the taxpayer does not make an election, the default method would be to apply the current FIF methods.

Rate

36. We recommend that dividends received from FIF interests under the revenue account method should be taxed the same way as dividends received from other sources. The recipient's marginal income tax rate should apply.

37. While the FIF regime should not be a barrier that discourages people from wanting to move to New Zealand, we do not consider the rates need to be "competitive" with lower-taxed jurisdictions for New Zealand to remain attractive to potential migrants. However, given the lower rates in other countries, we accept that taxing capital gains at the higher marginal rates is likely to make the reform less effective at achieving its goal, especially at the top marginal tax rate of 39%.

38. We therefore recommend that any gain on disposal of FIF interests subject to the revenue account method be discounted by 30% before being taxed at the taxpayer's marginal income tax rate. For a person with a marginal tax rate of 39%, this would reduce the effective tax rate to 27.3%. This is a similar rate to the maximum rate applying to income earned through a portfolio investment entity, including FIF income. The discount would result in a lower effective tax rate for taxpayers whose marginal income tax rate is lower than 39%. A higher discount rate would increase horizontal equity concerns with the proposal, as it would allow migrants to pay significantly less tax on their investments than other New Zealand residents.

Exit taxes on migration

39. We recommend that migration from New Zealand should result in a deemed disposal of FIF interests taxed under the revenue account method. This is an integrity measure that is common in jurisdictions that have a capital gains tax regime.

40. We note that of those who submitted on the point, a majority disagreed with an exit tax and those who support it called for an option to defer it until realisation. Many jurisdictions that have an exit tax have an option for deferring it. For instance, every EU country that has an exit tax allows taxpayers to pay the exit tax over a period of time or to defer paying it until realisation. Similarly, Australia allows taxpayers to defer paying its exit tax until realisation. However, there are obviously compliance challenges in allowing outward migrants to defer paying an exit tax until realisation.

41. Based on our experience with student loans, it becomes very difficult to enforce payment of a tax on a person once they have left New Zealand. On balance, we consider that implementing an exit tax without the option of deferring it is important to the integrity of the revenue account method. However, this is something we could consider further following submissions as part of the Select Committee process.

Losses

42. We recommend that losses arising under the revenue account method should be available to be offset against gains under the revenue account method only. Any net losses for a year should be carried forward to offset revenue account method gains in future years. While some submissions argued that losses arising from the disposal of revenue account items are not usually ring-fenced, we consider that the FIF methods are separate from those principles and that losses should be aligned with how losses, if available, are currently treated under the FIF rules.

Financial implications

43. The fiscal cost (i.e., tax revenue impact) of the revenue account method as proposed in this paper totals $0.150 million over the forecast period.

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	2024/25	2025/26	2026/27	2027/28	2028/29 & Outyears
Tax Revenue: Other persons					
Turning off FIF	0.000	0.000	(0.020)	(0.150)	(0.420)
Replacement tax treatment	0.000	0.000	0.010	0.110	0.320
Total Revenue	0.000	0.000	(0.010)	(0.040)	(0.100)
Total Operating	0.000	0.000	0.010	0.040	0.100

44. We previously reported that the estimated fiscal cost for the revenue account method would be $4.09 million over the forecast period (to 2028/29), rising to $34.59 million over the period to 2033/34 [IR2024/458 refers]. However, this costing did not account for potential revenue that may come from taxing dividends and gain on disposal of interests under the proposed revenue account method. This has been accounted for in the latest costings.

45. We recommend that the non-departmental cost of the proposal be accounted for against the Tax Policy Scorecard.

46. The departmental costs for administering and implementing the revenue account method as proposed total $0.780 million over the forecast period.

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	2024/25	2025/26	2026/27	2027/28	2028/29 & Outyears
One-off implementation	-	0.200	-	-	-
Ongoing administration	-	0.010	0.070	0.150	0.150
Total operating (inc/dec)	-	0.210	0.070	0.150	0.150
Capital injection	-	0.200	-	-	-
Total capital impact (inc/dec)	-	0.200	-	-	-
Total	-	0.410	0.070	0.150	0.150

47. The department has limited capacity to partially-fund or fully-fund initiatives without directly impacting core service delivery, tax revenue, tax debt or system change, and maintenance capacity. Given the relatively small scale of this initiative, the departmental will self-fund this initiative. However, the overall financial impact of all Budget 2025 initiatives will need to be assessed during the Budget process.

Next steps

48. If you agree to proceed with the recommended FIF reform the draft Cabinet paper, subject to your feedback, could be lodged by 10am on Thursday, 20 February for the Cabinet Economic Policy Committee to consider at their meeting on Wednesday, 26 February.

49. If approved, we would aim to include the reform in the next Annual Rates Taxation Bill, usually introduced in August of each year and passed before 31 March the following year. We would report back as part of that Bill process to seek your agreement to the more detailed policy decisions.

Recommended action

We recommend that you:

1. **agree** to add a new method to the foreign investment fund regime which allows for eligible foreign investment fund interests to be taxed on a realisation basis (the revenue account method), which means that only dividends received and gains on sale are taxed.

   Agreed/Not agreed Agreed/Not agreed

2. **agree** that a person would be eligible to apply the revenue account method on eligible foreign investment fund interests only if they have been personally absent from New Zealand for a period of five years or more.

   Agreed/Not agreed Agreed/Not agreed

3. **agree** that the proposal would be available to people that became fully tax resident in New Zealand on or after 1 April 2025, subject to them meeting the eligibility criteria set out in recommendation 2.

   Agreed/Not agreed Agreed/Not agreed

4. **agree** that a family trust would be eligible to apply the revenue account method on eligible foreign investment fund interests if the principal settlor of that trust is eligible pursuant to the criteria set out in recommendations 2 and 3.

   Agreed/Not agreed Agreed/Not agreed

5. **agree** that an eligible person whose foreign investment fund interests are subject to taxation by another jurisdiction on a citizenship basis should be allowed to apply the revenue account method on all foreign investment fund interests, including interests that are liquid and interests acquired after coming to New Zealand, subject to them meeting the criteria set out in recommendations 2 and 3.

   Agreed/Not agreed Agreed/Not agreed

6. **agree** that with the exception of interests referred to in recommendation 5, the revenue account method would only apply to:

   6.1 foreign investment fund interests that are illiquid.

   Agreed/Not agreed Agreed/Not agreed

   6.2 foreign investment fund interests that were acquired while the person was non-resident

   Agreed/Not agreed Agreed/Not agreed

   6.3 certain follow-on investments into foreign investment fund interests made after a person has become New Zealand resident but in relation to investments acquired while non-resident.

   Agreed/Not agreed Agreed/Not agreed

   6.4 foreign investment fund interests acquired as a result of foreign employment.

   Agreed/Not agreed Agreed/Not agreed

7. **agree** that gains or losses on disposal of any foreign investment fund interests would be subject to a 30% discount before being taxed at the taxpayer's marginal income tax rate.

Agreed/Not agreed Agreed/Not agreed

8. **agree** that the revenue account method would apply from 1 April 2025 onwards.

Agreed/Not agreed Agreed/Not agreed

9. **agree** that losses on disposal of any foreign investment fund interests to which the revenue account method is applied are only available to be offset against any gains on disposal of any foreign investment fund interests to which the revenue account method is also applied, with any excess losses carried forward into future years.

Agreed/Not agreed Agreed/Not agreed

10. **agree** that the reform include some form of exit tax which would apply to shareholders who cease to be New Zealand resident while holding shares subject to the revenue account method.

Agreed/Not agreed Agreed/Not agreed

11. **note** that further work on minor, administrative and technical details are still needed and future reporting will seek decisions from you on those details.

Noted Noted

12. **note** the proposal above has a tax revenue fiscal cost of $0.150m over the forecast period.

Noted Noted

13. **agree** for the tax revenue fiscal cost of this proposal to accounted for against the Tax Policy Scorecard.

Agreed/Not agreed Agreed/Not agreed

14. **note** that Inland Revenue will self-fund the cost for administering and implementing the revenue account method, estimated at $0.780 million over the forecast period.

Noted Noted

15. **note** that the financial impact of this initiative and overall financial impact of other Budget 2025 initiatives will need to be assessed during the Budget process.

Agreed/Not agreed Agreed/Not agreed

16. **lodge** the attached draft Cabinet paper, subject to your feedback and any editorial changes made in light of ministerial consultation, with the Cabinet Office by 10am on 20 February for the Cabinet Economic Policy Committee to consider at their meeting on 26 February.

Lodged

17. **refer** a copy of this report to the Minister of Immigration for their information.

Referred/Not referred Referred/Not referred

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

Referred/Not referred | Referred/Not referred

s 9(2)(a)

[redacted]

Sam Rowe
Policy Lead
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: Foreign Investment Fund – Phase One technical decisions

Date:	23 May 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/233

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	26 May 2025
Minister of Revenue	**Agree** to recommendations	26 May 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Sam Rowe	Policy Lead	s 9(2)(a)	☐
Casey Plunket	Special Policy Advisor	s 9(2)(a)	☒

23 May 2025

Minister of Finance
Minister of Revenue

Foreign Investment Fund – phase one technical decisions

Executive summary

Purpose

1. This report seeks your joint approval on technical decisions relating to the first phase of the foreign investment fund (FIF) reform. Although these are technical, three of them in particular are important to the robustness of the reform.

Context and background

2. Cabinet has approved the introduction of a new method (the revenue account method) to the FIF regime that allows eligible FIF interests to be taxed on a realisation basis [*CAB-25-MIN-0061 refers*]. The key policy design parameters approved are outlined in Appendix One.

3. You were delegated authority to jointly make minor, administrative, and technical policy decisions to give effect to the new method. This report seeks your joint agreement to these decisions. These changes, if approved, will be implemented via the Taxation (Annual Rates for 2025-26) Bill, scheduled to be introduced in August this year, as a first phase of tax reform to reduce tax barriers to the further development of New Zealand's start up and tech sectors.

Key issues and officials' recommendations

4. Three key issues covered in this report are:

   4.1 Whether to decrease the tax on gains from sale by giving a 50% discount, rather than the previously agreed 30%, following feedback from stakeholders. We recommend staying with the 30% discount previously approved by Cabinet.

   4.2 The length of the absence test to determine a returning migrant's eligibility to apply the revenue account method. We recommend five years.

   4.3 Detailed design of the exit tax. We recommend focusing this measure so that it serves as an anti-abuse measure targeting people who sell their shares within a relatively short period after leaving. We recommend that gains arising from disposal within three years of a person leaving New Zealand be taxable.

Consultation

5. Officials released a technical issues paper to a targeted group of stakeholders on 23 April 2025. The recommendations in this paper have been made with regard to the feedback we received.

Next steps

6. If you decide to seek Cabinet's approval to increase the discount rate to 50%, we will include this in the Omnibus Cabinet paper regarding the Taxation (Annual Rates for 2025-26) Bill. The Omnibus Cabinet paper is scheduled for reporting to you in June and would be considered by the Cabinet Economic Policy Committee on 25 June 2025, subject to your approval.

7. If you decide to proceed with the already-agreed 30% discount rate, we will begin working on the draft legislation for inclusion in the Taxation (Annual Rates for 2025-26) Bill.

Background and context

Background

8. On 10 March 2025, Cabinet approved the introduction of a new method (the revenue account method, or 'RAM') to the foreign investment fund (FIF) regime that would allow eligible FIF interests to be taxed on a realisation basis [*CAB-25-MIN-0061 refers*] instead of the current attribution basis. The key policy design parameters approved are outlined in Appendix One.

9. Cabinet delegated you authority to jointly make minor, administrative, and technical policy decisions that give effect to the new method. This includes decisions on the exact period of non-residency required for eligibility and the detailed design of an exit tax as an integrity measure.

10. These changes, if approved, will be implemented via the Taxation (Annual Rates for 2025-26) Bill (the Bill) as a first phase of tax reform ('Phase One') to reduce tax barriers to the further development of New Zealand's start up and tech sectors. The Bill is scheduled to be introduced in August.

11. s 9(2)(f)(iv) [redacted]

12. Officials released a technical issues paper to a targeted group of stakeholders on 23 April 2025. This report seeks your agreement on the proposals canvassed in the paper having regard to the feedback we received.

Policy objective and framework

13. The FIF rules were introduced in the 1980s to reduce a tax-driven incentive for New Zealand tax residents to invest in foreign companies rather than domestic ones. While stakeholders broadly agree that the FIF rules have a disincentivising effect on migrants looking to come to and stay in New Zealand, those working in the tax industry also agreed that the original purpose of the FIF rules is still valid, and the rules continue to serve a useful function.

14. In our analysis and in making our recommendation, we have tried to balance the competing objectives of providing a concession to reduce the effect of the FIF rules on migration decisions and maintaining the integrity of the tax base.

Policy settings

Rates

15. We previously reported that the feedback we received from public consultation was that a discount on capital gains tax would be required to align with what investors would generally experience in other countries [*IR2025/007 refers*]. We recommended a 30% discount (technically, only 70% of the gain is taxed) to bring the effective tax rate for a taxpayer on a 39% marginal tax rate down to 27.3%. This broadly aligns with the rate an investor would expect to pay if they invested through a portfolio investment entity (PIE). Further, a lower rate would set an undesirable precedent of introducing distortionary concessions in the tax system, especially if the revenue account method is made available to a wider group.

16. In making our recommendation, we also consulted with a representative of the key group of stakeholders who have been the most vocal in advocating for this reform. The outcome from this feedback was that a 30% discount likely struck the right balance between the administrative and integrity needs of our tax system and achieving the policy objectives [*BN2025/051 refers*].

17. However, in our recent targeted consultation, key stakeholders raised concerns that a 30% discount would not go far enough to reduce the FIF rules as a barrier to migration. The feedback was that our top effective tax rate needs to be broadly in line with the top tax rate in the US (20%).

18. This would require a 50% discount on the taxable amount, which would reduce the effective tax rate for a taxpayer on the top marginal tax rate to 19.5%. While a more generous tax rate may, at the margins, improve New Zealand's attractiveness as a migration destination, we outline other considerations below.

s 9(2)(f)(iv) [redacted]

[redacted]

[redacted]

Recommendation

21. We recommend no change to the 30% discount already approved by Cabinet. While we understand that a larger discount may be a requirement for some potential migrants, aligning the effective rate with the top PIE rate will minimise distortions in our tax system s 9(2)(f)(iv) [redacted]

22. If you would prefer to pursue a 50% discount, noting this would cost $448,000 more than a 30% discount, you would need seek Cabinet's approval as it has agreed to a 30% discount.

Cost base

23. We consulted on two methods for determining the cost basis in our issues paper:

   23.1 Market valuation method – obtain an independent valuation of the shares on the date the person elects to apply the RAM; or

   23.2 Apportion the taxable gain or loss on disposal so that the taxpayer is only taxed on the portion attributed to their period of residence in New Zealand.

24. A suggestion we received during targeted consultation was to set the cost base to original cost, so that all gains or losses are taxed, not just the portion that accrued while the person was resident in New Zealand. This gets around the complexities of obtaining market valuation and a need for rules around resetting cost bases for those who leave and then return to New Zealand. It will generally result in more New Zealand tax, but for New Zealand residents who are also taxable in another

country (primarily US citizens) this tax may well be creditable against the tax in that other country.

25. We expect the market valuation method to be the method that most people would be familiar with and best aligns with capital gains tax regimes around the world. As such, we do not expect this method to unduly increase compliance cost.

26. The main advantage of the apportionment method is its simplicity, similar to the original cost method. As the gains and losses are apportioned, the risk of taxing gains accrued before the migrant came to New Zealand is mitigated.

Recommendation

27. We recommend that the market valuation method be the default method, with the apportionment method available to use if the market value of the FIF interest can only be determined by an independent valuation.

28. However, if you decide to increase the discount rate to 50%, then we would recommend allowing only the original cost method for determining the cost base.

Exit tax

29. Cabinet agreed to include some form of exit tax to buttress the integrity of the reform. An exit tax imposes a tax on a deemed sale of foreign shares when a person loses NZ tax residence.

30. Feedback from stakeholders on an exit tax has generally been negative. While stakeholders have acknowledged that exit taxes are necessary to maintain the integrity of a regime that taxes gains on disposal, it is a factor that would turn some migrants away. However, most jurisdictions that have a capital gains tax also have an exit tax. Of those, a number have some form of deferral mechanism that allows the taxpayer to defer the payment until disposal or death.

Recommendation

31. To address stakeholder concerns, we propose that any foreign shares held on the RAM account be taxable if disposed within three years of the taxpayer leaving New Zealand. This is a more generous approach because after three years there would be no tax liability.

Extended RAM

Eligibility

32. We previously recommended that an eligible person who is subject to concurrent taxation by another jurisdiction on a citizenship basis should be allowed to apply the RAM on all FIF interests ("extended RAM").

33. It has come to our attention that a US Green Card holder, who are not US citizens, are still subject to US taxation on their worldwide income regardless of residence.

Recommendation

34. We recommend clarifying the eligibility rule so that a person may be eligible for extended RAM if they are generally liable to tax in another country on disposal of

FIF interests on the basis of their citizenship or rights to reside and work, regardless of their tax residence in New Zealand.

Tax treaty network

35. There is a risk that a person could claim the benefit of the extended RAM on the basis that they are resident of a country that has a very low rate of tax on gains, or on a basis that is otherwise problematic. We are not aware of any such country, but we cannot be familiar with the tax regime of every single country.

Recommendation

36. We recommend limiting the extended RAM to residents subject to tax on the basis of their citizenship or rights to reside and work regardless of their tax residence in New Zealand, in another country with which New Zealand has a tax treaty.

Change of circumstances

37. The extended RAM for liquid FIFs is concessionary but appropriate because the taxpayer is subject to concurrent taxation in another jurisdiction. Therefore, it is appropriate to rescind the concession allowing the RAM to be applied to liquid FIFs once the taxpayer is no longer subject to concurrent taxation.

38. For a US citizen or Green Card holder, this would occur when the taxpayer gives up their citizenship or Green Card. We anticipate a significant majority of US migrants will be subject to an exit tax upon the forfeiture, for which the deemed sale will provide a tax credit against the US exit tax. If we wait for an actual sale before imposing New Zealand tax, it may be more difficult for the person to claim a credit against the US exit tax paid in an earlier year. There may be no US tax creditable against New Zealand tax on a subsequent sale since the US tax is imposed on the basis of citizenship rather than source. Therefore, New Zealand not deeming a disposal of liquid FIF interests when the taxpayer must pay a US exit tax may give rise to an increased risk of double taxation.

Recommendation

39. If a person loses eligibility for the extended RAM, we recommend deeming a disposal on all liquid FIF interests, after which those interests would be taxed under an existing FIF methods (such as the fair dividend rate). All illiquid FIF interests would remain taxable under the RAM.

Absence test

40. One of the eligibility requirements to use the RAM is that the taxpayer must have been a non-resident for a number of years. Cabinet has delegated you the authority to jointly decide this number.

41. Migrants who have never been a New Zealand tax resident would not be affected by the absence test. This test would only affect returning New Zealanders and returning migrants.

42. The number of years should not be so low that people are incentivised to leave New Zealand to gain access to the RAM. The number of years should also be sufficiently high that the returning New Zealander or migrant has had the opportunity to accrue the relevant skills, connections, or capital.

Recommendation

43. We recommend a period of five years. Five years strikes an appropriate balance between allowing people with the right skills, connections, or capital to access the RAM, and maintaining the integrity of the measure and not incentivising New Zealanders to leave.

Temporary departure

44. A person who is eligible for the RAM may subsequently become non-resident. If the period of non-residence is less than the period required to satisfy the absence test, there is a question as to the person's eligibility to use the RAM upon their return. This is not an issue that affects a person who comes to New Zealand, leaves for a period longer than the absence test, then comes back as they would be eligible for the RAM upon their re-entry.

45. In the event that a person loses their eligibility to use the RAM when they re-enter New Zealand, there is a further question around what happens to the foreign shares that were previously held on the RAM account before they left New Zealand.

46. We think that absence should have no impact on the continued eligibility for the RAM of shares that were eligible for the RAM before the person temporarily departed. However, if the person departs for less than five years, illiquid shares acquired during that second period should not qualify for the RAM. However, a different rule for people who are eligible for the extended RAM is warranted as losing this eligibility would affect all shares (liquid and illiquid) acquired after their re-entry.

Recommendation

47. We recommend that the eligibility of shares for the RAM be preserved when a person returns to New Zealand. That is:

    47.1 FIF interests that are eligible for the RAM before their departure would continue to be eligible for the RAM upon their return at the same cost basis.

    47.2 FIF interests that were not eligible for the RAM before their departure would continue to be ineligible for the RAM upon their return.

48. For taxpayers who are eligible for the extended RAM, it does not seem justified for them to lose this eligibility simply because they have temporarily left New Zealand. We therefore recommend that taxpayers who are eligible for the extended RAM maintain their eligibility even after temporary non-residence.

Election

49. Cabinet has agreed for the RAM to be elective. However, there is a question around whether the election would apply on a share-by-share basis or on a portfolio basis. There is also the matter of whether the election should be permanent.

50. Applying the RAM on a portfolio basis would be administratively simpler and prevents cherry-picking. However, this means that making the election permanent may be considered too punitive – especially as the taxpayer would need to make this election as soon as they become subject to the FIF rules. This is particularly relevant for those who are eligible to apply the extended RAM, as it can be applied to all FIF interests and a taxpayer's portfolio is likely to change over time.

Recommendation

51. We recommend that an election to apply the RAM would apply on a portfolio basis and not permanently. This means that the taxpayer may elect to apply the RAM and could later elect to apply another FIF method instead. Electing out of RAM would be a deemed disposal event and the eligible FIF interests would be deemed to have been disposed at market value (otherwise taxpayers could avoid being taxed by electing into another method immediately prior to disposal).

Corporate re-organisation

52. Many countries with capital gains tax have rules to allow a person whose shares are replaced in whole or part with other shares following a corporate re-organisation, to ignore the transaction for tax purposes. The new assets have the same basis as those replaced, so this is a deferral of paying tax on any capital gains rather than a permanent exemption. New Zealand does not have highly developed rules in this respect, largely because of our lack of a capital gains tax.

53. These kinds of transactions can be problematic for New Zealand shareholders, since we do not have equivalent rules, and the rules we do have (for example, defining whether a transaction gives rise to a dividend) often give very different results from foreign rules. This issue is particularly relevant for people subject to concurrent taxation in another jurisdiction as this could give rise to different tax results for the same interest.

Recommendation

54. We recommend that in a corporate re-organisation where the shareholder does not have any significant influence on the outcome, the tax law of the country whose law governs the re-organisation is applied to determine whether the re-organisation gives rise to a disposal, a dividend, both, or neither under the RAM. This would only apply to people who are eligible to apply the extended RAM.

Financial implications

55. The fiscal cost of the RAM, with the 30% discount and a five-year absence requirement, would be $1.381 million over the forecast period.

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Tax Revenue: Other Persons tax (turning off FIF)	0.000	0.000	(0.100)	(0.750)	(2.100)
Other Persons tax (replacement tax treatment)	0.000	0.000	0.053	0.399	1.117
Net effect	0.000	0.000	(0.047)	(0.351)	(0.983)
Total Operating	**0.000**	**0.000**	**0.047**	**0.351**	**0.983**

56. The fiscal cost of the RAM, with a 50% discount and a five-year absence requirement, would be $1.829 million over the forecast period.

	$ million increase / (decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Tax Revenue: Other Persons tax (turning off FIF)	0.000	0.000	(0.100)	(0.750)	(2.100)
Other Persons tax (replacement tax treatment)	0.000	0.000	0.038	0.285	0.798
Net effect	0.000	0.000	(0.062)	(0.465)	(1.302)
Total Operating	**0.000**	**0.000**	**0.062**	**0.465**	**1.302**

57. Cabinet has already agreed for the fiscal impact to be accounted for on the Tax Policy Scorecard.

58. s 9(2)(f)(iv) [redacted]

Administrative implications

59. The departmental costs to administer and implement the proposed changes remain at $0.780 million over the forecast period.

60. The department has limited capacity to partially-fund or fully-fund initiatives without directly impacting core service delivery, tax revenue, tax debt or system change, and maintenance capacity. Given the relatively small scale of this initiative, the departmental will self-fund this initiative.

Consultation

61. The Treasury was informed of this report.

62. We engaged with the following stakeholders on the technical issues paper:

62.1 Acclime

62.2 Chartered Accountants Australia and New Zealand

62.3 Corporate Taxpayers Group

62.4 Deloitte

62.5 DLA Piper

62.6 EY

62.7 KPMG

62.8 Lane Neave

62.9 MinterEllisonRuddWatts

62.10 New Zealand Institute of Economic Research

62.11 New Zealand Law Society

62.12 Oliver Shaw

62.13 Peter Loerscher International Tax Ltd

62.14 PwC

62.15 s 9(2)(a)

62.16 Russ + Associates

Next steps

63. If you decide to seek Cabinet's approval to increase the discount rate to 50%, we will include this in the Omnibus Cabinet paper regarding the Taxation (Annual Rates for 2025-26) Bill. The Omnibus Cabinet paper is scheduled for reporting to you in June and would be considered by the Cabinet Economic Policy Committee on 25 June 2025, subject to your approval.

64. If you decide to proceed with the already-agreed 30% discount rate, we will begin working on the draft legislation for inclusion in the Taxation (Annual Rates for 2025-26) Bill.

Recommended action

We recommend that you:

1. **indicate** which discount rate you wish to adopt.

	Minister of Finance	*Minister of Revenue*
30% discount rate (recommended option)	Yes/No	Yes/No
50% discount rate	Yes/No	Yes/No

2. **note** that choosing to adopt a 50% discount rate would require approval by Cabinet.

   Noted Noted

3. **note** that adopting a 30% discount rate would cost $1.381 million over the forecast period, while adopting a 50% discount would cost $1.829 million over the forecast period.

   Noted Noted

4. **indicate** which of the cost base methods you wish to adopt.

	Minister of Finance	*Minister of Revenue*
Market valuation method and the apportionment method (recommended option)	Yes/No	Yes/No
Original cost method	Yes/No	Yes/No

5. **note** that officials recommend the original cost method if you wish to adopt a 50% discount rate.

   Noted Noted

6. **agree** that when a person becomes a non-resident, they are only taxed on gains arising from the disposal of foreign shares made within three years of the beginning of their non-residency.

   Agreed/Not agreed Agreed/Not agreed

7. **agree** that a person may apply the revenue account method to all foreign shares if they are generally liable to tax in another country on disposal of those shares on the basis of their citizenship or a right to work and live in that country ("concurrent taxation").

   Agreed/Not agreed Agreed/Not agreed

8. **agree** that a person must be subject to concurrent taxation in another country that is a tax treaty partner with New Zealand to be eligible to apply the revenue account method to all foreign shares.

   Agreed/Not agreed Agreed/Not agreed

9. **agree** that there should be a deemed disposal of all liquid foreign shares when a person loses their eligibility to apply the revenue account method on all their foreign shares.

Agreed/Not agreed Agreed/Not agreed

10. **agree** that a person must be a non-resident for five years to be eligible for the revenue account method.

Agreed/Not agreed Agreed/Not agreed

11. **agree** that the treatment of foreign shares is preserved when a migrant leaves New Zealand and later returns.

Agreed/Not agreed Agreed/Not agreed

12. **agree** that migrants who are eligible to apply the revenue account method on all foreign shares would not lose this eligibility if they leave New Zealand and then return.

Agreed/Not agreed Agreed/Not agreed

13. **agree** that an election to apply the revenue account method should apply on a portfolio basis.

Agreed/Not agreed Agreed/Not agreed

14. **agree** that the taxpayer should be allowed to elect out of the revenue account method and that there is a deemed disposal when they make that election.

Agreed/Not agreed Agreed/Not agreed

15. **agree** that for a person who is subject to concurrent taxation in another jurisdiction and is eligible to apply the revenue account method to all of their foreign shares, the tax treatment in New Zealand of a corporate re-organisation is aligned with the tax treatment in the other tax jurisdiction.

Agreed/Not agreed Agreed/Not agreed

s 9(2)(a)

Casey Plunket
Special Policy Advisor
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Appendix One – Summary of Cabinet decisions already made

1. Introduction of a new method (the revenue account method (RAM)) to the FIF regime that allows eligible FIF interests to be taxed on a realisation basis, which will apply from 1 April 2025 onwards.

2. Under the RAM, taxable FIF income will only be dividends received and **70%** of gains on sale (i.e., a 30% discount), which will be taxed at the taxpayer's marginal income tax rate.

3. Taxpayers would be eligible to use the RAM for specified FIF interests if:

   3.1 they have been a non-resident for New Zealand tax purposes for a number of years to be decided jointly by the Minister of Finance and the Minister of Revenue; and

   3.2 they became fully tax resident in New Zealand on or after 1 April 2024.

4. Family trusts whose principal settlor meets the eligibility criteria described in paragraphs 3.1 and 3.2 are also eligible to use the RAM for specified FIF interests.

5. Eligible FIF interests for the RAM will be:

   5.1 illiquid FIF interests acquired while the taxpayer was non-resident for New Zealand tax purposes;

   5.2 certain follow-on investments into FIF interests made after the taxpayer became New Zealand tax resident, but in relation to investments acquired before coming to New Zealand; and

   5.3 FIF interests acquired as a result of overseas employment.

6. Taxpayers who meet both of the criteria outlined in 3.1 or 3.2 who are subject to taxation in another jurisdiction on a citizenship basis would be able to apply the RAM on all FIF interests, rather than just the FIF interests outlined in paragraph 4.

7. Losses arising from disposal of FIF interests to which the RAM applied will only be available to offset any gains on disposal of other FIF interests to which the RAM is applied, with any excess losses carried forward into future years.

8. Some form of exit tax would apply to taxpayers who cease to be New Zealand tax residents while holding FIF interests to which the RAM applied.

In confidence

Office of the Minister of Finance

Office of the Minister of Revenue

Chair, Cabinet Economic Policy Committee

CHANGES TO THE FOREIGN INVESTMENT FUND RULES

Proposal

1 This paper seeks the Cabinet's agreement to amend the foreign investment fund (FIF) rules to make New Zealand a more attractive destination for desirable migrants.

2 Primarily, the proposal adds a new method to the FIF regime that allows new migrants to be taxed on a realisation basis for illiquid FIF interests they acquired prior to their migration to New Zealand. Included in this proposal is for this new method to also be available for all FIF interests held by a person who remains subject to taxation on those interests in another country on a citizenship basis.

3 Should Cabinet agree to the proposals, a further programme of work on related tax policy issues will be pursued to further enhance New Zealand's appeal to talented and desirable migrants and also to ensure that other residents are not discouraged by the tax rules from staying in New Zealand.

Relation to Government priorities

4 This proposal supports the Government's focus on growing the economy by amending our tax system to remove a barrier to migration. It targets areas of the FIF rules that disincentivise highly skilled, well connected and wealthy migrants – particularly in the technology and start-up sector, from coming to and staying in New Zealand.

Executive summary

5 Inland Revenue officials were directed to release an issues paper to engage in public consultation on a proposal to reduce tax barriers to attracting and retaining desirable migrants in New Zealand. The proposals outlined in the issues paper focused on the challenges imposed by the FIF regime, as it was commonly said to be the most serious barrier, for instance by the New Zealand Institute of Economic Research in their paper published April 2024.

6 The current FIF rules that generally tax deemed or notional income were said to be unattractive to migrants not only due to their uniqueness, but also due to difficulties relating to double taxation and funding the FIF tax liability.

7 We therefore propose the introduction of a new calculation method in the FIF regime - the revenue account method. This method will be available for use by new migrants for their pre-migration illiquid FIF investments. It will allow these investments to be taxed on a realisation basis. New Zealand residents subject to citizenship-based taxation in another jurisdiction and therefore exposed to risks of double taxation on their FIF interests, will be able to apply the method to all their FIF interests.

8 If Cabinet agrees to these changes, we propose for the fiscal cost of $1.933 million (at maximum) over the forecast period to be funded via the scorecard and legislated via the Taxation (Annual Rates for 2025-26) Bill. Using this Bill as the legislative vehicle will provide officials with the opportunity to further consult with stakeholders to ensure the technical design and parameters are fit for purpose.

9 Throughout public consultation, related tax policy issues within and outside of the FIF regime were raised as barriers to migration to and staying in New Zealand. Further policy work will therefore be undertaken to consider certain other changes to complement the proposed reform.

Background

10 The FIF regime was introduced in the late 1980s to remove the tax-driven incentive for New Zealand residents to invest in foreign enterprises (where in the absence of the FIF regime, generally only dividends would be subject to New Zealand tax) over domestic ones. Since 2007, the rules achieve this by taxing residents at their marginal rate on either 5% of the value of the FIF interest at the beginning of the year or (for natural persons) their actual gains if the total return from their FIF portfolio is lower than 5%. Net losses are generally not deductible.

11 These settings are now said to be discouraging desirable migrants from coming to and staying in New Zealand, for instance by the New Zealand Institute of Economic Research in their paper published April 2024, 'The place where talent does not want to live'.

12 In December last year, Inland Revenue released an issues paper for public consultation on the effects of the FIF rules on immigration and three possible solutions. Public consultation on the proposals opened on 6 December 2024 and closed on 27 January 2025. Ninety-eight written submissions were received.

13 The submissions generally agreed that the FIF rules significantly disincentivise migration. Many taxpayers preferred being taxed on a realisation basis rather than on a notional basis, especially objecting against being taxed on investments on which they ultimately suffer an economic loss. Furthermore, many inbound migrants are more accustomed to a capital gains tax as this is the approach in their home jurisdiction.

14 From a practical standpoint, taxing notional income can give rise to liquidity issues, if those investments do not pay enough dividends to cover the tax liability and are hard to sell. For such FIF interests, taxpayers have to fund their FIF tax liability with other assets or borrowing. Taxpayers may also face double taxation, with the most issues arising for United States (US) citizens.

15 After considering the submissions, we are proposing some FIF reforms to improve New Zealand’s appeal to desirable migrants.

Revenue account method

General proposal

16 We propose adding a new method to the FIF regime (the revenue account method). The revenue account method would allow eligible taxpayers to elect for certain FIF interests to be taxed on a realisation basis. This means that only dividends received from those FIF interests and any gains on disposal of those interests are taxable.

17 We propose for the revenue account method to only apply to illiquid FIF interests that were acquired before a person comes to New Zealand. FIF interests acquired after the person comes to New Zealand would not be eligible to be taxed under the revenue account method. However, we propose an exception be made for follow-on investments made in illiquid FIF interests that were acquired pre-migration and for illiquid FIF interests acquired post-migration as a result of pre-migration employment. The first exception accounts for circumstances under which a migrant New Zealand tax resident is required to continue investing in illiquid FIF interests due to an agreement made prior to coming to New Zealand.

18 The method does not generally apply to investments in listed companies, as these are easy to value and easy to sell if the person either needs cash to pay the FIF tax, or does not want to be subject to tax on notional income (the same choice other residents face).

19 There is an important exception to the pre-migration and unlisted requirements. We propose that residents who are subject to tax on their FIF investments on a citizenship basis in another jurisdiction be allowed to apply the revenue account method on all FIF interests. This proposal would primarily apply to migrants from the United States (US), who generally remain subject to US capital gains tax on all assets sold, regardless of being tax resident elsewhere. As they are subject to taxation based on their citizenship rather than where they actually reside, they face the risk of double taxation on all FIF interests if the New Zealand tax they pay is not creditable against the US tax. Under the current FIF rules, there is some uncertainty about this. Moving to the revenue account method should resolve this issue.

20 As the proposed reform is targeted towards attracting and retaining migrants, we propose that the revenue account method be available only to individuals and certain trusts.

Eligibility and application date

21 For a person to be eligible for the revenue account method, we propose that the person must have been a non-resident for a period of less than ten years, with the exact length to be agreed between the Minister of Finance and the Minister of Revenue. For returning New Zealanders, they would not be able to apply the revenue account method on illiquid FIF interests acquired while they were still a New Zealand resident or while they were away from New Zealand for a period of less than that. We propose for the Minister of Finance and the Minister of Revenue to be delegated authority to approve the exact period of absence required.

22 We propose that a person who meets the absence test and becomes fully tax resident on or after 1 April 2024 is able to use the revenue account method. In this context, "fully tax resident" means someone who is a New Zealand tax resident and is not a transitional resident. Transitional residence is available for the first four years of a migrant's residence here and generally exempts them from New Zealand taxation on foreign sourced income that is not from personal services. This proposal would mean that an existing migrant New Zealand resident whose transitional resident status expired before this date would be treated the same way as a person who has always been in New Zealand and would not be eligible to use the revenue account method.

23 A family trust may use the revenue account method in relation to an eligible investment if the principal settlor is a person who meets the proposed eligibility criteria for individuals.

Election

24 We propose that the revenue account method be elective so taxpayers retain the flexibility to choose the best FIF method for their particular portfolio of investments. Eligible taxpayers would have to make an election in the first year they become subject to the FIF regime.

Rate

25 The broad consensus from public consultation on Inland Revenue's issues paper is that taxing gains on disposal of FIF interests at the taxpayer's marginal tax rate would not achieve the goal of the reform, particularly at the higher rates. This is because capital gains are generally taxed at a discounted rate internationally. We consider that a lower effective tax rate is warranted to achieve the policy objective of reducing tax barriers for highly desirable non-residents to move to New Zealand.

26 Accordingly, we propose that any gain on disposal of FIF interests subject to the revenue account method be discounted by 30% before being taxed at the taxpayer's marginal income tax rate. For a person with a marginal tax rate of 39%, this would reduce the effective tax rate to 27.3%. This is a similar rate to the maximum rate applying to income earned through a portfolio investment entity, including FIF income.

Exit tax on migration

27 We propose that migration from New Zealand should, at least in some circumstances result in a deemed disposal of FIF interests taxed under the revenue account method, so that unrealised gain or loss up to that point would be subject to tax. This is an integrity measure that is common in jurisdictions which have a capital gains tax regime. The terms of an exit tax require further work, and we ask that determining these terms be delegated to the Ministers of Finance and Revenue.

Losses

28 We propose that net losses arising under the revenue account method should be available to be offset against gains arising under the revenue account method only.

29 We also propose that taxpayers be able to carry these losses forward to offset gains in future years.

s 9(2)(f)(iv)

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Financial implications

33 The fiscal cost of the introduction of the revenue account method for migrants' pre-migration illiquid FIF interests will depend on the number of years required for returning New Zealanders to be personally absent from New Zealand to qualify as a migrant.

34 Should the Minister of Finance and Minister of Revenue decide to require 5 years of absence, the proposal would have a fiscal cost of $1.381 million over the forecast period.

	$ million increase / (decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Tax Revenue: Other persons					
Turning off FIF	0.000	0.000	(0.100)	(0.750)	(2.100)
Replacement tax treatment	0.000	0.000	0.053	0.399	1.117
Total Revenue	0.000	0.000	(0.047)	(0.351)	(0.983)

Total Operating	**0.000**	**0.000**	**0.047**	**0.351**	**0.983**

35 Should the Minister of Finance and Minister of Revenue decide to require 3 years of absence, the proposal would have a fiscal cost of $1.933 million over the forecast period.

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Tax Revenue: Other persons					
Turning off FIF	0.000	0.000	(0.140)	(1.050)	(2.940)
Replacement tax treatment	0.000	0.000	0.074	0.559	1.564
Total Revenue	0.000	0.000	(0.066)	(0.491)	(1.376)
Total Operating	**0.000**	**0.000**	**0.066**	**0.491**	**1.376**

36 The fiscal costs will be accounted for on the Tax Policy Scorecard.

37 The fiscal costs do not include any increase in tax revenue due to migrants who choose to come here as a result of the change. Officials have no sound basis to estimate the scale of any behavioural change arising out of the FIF changes, so this has not been included in the fiscal estimate.

38 The departmental costs for administering and implementing the revenue account method as proposed total $0.780 million over the forecast period. Inland Revenue will self-fund this initiative.

	$ million increase / (decrease)				
Inland Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
One-off implementation	-	0.200	-	-	-
Ongoing administration	-	0.010	0.070	0.150	0.150
Total operating (inc/dec)	**-**	**0.210**	**0.070**	**0.150**	**0.150**
Capital injection	-	0.200	-	-	-
Total capital impact (inc/dec)	**-**	**0.200**	**-**	**-**	**-**
Total	**-**	**0.410**	**0.070**	**0.150**	**0.150**

Legislative implications

39 Implementing these proposals require changes to the Income Tax Act 2007 and the Tax Administration Act 1994.

40 If approved, we propose including the legislative changes resulting from these recommendations in the Taxation (Annual Rates for 2025-26) Bill, anticipated for introduction in August 2025.

Impact analysis

Regulatory impact assessment

41 The Ministry for Regulation has determined that this proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts.

Climate implications of policy assessment

42 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal, as the threshold for significance is not met.

Population implications

43 The proposals are not expected to have any undue implications for specific demographics in New Zealand.

Human rights

44 There are not human rights implications associated with the proposals.

Consultation

45 The Treasury was consulted on this paper.

46 An officials' consultation paper was published on 6 December 2024 for public consultation and closed 27 January 2025. Ninety-eight written submissions were received and analysed to inform the proposal.

Communications

47 The proposal will be announced at the New Zealand Infrastructure Investment Summit, to be held 13 – 14 March 2025. Further commentary on the proposal will be released with the Taxation (Annual Rates for 2025-26) Bill's commentary. Inland Revenue will include details of the new legislative provisions giving effect to the proposals in a *Tax Information Bulletin* after the Bill is enacted.

Proactive release

48 We propose for this Cabinet paper, associated minutes and key advice papers to be released as part of the Budget 2025 proactive release.

Recommendations

We recommend that the Committee:

1 **agree** to add a new method to the foreign investment fund regime which allows for specified foreign investment fund interests to be taxed on a realisation basis (the revenue account method), which means that only dividends received and gains on sale are taxed.

2 **agree** that a person would be eligible to apply the revenue account method on eligible foreign investment fund interests only if they have been personally absent from New Zealand for a period to be agreed between the Minister of Finance and the Minister of Revenue.

3 **agree** that the proposal would be available to people that became fully tax resident in New Zealand on or after 1 April 2024, subject to them meeting the eligibility criteria referred to in recommendation 2.

4 **agree** that a family trust would be eligible to apply the revenue account method on eligible foreign investment fund interests if the principal settlor of that trust is eligible pursuant to the criteria set out in recommendations 2 and 3.

5 **agree** that an eligible person who is subject to taxation by another jurisdiction on a citizenship basis should be allowed to apply the revenue account method on all foreign investment fund interests, including interests that are liquid and interests acquired after coming to New Zealand, subject to them meeting the criteria set out in recommendations 2 and 3.

6 **agree** that with the exception of interests referred to in recommendation 5, the revenue account method would only apply to:

6.1 foreign investment fund interests that are illiquid and acquired while the person was non-resident.

6.2 certain follow-on investments into foreign investment fund interests made after a person has become New Zealand resident but in relation to investments acquired before coming to New Zealand.

6.3 Foreign investment fund interests acquired as a result of overseas employment.

7 **agree** that gains or losses on disposal of any foreign investment fund interests would be subject to a 30% discount before being taxed at the taxpayer's marginal income tax rate.

8 **agree** that the revenue account method would apply from 1 April 2025 onwards.

9 **agree** that losses on disposal of any foreign investment fund interests to which the revenue account method is applied are only available to be offset against any gains on disposal of any foreign investment fund interests to which the revenue account method is also applied with any excess losses carried forward into future years.

10 **agree** that the reform include some form of exit tax which would apply to shareholders who cease to be New Zealand resident while holding shares subject to the revenue account method.

11 **authorise** the Minister of Finance and Minister of Revenue to jointly approve minor, administrative and technical policy decisions that give effect to the changes, including the exact period of absence required for eligibility and the detailed design of the exit tax.

12 s 9(2)(f)(iv) [redacted]

Financial implications

13 **note** the fiscal costs of the proposal will depend on the Ministers of Finance and Revenue's decision on the absence test for returning New Zealand residents, though it will have a maximum fiscal impact of $1.933 million on the operating balance and/or net core Crown debt over the forecast period:

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Tax Revenue: Other persons					
Turning off FIF	0.000	0.000	(0.140)	(1.050)	(2.940)
Replacement tax treatment	0.000	0.000	0.074	0.559	1.564
Total Revenue	0.000	0.000	(0.066)	(0.491)	(1.376)
Total Operating	**0.000**	**0.000**	**0.066**	**0.491**	**1.376**

14 **note** the tax revenue fiscal impacts of this proposal would be accounted for on the Tax Policy Scorecard.

15 **note** that Inland Revenue will self-fund the departmental costs to implement and administer these changes estimated at $0.780 million:

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	2024/25	2025/26	2026/27	2027/28	2028/29 & Outyears
Multi-Category Expenses and Capital Expenditure: Services for Customers MCA					
Services to Ministers and to assist and inform customers to get it right from the start	-	0.010	-	-	-
Services to process obligations and entitlements	-	0.200	0.070	0.150	0.150
Total	-	0.210	0.070	0.150	0.150
Inland Revenue Department – Capital Expenditure PLA	-	0.200	-	-	-
Total Operating	**-**	**0.210**	**0.070**	**0.150**	**0.150**
Total Capital	**-**	**0.200**	**-**	**-**	**-**

Authorised for lodgement

Hon Nicola Willis

Minister of Finance

Hon Simon Watts

Minister of Revenue

Cabinet Economic Policy Committee

Minute of Decision

Changes to the Foreign Investment Fund Rules

Portfolio **Finance / Revenue**

On 5 March 2025, the Cabinet Economic Policy Committee:

1 **agreed** to add a new method to the foreign investment fund regime that allows for specified foreign investment fund interests to be taxed on a realisation basis (the revenue account method), which means that only dividends received and gains on sale are taxed;

2 **agreed** that a person would be eligible to apply the revenue account method on eligible foreign investment fund interests only if they have been personally absent from New Zealand for a period to be agreed between the Minister of Finance and the Minister of Revenue;

3 **agreed** that the revenue account method will be available to people that became fully tax resident in New Zealand on or after 1 April 2024, subject to them meeting the eligibility criteria referred to in paragraph 2 above;

4 **agreed** that a family trust will be eligible to apply the revenue account method on eligible foreign investment fund interests if the principal settlor of that trust is eligible pursuant to the criteria set out in paragraphs 2 and 3 above;

5 **agreed** that an eligible person who is subject to taxation by another jurisdiction on a citizenship basis should be allowed to apply the revenue account method on all foreign investment fund interests, including interests that are liquid and interests acquired after coming to New Zealand, subject to them meeting the criteria set out in paragraphs 2 and 3;

6 **agreed** that, with the exception of interests referred to in paragraph 5, the revenue account method will only apply to:

6.1 foreign investment fund interests that are illiquid and acquired while the person was non-resident;

6.2 certain follow-on investments into foreign investment fund interests made after a person has become New Zealand resident but in relation to investments acquired before coming to New Zealand;

6.3 foreign investment fund interests acquired as a result of overseas employment;

7 **agreed** that gains or losses on disposal of any foreign investment fund interests will be subject to a 30 per cent discount before being taxed at the taxpayer's marginal income tax rate;

8 **agreed** that the revenue account method will apply from 1 April 2025 onwards;

9 **agreed** that losses on disposal of any foreign investment fund interests to which the revenue account method is applied are only available to be offset against any gains on disposal of any foreign investment fund interests to which the revenue account method is also applied with any excess losses carried forward into future years;

10 **agreed** that the reform include some form of exit tax which would apply to shareholders who cease to be New Zealand residents while holding shares subject to the revenue account method;

11 **authorised** the Minister of Finance and Minister of Revenue (joint Ministers) to jointly approve minor, administrative and technical policy decisions that give effect to the above changes, including the exact period of absence required for eligibility and the detailed design of the exit tax;

12 s 9(2)(f)(iv) [redacted]

Financial implications

13 **noted** that the fiscal costs of the above decisions will depend on joint Ministers' decisions on the absence test for returning New Zealand residents, though it will have a maximum fiscal impact of $1.933 million on the operating balance and/or net core Crown debt over the forecast period:

	$ million increase / (decrease)				
Vote Revenue Minister of Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Tax Revenue: Other persons Turning off FIF	0.000	0.000	(0.140)	(1.050)	(2.940)
Replacement tax treatment	0.000	0.000	0.074	0.559	1.564
Total Revenue	0.000	0.000	(0.066)	(0.491)	(1.376)
Total Operating	**0.000**	**0.000**	**0.066**	**0.491**	**1.376**

14 **noted** that the tax revenue fiscal impacts of the above decisions will be accounted for on the Tax Policy Scorecard.

Rachel Clarke
Committee Secretary

Present:
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Brooke van Velden
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston
Hon Simon Watts
Hon Chris Penk
Hon Penny Simmonds
Hon Andrew Hoggard
Hon Nicola Grigg
Hon Mark Patterson
Hon James Meager
Hon Scott Simpson
Simon Court MP

Officials present from:
Office of Hon Chris Bishop
Office of Hon Simon Watts
Inland Revenue
Officials Committee for ECO

Cabinet

Minute of Decision

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

Report of the Cabinet Economic Policy Committee: Period Ended 7 March 2025

On 10 March 2025, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 7 March 2025:

Not in scope [redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
ECO-25-MIN-0020	**Changes to the Foreign Investment Fund Rules** Portfolios: Finance / Revenue	CONFIRMED
Not in scope [redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

Rachel Hayward
Secretary of the Cabinet

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: GST and joint ventures – final policy recommendations

Date:	12 June 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/200

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations **Lodge** the attached Cabinet paper	10am Thursday 10 July 2025
Minister of Revenue	**Agree** to recommendations **Refer** this report to the Minister for Racing **Lodge** the attached Cabinet paper	10am Thursday 10 July 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Kerryn McIntosh-Watt	Policy Director	s 9(2)(a)	☐
Shanae Sherriff	Senior Policy Advisor	s 9(2)(a)	☒

12 June 2025

Minister of Finance
Minister of Revenue

GST and joint ventures – final policy recommendations

Executive summary

Purpose

1. Public consultation on the Government discussion document GST and unincorporated joint ventures (the discussion document) closed on 16 May 2025. This report advises you of the submissions received and officials' final policy recommendations.

Background

2. The discussion document proposed changes to the GST rules applying to joint ventures. Joint ventures are taxed as unincorporated bodies, which are treated as separate persons for GST purposes.

3. As outlined in previous advice (IR2024/433 refers), officials consider the current GST rules provide the correct policy outcomes for most unincorporated bodies. However, the current rules do not always provide the correct policy outcomes for joint venture arrangements, due to their unique nature.

4. For instance, when a joint venture is not carrying on a taxable activity so cannot register for GST, the current treatment means that GST on goods and services acquired by the joint venture cannot be claimed even when the goods or services are directly used for making taxable supplies by GST-registered members of the joint venture in their separate taxable activities. This issue commonly arises in the resources industry. For example, participants in oil and gas joint ventures each take a share of the extracted resources and market and sell their share separately, instead of selling the extracted resources jointly. This type of joint venture (where the participants share in the output of the venture and each sell their share separately) is referred to as an "output-sharing" joint venture.

5. Even for non-output-sharing joint ventures (where the members make supplies jointly) that can register for GST, the members (who are often already registered for GST for their own separate activities) may prefer not to also register the joint venture for compliance cost reasons. This is the issue for the racing industry with some of its joint ventures.

6. The discussion document proposed to address these issues by allowing joint ventures to choose to be subject to GST on a "flow-through" basis (meaning each member would account for GST separately, consistent with current practices in the resources and racing industries in particular). This flow-through approach was proposed to apply by default but with the option to instead register the joint venture for GST as an unincorporated body under the current rules.

7. Several other related technical and consequential matters were also considered.

8. Submissions received were generally in favour of the flow-through proposal. However, some submissions raised concerns that have caused officials to amend some of our recommendations.

Policy considerations

9. The flow-through proposal will address the specific policy concerns for output-sharing joint ventures. Therefore, flow-through treatment should apply to these joint ventures without requiring an election for that treatment.

10. However, for non-output-sharing joint ventures (most of which are carrying on a taxable activity and should be registered under the current law), submitters have raised some concerns about the proposed flow-through treatment creating more complexity and, therefore, causing potential confusion and integrity risks.

11. Given these concerns, you could decide to limit the scope of the flow-through proposal to output-sharing joint ventures (instead of allowing joint ventures where the members make supplies jointly to elect for flow-through treatment). This option would have no fiscal impact. This is because, if the proposals only addressed output-sharing joint ventures, they would simply align the law with what taxpayers are currently doing in respect of output-sharing joint ventures. However, we also note that narrowing the scope of the proposals in this manner would not address the racing industry's concerns regarding compliance costs (because their joint ventures would not meet the definition of an "output-sharing" joint venture).

12. Regarding non-output-sharing joint ventures, we recommend the following changes be made to the proposal to reduce confusion, and limit integrity risks:

    - **Reverse the default:** Some submitters suggested that flow-through treatment should not apply by default, because it will result in confusion and complexity for taxpayers who are already complying with the current rules. Therefore, we recommend that for non-output-sharing joint ventures (where the members make supplies jointly), registration as an unincorporated body should be the default, but with the option to elect for flow-through treatment if the parties agree.

    - **Total supplies rule:** The discussion document proposed a "total supplies rule" that would apply when taxable supplies made by the joint venture are over the registration threshold. Under this rule, either the joint venture should register, or the members should all be registered. This is to ensure that GST revenue is not lost due to a member not registering because they are individually below the registration threshold. Some submitters said this rule will increase compliance costs for smaller joint venture members (who would otherwise not have to register) if flow-through treatment is being applied, which could be considered unfair. However, we still consider this rule is necessary as an integrity measure.

    - **Joint and several liability:** Finally, it has been noted that flow-through treatment will mean that the current rules that impose joint and several liability on joint venture members for the joint venture's GST obligations will not apply under the current proposals. It has been noted that this is an integrity risk, with which we agree. Some submitters we have raised this with have said that imposing joint and several liability where members are accounting for GST separately could be seen as extremely unfair, and would make electing for flow-through treatment in this scenario unattractive. However, we recommend that this option be seriously considered as another way to ensure that the concession of allowing flow-through treatment for non-output-sharing joint ventures does not compromise Inland Revenue's ability to collect outstanding GST debt.

13. Applying the flow-through option to all joint ventures will give rise to a prospective fiscal cost of $3.7 million per year (or $12 million across the forecast period including a part-year).

Application date of flow-through rule

14. We recommend that most of the changes take effect on 1 April 2026. The Commissioner has confirmed his intention to exercise his powers of care and management to advise affected taxpayers that there is no intention to review past tax positions that are consistent with the proposals outlined in this report.

15. You could instead decide to legislate a provision that would retrospectively validate such past tax positions, but we do not recommend this because, as a general rule, tax law changes apply prospectively. Therefore, having retrospective application for some taxpayers would set a precedent. It would also have the effect of treating similar taxpayers differently depending on how they applied and interpreted the current law.

Next steps

16. A draft Cabinet paper that reflects officials' recommendations has been appended to this report. This paper can be updated depending on your final decisions. If you agree to the recommendations, the next step would be to lodge the attached Cabinet paper with the Cabinet Office by 10am Thursday 10 July 2025, ahead of the Cabinet Economic Policy Committee (ECO) meeting on 16 July 2025.

Background

17. In April 2025, Cabinet approved the release of the discussion document *GST and unincorporated joint ventures* (the discussion document). Consultation on the discussion document was open for six weeks and closed on 16 May 2025.

18. The discussion document proposed changes to the GST rules applying to joint ventures. Under the Goods and Services Tax Act 1985 (GST Act), joint ventures are unincorporated bodies, which are treated as separate persons for GST purposes.

19. As outlined in previous advice (IR2024/433 refers), we consider the current unincorporated body rules provide the correct policy outcomes for most unincorporated bodies. However, due to the unique nature of a joint venture, the current rules do not always provide the correct policy outcomes for certain joint venture arrangements.

20. When a joint venture is not carrying on a taxable activity, the current treatment means that GST on goods and services acquired by the joint venture cannot be claimed even when the goods or services are directly used for making taxable supplies by GST-registered members of the joint venture in their separate taxable activities. This issue commonly arises in the resources industry. For example, participants in oil and gas joint ventures each take a share of the extracted resources and market and sell their share separately, instead of selling the extracted resources jointly with the other participants. This type of joint venture (where the participants share in the output of the venture and each sell their share separately) is referred to as an "output-sharing" joint venture.

21. Even when a joint venture may be able to register for GST, the members (who are often already registered for GST for their own separate activities) may prefer not to also register the joint venture for compliance cost reasons. This is the concern that has been raised by bloodstock breeders with their joint ventures, of which they estimate there are 6,500 in total.

22. The main proposal in the discussion document was to remove joint ventures from the unincorporated body rules in the GST Act by default. The proposed default treatment would provide for a "flow-through" approach that would allow the members of a joint venture to individually account for GST on any supplies made or received in the course of the venture, consistent with common practices in the resources and racing industries. However, the members could still choose to register the joint venture separately if it is carrying on a taxable activity.

23. In total, nine submissions were received from private sector tax advisors, including Tax System Forum member Geof Nightingale, tax and business advocacy groups, and the racing industry. Submissions were generally supportive of the proposals.

General feedback on the main proposal

24. Submitters on the discussion document generally supported the proposals. Four submitters (being the Corporate Taxpayers Group, Deloitte, Geof Nightingale, and the New Zealand racing industry) were expressly in favour of the proposed default "flow-through" treatment and the optional ability to register a joint venture for GST if it is carrying on a taxable activity. These submitters agreed that the proposed settings should generally allow for a continuation of taxpayers' current practices.

25. However, Chartered Accountants Australia and New Zealand (CA ANZ) and EY raised concerns with the flow-through treatment being applied as a default in the context of industries where the current GST rules are generally applied and are working well. They noted that the proposed changes may result in increased uncertainty and complexity for many joint venturers. In particular, EY raised concerns about the optionality provided by the new rules hindering negotiations in forming a joint

venture. EY also noted the absence of joint and several liability for the joint venture members (in relation to GST payable on the joint venture supplies) as a particular concern with the proposed approach. They said this may make it harder for Inland Revenue to recover outstanding GST, especially in situations where one or more of the joint venture members is a non-resident.

26. These submitters suggested that consideration should be given to making the current treatment (where the joint venture itself registers for GST) the default position, with flow-through treatment being optional at the election of the joint venture.

27. Several submitters were also concerned about compliance costs for smaller joint venture members that would arise under flow-through treatment if all the joint venture members are individually required to register when taxable supplies made by the joint venture are over the registration threshold.

Output-sharing joint ventures

28. Given these concerns, you could decide to limit the scope of the flow-through proposal to output-sharing joint ventures (being joint ventures where the members of the joint venture do not generally intend to make supplies together but instead individually sell their respective shares of the output or product of the venture). This option would have no fiscal impact. This is because, if the proposals only addressed output-sharing joint ventures, they would simply align the law with what taxpayers are currently doing in respect of output-sharing joint ventures. However, we also note that narrowing the scope of the proposals in this manner would not address the racing industry's concerns regarding compliance costs (because their joint ventures would not meet the definition of an "output-sharing" joint venture).

29. We recommend that flow-through treatment should apply by default to output-sharing joint ventures. This recognises that flow-through treatment is the only sensible treatment for these joint ventures. This is because they do not carry on a taxable activity (and therefore cannot register for GST as a single entity) even though inputs acquired by the joint venture are clearly used (by the individual members) for making taxable supplies.

Recommendation

30. We recommend the original proposal to apply flow-through treatment by default should only apply to output-sharing joint ventures.

Non-output-sharing joint ventures

31. Regarding non-output-sharing joint ventures, where the members make supplies jointly, we recommend that the current GST rules be applied as the default, with the option to apply flow-through treatment if the members elect for it. This should decrease confusion and compliance costs for joint ventures that wish to continue with the current rules. If you decide to progress this option, we recommend that additional measures (discussed below) be included to limit integrity risks.

Total supplies rule

32. The discussion document proposed that in cases where the members of a joint venture jointly make taxable supplies above the $60,000 registration threshold (such that the joint venture would be required to register under the current rules), a "total supplies" rule would provide that either:

- the joint venture must register for GST as a separate person, or

- all the members of the joint venture must individually register.

33. This rule was proposed as an integrity measure to prevent joint venture members from avoiding registration on the basis that they are individually below the registration threshold, even though the joint venture itself would otherwise be required to register.

Submitters' views

34. Geof Nightingale was supportive of the proposed rule and commented that he thought it was a sensible integrity measure. Others also understood why this rule was being proposed.

35. However, as noted above, several submitters said that the total supplies rule was likely to increase compliance costs under flow-through treatment for members of joint ventures who are individually below the registration threshold. To avoid this, Deloitte suggested a five percent *de minimis*, which would mean that a member with a share in the joint venture of five percent or less would not be liable to register for GST due to the total supplies rule.

Officials' views

36. While we acknowledge that the total supplies rule would increase compliance costs for some smaller taxpayers if flow-through treatment is chosen, we remain of the view that the proposed rule is an important integrity measure. An outcome where neither the members, nor the joint venture itself, are required to register even when the joint venture makes supplies over the registration threshold would be at odds with the treatment of other types of unincorporated bodies and other taxpayers generally.

37. If taxpayers consider the compliance costs involved with flow-through treatment are too onerous, they would continue to have the option of registering the joint venture separately. Further, if registering as an unincorporated body is the default, as we have recommended above, it is less likely that smaller entities that are members of joint ventures might get "stuck" with flow-through treatment when the current rules would be better for them.

38. We also do not consider it would be appropriate to introduce a percentage-based *de minimis* for the total supplies rule as Deloitte suggested, as it would result in a fiscal cost to the Crown. The point of the rule is to ensure that when a joint venture is carrying on a taxable activity above the GST registration threshold, the Crown does not lose out on any GST revenue that it would otherwise receive under the current legislative settings (as well as ensuring that taxpayers that would otherwise use partnership structures are not motivated by a GST saving to instead use joint ventures or to misrepresent partnership activities as joint ventures).

Racing industry submission

39. In addition to concerns about excessive compliance costs, the racing industry also raised a concern that this rule would result in joint venture members missing out on GST deductions for periods prior to the introduction of the new rules, when they were not registered, despite being required to register and pay GST after the introduction of the new rules.

40. The GST rules already allow a person who becomes registered for GST to claim some GST deductions when they become registered persons. We consider that those rules should apply in this situation. This will not allow a member to claim GST deductions for all prior expenses. However, that is consistent with the rules that

apply for all other taxpayers who become registered for GST part way through their activity. We also note that this unequal outcome already arises under current law, where bloodstock sold at auction is subject to GST even when the joint venture member is not registered for GST and has not claimed any prior GST deductions.

Recommendation

41. If you decide that non-output-sharing joint ventures (being those joint ventures where the members make supplies jointly, including many in the racing industry) will be able to choose to apply flow-through treatment, officials recommend the total supplies rule be progressed as per the current proposal in the discussion document.

Joint and several liability

42. Under the current GST rules for unincorporated bodies, the members of an unincorporated body (including a joint venture) are jointly and severally liable for the body's GST payable. This ensures that Inland Revenue has options for collection if the body defaults on meeting its GST obligations.

43. The proposal to allow flow-through treatment for joint ventures for GST purposes would mean that the current unincorporated body rules would not apply to a "flow-through" joint venture. In the absence of further amendments, this means that the members of a flow-through joint venture would not be jointly and severally liable for GST on supplies made jointly by the members in the course of the venture.

Submitters' views

44. As stated above, EY noted the lack of joint and several liability as a particular concern with the proposed approach.

45. In response to this submission, we have undertaken further consultation with some interested stakeholders. A range of different views were expressed on this issue, with some stakeholders being either neutral or supportive of the idea of having joint and several liability apply when the members of a joint venture are applying flow-through treatment, and others expressing strong opposition.

46. Stakeholders who are critical of this proposal have said that it would significantly decrease the attractiveness of flow-through treatment for joint ventures that are carrying on a taxable activity, because:

- while parties may be able to contractually agree on how one party would be compensated if they are made to pay another party's share of the GST liability, that would involve extra compliance costs for them
- if Inland Revenue cannot collect the debt from the member in default, then the other members also have very little chance of recovering it from them, so this just shifts the revenue loss from the Crown to the other joint venture members
- if non-compliance by a member is discovered on audit several years after the default, this exposes the paying member to interest and penalties
- the non-compliance may not be discovered until after the joint venture has ceased operation, and no longer has joint assets, and
- joint and several liability for GST is inconsistent with the usual arrangements in a joint venture where parties intentionally agree to only be liable for their own share.

47. Even though joint and several liability would apply in any event if the joint venture is registered separately, stakeholders who are opposed to the suggested joint and several liability draw a distinction between the position under the current law, where there is a degree of control or oversight over the joint venture's GST compliance, and having joint and several liability apply under flow-through treatment where they have no control over another member's GST compliance.

Officials' views

48. We note that not having joint and several liability apply to joint ventures that are carrying on a joint taxable activity and opt to apply flow-through treatment would make it harder for Inland Revenue to collect outstanding GST debt if one of the members defaults on paying their share of the GST liability.

49. We consider that when the members of a joint venture are making taxable supplies together, the purpose of allowing those members to individually register and account for GST on their share of joint venture supplies (when they could instead register the joint venture) is merely a compliance cost concession. It is not intended that the proposal should compromise Inland Revenue's ability to collect GST debt when compared with the current law.

50. Therefore, on balance, we recommend that joint and several liability apply to the members of a joint venture that are making joint taxable supplies over the $60,000 registration threshold, whether they register the joint venture separately or apply flow-through treatment. As some stakeholders have noted, this would be consistent with the position under the current law.

51. We recommend that this rule should only apply when the joint venture is making joint taxable supplies and would be liable to register under the current law. Therefore, the proposed joint and several liability should not apply to an output-sharing joint venture (which cannot register for GST under the current law because the members make their supplies separately) or any other joint venture that is not required to register.

52. The racing industry has suggested that the joint and several liability could be limited to the value of the joint assets (rather than the full amount of the GST debt on joint supplies owed by the defaulting member). We do not recommend this approach. This would only work if the joint venture is still in operation and the joint assets (assuming there were any to begin with) have not all been sold, which is unlikely to be the case in many joint ventures. In addition, in many joint ventures, there are no joint assets.

53. If you do not agree with progressing the joint and several liability proposal but also want to protect against the integrity risk from not including that proposal as part of the final policy design, consideration would need to be given to narrowing the scope of the proposed flow-through rule (for instance, limiting it to output-sharing joint ventures only). We note that narrowing the scope of the proposals in this manner would not address the racing industry's issue because their joint ventures would not meet the definition of an "output-sharing" joint venture.

Recommendation

54. If you decide that non-output-sharing joint ventures (this includes joint ventures in the racing industry) will be able to choose to apply flow-through treatment, we recommend that the members of such joint ventures be jointly and severally liable for the members' GST obligations in respect of any joint supplies or acquisitions made in the course of the venture. We further recommend that joint and several liability only apply in the set of circumstances that the total supplies rule is proposed

to apply (being when the joint venture would be liable to register under the current law), and that it should not apply to an output-sharing joint venture.

Application date of main proposal

55. Most submitters considered that the proposals in the discussion document should apply prospectively from the date of legislative enactment or very shortly after. However, some submitters were concerned about whether past GST positions taken by members of joint ventures based on a flow-through approach would be potentially subject to challenge or audit by Inland Revenue if the legislative amendments only apply on this basis.

56. We consider there are two feasible options for the application date for the proposed flow through rule:

- **Option one – Simple prospective application:** Under this option, the flow-through proposal would take effect on 1 April 2026 (which coincides with the first taxable periods starting after legislative enactment of the proposals, assuming enactment in March 2026). There would be no transitional or application provisions to validate taxpayers' past tax positions where those positions were not taken consistently with the law that applied at the time. Prospective application is consistent with best practice that tax law generally only changes going forward. The Commissioner of Inland Revenue (the Commissioner) has confirmed his intention to exercise his powers of care and management to advise affected taxpayers that there is no intention to review past tax positions that are consistent with the proposals outlined in this report.
- **Option two – Transitional provision to validate past GST positions taken consistently with the new law:** Under this option, the flow-through proposal would take effect on 1 April 2026 (as for option one), but a specific application or transitional provision would validate past tax positions taken by members of joint ventures where those positions were taken consistently with a flow-through approach (rather than based on the current law). This would provide certainty to affected taxpayers but would have the effect of treating similar taxpayers differently depending on how they interpreted and applied the current law.

57. We have considered whether retrospective application could also be an option but have concluded that this should not be considered. Retrospective application is generally seen as acceptable for changes that merely clarify existing law but is more unusual for changes that go beyond a mere clarification. Therefore, applying a retrospective application date would set an undesirable precedent.

Recommendation

58. Consistent with the principle that law changes generally apply prospectively, officials recommend that the changes apply prospectively for all taxpayers (option one). We consider that it should be sufficient under this option for the Commissioner to advise affected taxpayers shortly after the Bill is introduced that there is no intention to review past tax positions that are consistent with a flow-through approach.

Other proposals (Minister of Revenue approval)

59. The other proposals in the discussion document were minor and technical in nature. Officials are seeking the Minister of Revenue's agreement to these proposals, which are listed in the table below. Except where specifically indicated below, submitters

all agreed with these proposals. We recommend that these amendments take effect on 1 April 2026.

Recommendations	Minister of Revenue
When the members of a joint venture that is subject to flow-through treatment jointly make a supply, a new rule would split the supply into multiple supplies (being one supply by each member).	Agreed Not agreed
Ensure that an interest in a joint venture that is subject to flow-through treatment is not a participatory security.	Agreed Not agreed
Under flow-through treatment, a taxable supply of a member's joint venture interest to a new or existing member of the joint venture would be zero-rated if the recipient is a registered person and intends to use the interest to make taxable supplies.	Agreed Not agreed
A transitional rule would allow a joint venture that was GST-registered before the effective date of the changes to elect for flow-through treatment by applying for its registration to be cancelled. This rule would be available for a period of 12 months to allow amendments to contractual arrangements, consistent with suggestions from submitters.	Agreed Not agreed
When an unincorporated body deregisters, it would be treated as making a taxable supply at market value to its members of any assets of its taxable activity that it has retained, immediately before the cancellation of its registration. This supply would be zero-rated if the recipient of the supply is a registered person and intends to use the goods and services for making taxable supplies.	Agreed Not agreed
Limit the tripartite test of association so that does not interact with the association test for a joint venture and a member of the joint venture.	Agreed Not agreed
Introduce a new association test that would apply when two members of a joint venture transact with one another in their capacity as members of the joint venture. Two submitters disagreed with this proposal on the basis that they thought it was unnecessary, since transactions between joint venture members can be expected to occur on arm's length terms. However, two submitters were in favour of the suggested rule because it would ensure consistency in the application of the associated persons rules in the GST Act to transactions between joint venture members. Officials agree with the submitters in favour of the rule.	Agreed Not agreed

Financial implications

60. If you agree that the flow-through proposal will be available to joint ventures where the members make supplies jointly, the fiscal impact of the changes is a revenue loss of approximately $3.7 million each full fiscal year, with a corresponding impact on the operating balance:

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 and outyears**
Tax Revenue Goods and Services Tax	-	(0.900)	(3.700)	(3.700)	(3.700)
Total operating	-	**0.900**	**3.700**	**3.700**	**3.700**

61. The revenue implications of these changes can be counted against the Tax Policy Scorecard which will not impact the between-Budget spending contingency directly. Most revenue impacts of items on the Tax and Social Policy Work Programme are aggregated, with any revenue gains being retained for offset against future revenue-negative policy changes – as agreed by the Ministers of Finance and Revenue.

62. Ministers have previously agreed (T2021/1273 refers) that the Tax Policy Scorecard should be the default option for managing the fiscal impact of tax policy changes, excluding "structural" changes, social policy, departmental funding, and changes mainly intended to achieve non-tax objectives. The Scorecard allows the revenue-negative impacts of some tax changes to be offset against the revenue-positive impacts of other tax changes to better promote a timely and balanced programme of changes. In addition to these criteria, the Scorecard's balance may not exceed $200 million over the forecast period, nor fall below zero.

63. At the start of June 2025, the Scorecard balance (extending to 2028/29) was $29.491 million. Two policy items recently reported as charges to the Scorecard (refer IR2025/187) do not change that balance, assuming both proposals are approved.

64. This measure charged to the Scorecard will reduce the available balance by $12 million with a result that the Tax Policy Scorecard will be constrained in its ability to fund future tax changes in the absence of a revenue positive initiative.

65. As noted in a previous report (IR2025/027 refers), current fiscal forecasts do not incorporate the expected change in GST revenue that would result if GST-registered members of unincorporated bodies in the racing industry consistently applied Inland Revenue's interpretation of the current law. Therefore, the change in revenue forecasts that would result if the proposals for joint ventures were progressed, but the law remained unchanged for other unincorporated bodies, is the combined effect of two changes which partially offset each other.

66. The first effect (which is not reflected in the table above) is a fiscal gain of $6.8 million per annum, which would be treated as a forecasting adjustment. This fiscal gain represents the potential loss of GST deductions for GST-registered members of bloodstock joint ventures and racing syndicates if, instead of Parliament changing the law, Inland Revenue finalised and enforced its view of the current law.

67. The second effect is the fiscal cost of the policy change of $3.7 million per annum, which is shown in the table above.

68. Relative to current practices in the racing industry, the net impact of these two partially offsetting changes is a fiscal gain of $3.1 million per annum. This would arise because the proposals would not benefit GST-registered breeders and trainers who are members of racing syndicates (rather than joint ventures) and who are currently claiming GST deductions for their share of syndicate costs (meaning these members should not claim GST deductions for this expenditure going forward).

69. This net effect is illustrated in the table overleaf.

Annual tax impact of GST deductions claimed in racing industry ($m)

	Joint ventures	Syndicates	Combined
Current practice	**-3.3**	**-3.5**	**-6.8**
No law change	**0**	**0**	**0**
Forecasting adjustment	3.3	3.5	6.8
Policy proposal	**-3.7**	**0**	**-3.7**
Fiscal cost	-3.7	0	-3.7
Net impact relative to current practice	-0.4	3.5	3.1

70. The net fiscal implications of the proposals as they apply to joint ventures in other industries would be nil. This is because the proposals would simply align the law with what taxpayers are currently doing in respect of these joint ventures. Additionally, we think there are reasonable arguments that members of output-sharing joint ventures could make changes to their contracts that would enable them to claim GST deductions under the existing law, consistent with their current practice.[1]

Administrative implications

71. The combined implementation and ongoing administration costs over the period 2025/26 to 2027/28 are estimated at $410,000 and will be met through baseline funding.[2] All these costs are operating costs. The proposals are not expected to have any administration costs from 2028/29 onwards.

Consultation

72. The Treasury, the Department of the Prime Minister and Cabinet, the Department of Internal Affairs, the Ministry for Business, Innovation and Employment, and Te Uru Rākau – New Zealand Forest Service were all consulted on the attached Cabinet paper.

Next steps

73. If you agree with the proposals in this report, the necessary legislative amendments could be included in the upcoming omnibus tax bill which is scheduled for introduction in August 2025.

74. To meet the timeframes for the upcoming omnibus tax bill, Cabinet approval of the final policy will be required by 21 July 2025. We have prepared a draft Cabinet paper for you to take to the Cabinet Economic Policy Committee on 16 July 2025. We will amend this paper if necessary to reflect the decisions taken by Ministers in this report. We will also provide a copy of the Regulatory Impact Statement for the proposal ahead of the lodgement date.

[1] The issue is that the oil and gas industry is not willing to bear the compliance costs of changing their contracts, which they say would be unreasonable given the magnitude of these costs, the fact that their practices have been accepted by Inland Revenue for over 30 years, and that there is no policy mischief associated with that practice.
[2] This costing assumes that the proposed integrity measures for non-output-sharing joint ventures will be progressed as part of the final policy design.

75. The appended draft Cabinet paper will need to be lodged with the Cabinet Office by 10am on Thursday 10 July 2025. We will work with your office to coordinate comments and feedback on the Cabinet paper ahead of its lodgement.

Recommended action

We recommend that you:

Minister of Revenue only

(a) **indicate** in the table on page 10 where you agree or do not agree with a recommendation pertaining to the detailed design of the proposed new GST rules for joint ventures;

(b) **refer** a copy of this report to the Minister of Racing for his information;

Referred/Not referred

Minister of Finance and Minister of Revenue

(c) **agree** that flow-through treatment would apply by default to joint ventures where the members make separate, rather than joint, supplies (referred to as "output-sharing" joint ventures);

Agreed/Not agreed	Agreed/Not agreed
Minister of Finance	*Minister of Revenue*

(d) **agree** to one of these two options regarding the application of the GST rules to non-output-sharing joint ventures:

Option one – The current unincorporated body rules would apply to all non-output-sharing joint ventures, with no ability to elect for flow-through treatment;

Agreed/Not agreed	Agreed/Not agreed
Minister of Finance	*Minister of Revenue*

Option two – The current unincorporated body rules would apply to all non-output-sharing joint ventures by default, but with the option for these joint ventures to elect for flow-through treatment;

Agreed/Not agreed	Agreed/Not agreed
Minister of Finance	*Minister of Revenue*

(e) if **option two** is chosen, **agree** to the following **integrity measures** for the flow-through proposal that could apply when a non-output-sharing joint venture that is carrying on a taxable activity makes taxable supplies above the GST registration threshold:

that a "total supplies rule" require either the joint venture, or all the members, to register;

Agreed/Not agreed	Agreed/Not agreed
Minister of Finance	*Minister of Revenue*

that the members of the joint venture are jointly and severally liable for GST payable on supplies and acquisitions made jointly by the members in the course of the venture;

Agreed/Not agreed	Agreed/Not agreed
Minister of Finance	*Minister of Revenue*

(f) **note** the following fiscal costs if **option two** and the **integrity measures** are agreed to:

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 and outyears**
Tax Revenue Goods and Services Tax	-	(0.900)	(3.700)	(3.700)	(3.700)
Total operating	-	**0.900**	**3.700**	**3.700**	**3.700**

Noted — *Minister of Finance*

Noted — *Minister of Revenue*

(g) **agree** to charge the above fiscal cost against the Tax Policy Scorecard;

Agreed/Not agreed — *Minister of Finance*

Agreed/Not agreed — *Minister of Revenue*

(h) **agree** to one of these two options regarding the application date of the proposal:

Option one – Simple prospective application on and after 1 April 2026 (officials' preferred option); OR

Agreed/Not agreed — *Minister of Finance*

Agreed/Not agreed — *Minister of Revenue*

Option two – Prospective application on and after 1 April 2026 but with a transitional provision that validates historical behaviour to the extent that it is consistent with the proposals in this report;

Agreed/Not agreed — *Minister of Finance*

Agreed/Not agreed — *Minister of Revenue*

(i) **agree** to undertake Ministerial consultation on the attached Cabinet paper ahead of its lodgement with the Cabinet Office.

Agreed/Not agreed

Minister of Finance

Agreed/Not agreed

Minister of Revenue

s 9(2)(a)

Kerryn McIntosh-Watt
Policy Director
Inland Revenue

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **GST and joint ventures – joint and several liability and administrative requirements for election**

Date:	26 June 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/286

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Refer** this report to the Minister of Finance, the Minister for Racing and the Minister for Resources	10am Thursday 10 July 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Graeme Morrison	Policy Lead	s 9(2)(a)	☐
Shanae Sherriff	Senior Policy Advisor	s 9(2)(a)	☒

26 June 2025

Minister of Revenue

GST and joint ventures – joint and several liability and administrative requirements for election

Purpose

1. We reported to you on 12 June 2025 with our policy recommendations on GST and joint ventures following public consultation (IR2025/200 refers). This report updates you on further comments received from affected industries on the joint and several liability proposal recommended in the last report (the "12 June report"). It also seeks your agreement to administrative requirements for joint ventures that wish to elect for the proposed "flow-through" treatment.

Background

2. In the 12 June report, we recommended that:

   - the proposed default flow-through treatment only apply to "output-sharing" joint ventures, being joint ventures where the members share in the output of the venture and each sell their share of the output separately (for example, many oil and gas joint ventures), and

   - for other joint ventures where the members make supplies jointly ("non-output-sharing joint ventures"), the current unincorporated body rules apply by default, but with an option to elect to apply flow-through treatment.

3. We recommended that integrity measures should apply in certain circumstances to non-output-sharing joint ventures that make the election, including joint and several liability for GST payable on supplies made by the members jointly. This was proposed to apply if the joint venture would be liable to register for GST under the current law.

4. In the 12 June report, we did not specifically outline what a non-output-sharing joint venture would have to do to make the election for flow-through treatment. Since that report, we have done further work and consultation on what these requirements should be.

Feedback on joint and several liability

5. The racing industry wrote to officials on 16 June 2025 about its concerns with the joint and several liability proposal outlined in the 12 June report. We understand that this letter has also been forwarded to the Minister for Racing. The Corporate Taxpayers Group (CTG) also raised its concerns with you on 10 June 2025 about the joint and several liability proposal.

6. Our general comments arising from this feedback are:

   - We still consider joint and several liability to be an important integrity measure if non-output-sharing joint ventures are to be allowed to elect flow-through treatment. We do not consider that allowing flow-through treatment for these joint ventures as a compliance costs concession should compromise

Inland Revenue's ability to collect GST debt when compared with the current law.

- We note that not including this integrity measure would undermine the integrity of the tax system, including other taxpayers' perceptions of that integrity, since joint and several liability would still apply to members of other unincorporated bodies, in respect of GST on supplies made by such bodies.
- Not progressing joint and several liability as part of the final policy design would not have a fiscal cost per se, because taxpayers' GST liabilities would still be the same regardless of whether joint and several liability applies. However, if joint and several liability does not apply, this would compromise Inland Revenue's ability to effectively administer the GST law and collect outstanding GST debt from joint venture members where flow-through treatment has been elected. The impact on GST debt that would result is not possible to quantify.

7. The specific concerns raised by the racing industry and the CTG, and our response to those concerns, are outlined below.

Racing industry's views

8. The specific objections outlined in the racing industry's letter to officials are as follows:

   - The proposed approach with joint and several liability presents a commercially unacceptable risk for members of bloodstock joint ventures. The industry does not see any practical way to address this risk through contractual arrangements between members.
   - The industry draws a distinction between the application of joint and several liability under the current law, where there is a degree of control or oversight over the joint venture's GST compliance (such that the risk of joint and several liability is mitigated) and having joint and several liability apply under flow-through treatment where they have no control over another member's GST compliance.
   - They argue this would be a completely new issue for the industry, as their practice for over 30 years has been for the members to individually account for GST based on a flow-through approach, rather than registering their joint ventures. Therefore, they say that the existing joint and several liability has never applied to them.

9. Our response to these concerns is as follows:

   - The proposal to allow non-output-sharing joint ventures to elect for flow-through treatment is intended as a concession for compliance cost reasons only. We always understood the racing industry's concerns to be that, in the absence of a law change allowing flow-through treatment, large GST-registered breeders that hold interests in many joint ventures would have to regularly file GST returns for many joint ventures, which the industry has said would significantly increase their compliance costs. The flow-through proposal would avoid this outcome by allowing the breeder to instead include their share of all the joint venture supplies and acquisitions in their own GST return (as per the current industry practice), meaning they would only need to file one GST return for every GST period.
   - If participants in bloodstock joint ventures consider the risk presented by joint and several liability outweighs the benefits of flow-through treatment,

then taxpayers could instead register the joint venture as a separate person if it is carrying on a taxable activity (and joint and several liability would only apply under flow-through treatment if the joint venture is carrying on a taxable activity). The racing industry has acknowledged that registering the joint venture would mitigate the risks of joint and several liability.

- We disagree with the racing industry's statement that joint and several liability has never applied to their joint ventures. Joint and several liability applies to all joint ventures under the current law and would continue to apply if, instead of electing for flow-through treatment, the members chose to register the joint venture for GST (which the industry says it agrees with).

The CTG's views

10. The CTG does not consider joint and several liability should apply to large commercial entities that are accounting for GST based on a "flow-through" approach and are separately GST-registered in respect of their broader business activities. They say this would be a commercially unacceptable risk for participants in these joint ventures and would create a new area of uncertainty that would defeat the purpose of the proposals.

11. Our response is as follows:

    - Given joint and several liability already applies to the members of GST-registered unincorporated bodies under the current law, we do not see any compelling reason why it should not apply in the case of a non-output-sharing joint venture (including a gas joint venture that may not meet our proposed definition of an "output-sharing joint venture") that has elected flow-through treatment if the joint venture would otherwise be liable to register for GST. Therefore, we do not recommend an exclusion along the lines that the CTG has suggested.

    - Further, the proposed joint and several liability would be limited to situations where the joint venture would be liable to register under the current law (meaning that joint and several liability already applies to the joint venture members).

    - However, if you agree with the CTG's view that joint and several liability should not apply when the members are all GST-registered in their own right in relation to a taxable activity that they carry on separately from the other members, we could draft an exclusion from the proposed joint and several liability along these lines but with an added requirement that the members have a good tax compliance history, which should address the CTG's concerns. However, the racing industry might still have concerns, as the suggested exclusion would not apply to all their joint ventures. To date, we have not discussed such an exclusion with the racing industry.

Requirements for flow-through election

12. We recommend that non-output-sharing joint ventures (including joint ventures used in the racing industry) could elect for flow-through treatment if all the members agree to this in writing. We further recommend that they would need to notify Inland Revenue of the election and provide the following information required for monitoring compliance with the proposed new rules:

    - a short description of the joint venture activity, and

    - the name and IRD number for each member of the joint venture.

13. We suggest that the effective date of the flow-through election for a new joint venture formed after 1 April 2026 (being the application date of the proposed changes) would be the date of the written agreement to apply flow-through treatment. However, in the case of an existing joint venture where the members had already been accounting for GST consistently with a flow-through approach before 1 April 2026, we recommend that an election by the joint venture for flow-through treatment would take effect on 1 April 2026, provided that the election is made and notified to Inland Revenue by 1 April 2027 (meaning that existing joint ventures would have 12 months to notify the election to Inland Revenue for it to be effective from the start of the new rules).

14. Further, when there is a subsequent change in the membership of a non-output-sharing joint venture that has elected flow-through treatment, the joint venture should be required to notify Inland Revenue which members are no longer members of the joint venture and the dates they ceased to be members, as well as the names and IRD numbers of any new members and the dates they joined the venture.

15. The proposed information requirements are necessary to ensure that Inland Revenue has sufficient information about the joint venture and its members for Inland Revenue's compliance and enforcement activities, including ensuring that:

- members of joint ventures that have elected for flow-through treatment have registered for GST, if they are individually liable to register
- GST deductions are being claimed correctly, and
- GST is being accounted for and paid to Inland Revenue on taxable supplies.

16. The proposed requirement to notify Inland Revenue of the election and provide details of the joint venture activity and the members will be especially important if Ministers agree to progress the joint and several liability proposal recommended in the 12 June report. This is because, in order to pursue collection of GST payable from the other members when one member defaults on their share of the GST payable, Inland Revenue will need to identify the other members. However, even if the recommended joint and several liability is not progressed, we still consider that the proposed information requirements will be important for purposes referred to at [15] and should be progressed as part of the final policy design.

17. Because the flow-through rule is proposed to apply to output-sharing joint ventures by default, output-sharing joint ventures (such as in the oil and gas industry) would not be required to elect for flow-through treatment or provide information to Inland Revenue about their members. This is because these joint ventures cannot register for GST under the current law as they are not carrying on a taxable activity), because the members do not make joint supplies (except on rare occasions). This means the integrity concerns with allowing flow-through treatment for joint ventures that can register under the current law, or that are merely carrying on a hobby, do not apply to output-sharing joint ventures.

Racing industry's views

18. We have undertaken targeted consultation with the racing industry on the proposed requirements for making the election, as well as the proposed requirement for the joint venture to notify Inland Revenue when there is a subsequent change in its membership.

19. The racing industry is generally not opposed to the proposed requirements for making the election, even though they have said the approach proposed in the discussion document would have been more favourable for them from a compliance costs perspective. However, they question why racing industry participants should be required to notify Inland Revenue when there is a change in the membership of

the joint venture. Their concern seems to be that compliance with an ongoing requirement to notify changes in membership of joint ventures may be low, meaning that they could be subject to penalties for non-compliance with this requirement. Further, they have suggested that such a requirement may only be necessary if the joint and several liability proposal (which they oppose) is progressed.

20. We do not agree with the racing industry's suggestion that joint ventures should not be required to notify changes in membership for these reasons:

- There are integrity and administrative benefits associated with being able to readily identify who the other members of the joint venture are based on information that is up to date. This would enable Inland Revenue to ensure that members of the joint venture are accounting for their share of GST on supplies and correctly claiming GST deductions. For instance, if an entity is subject to a compliance review but there is nothing in Inland Revenue's systems to indicate that it is a member of a flow-through joint venture, Inland Revenue compliance staff will not know to check whether the member is correctly applying flow-through treatment. Further, there may be disagreements about timing of income and expenses, in terms of whether the old member or the new member is entitled to claim GST deductions, or is required to return GST on supplies made around the time of the membership change.
- We judge that the compliance costs referred to by the industry are relatively low and likely overstated. We consider the administrative benefits (and therefore the overall benefit to the integrity of the tax system) outweighs the minor compliance costs imposed on joint ventures from having to notify changes in membership. We also note that overall, relative to what would occur if, instead of changing the law, Inland Revenue was to finalise and enforce its interpretation of the current law, overall compliance costs will still be reduced.
- We also note that there are existing notification requirements in the Goods and Services Tax Act 1985 that are similar to the proposed requirement to notify Inland Revenue when the membership of a flow-through joint venture changes. For example, a member of a GST group is required to notify Inland Revenue when they cease to be eligible to be a member of the GST group.

Consultation

21. The Treasury, the Department of Internal Affairs, and the Ministry for Business, Innovation and Employment were informed about this report.

Next steps

22. The 12 June report attached a draft Cabinet paper reflecting officials' recommendations in that report. This paper can be updated depending on your final decisions, including those sought in this report. If you agree to the recommendations, the next step would be to lodge the attached Cabinet paper with the Cabinet Office by 10am Thursday 10 July 2025, ahead of the Cabinet Economic Policy Committee (ECO) meeting on 16 July 2025.

Recommended action

We recommend that you:

1. **note** that the CTG recently raised concerns with you about the joint and several liability proposal, and that the racing industry recently wrote to officials about their concerns with the joint and several liability proposal and forwarded the letter to the Minister for Racing;

   Noted

2. **note** that, despite the CTG's and the racing industry's concerns, officials still consider joint and several liability to be an important integrity measure and recommend that this proposal be progressed if flow-through treatment is made available to non-output-sharing joint ventures;

   Noted

3. **agree** to one of these three options for joint and several liability:

   Option one – The members of a non-output-sharing joint venture that is carrying on a taxable activity above the GST registration threshold would be jointly and severally liable for GST payable on supplies and acquisitions made jointly by the members in the course of the venture (recommended);

   Agreed/Not agreed

   Option two – The same as **option one**, except joint and several liability would not apply if the members of the joint venture are all individually registered in relation to a taxable activity that they each carry on separately from the other members, provided the Commissioner is satisfied that all the members have a good tax compliance history;

   Agreed/Not agreed

   Option three – Joint and several liability would not apply to the members of a non-output-sharing joint venture in any circumstance (not recommended);

   Agreed/Not agreed

4. **agree** that members of a non-output-sharing joint venture would be required to agree in writing to elect flow-through treatment, and to notify Inland Revenue of the election and provide certain information required for compliance and enforcement purposes;

   Agreed/Not agreed

5. **agree** that when there is a subsequent change in the membership of a non-output-sharing joint venture that has elected flow-through treatment, there would be a requirement to notify Inland Revenue of members that left or joined and the dates they left or joined;

   Agreed/Not agreed

6. **note** there are no fiscal implications arising from the above recommendations;

   Noted

7. **refer** a copy of this report to the Minister of Finance, the Minister for Racing and the Minister for Resources for their information.

Referred/Not referred

s 9(2)(a)

Graeme Morrison
Policy Lead
Inland Revenue

Hon Simon Watts
Minister of Revenue
/ /2025

In Confidence

Office of the Minister of Revenue

Chair, Cabinet Economic Policy Committee

GST and unincorporated joint ventures

Proposal

1 This paper seeks agreement to changes to the GST rules for joint ventures.

Relation to Government priorities

2 The Government's current Tax and Social Policy Work Programme includes an item on reviewing the GST rules for joint ventures.

3 The proposals in this paper are consistent with the objectives of the Government's review of the Crown Minerals Act 1991, which include reducing regulatory burden and costs for the oil and gas industry in New Zealand.

Executive summary

4 A common practice in some industries where joint ventures are used is for participants in a joint venture to individually account for GST on their share of supplies of goods and services made or received in the course of the venture in their own GST returns. This often reflects the commercial reality that the joint venture is undertaken as part of each participant's wider business.

5 Draft guidance published by Inland Revenue concludes that these practices are not correct under the current rules for unincorporated bodies, which apply to joint ventures. The current rules treat an unincorporated body as a separate person for GST purposes, similar to a company, and require that the body and not the members be registered for GST in relation to the activity carried on by the body. While this tax setting produces the correct policy outcome for other types of unincorporated bodies (such as trusts and partnerships), it gives rise to problems for certain types of joint ventures.

6 Some joint ventures are unable to register for GST, so this treatment (in some cases) means that GST deductions for joint venture costs cannot be claimed. Even when a joint venture may be able to register for GST, the members (who are often already registered for GST for their own separate activities) may prefer not to also register the joint venture for compliance cost reasons.

7 In April 2025, a discussion document, *GST and unincorporated joint ventures*, was published with Cabinet's agreement. The main proposal in the discussion document was to allow the members of a joint venture to individually account for GST on supplies made or received in the course of the venture under their own GST registrations (referred to in this paper as "flow-through treatment"), consistent with common practices in some industries. However, the members could instead choose to register the joint venture separately.

8 Submitters were generally supportive of the proposals, although some submitters raised concerns with the proposed approach, particularly with the proposal that flow-through treatment would apply to all joint ventures by default (except for joint ventures that were already registered for GST before the effective date). This feedback has been incorporated into the recommended final policy design.

Background

9 New Zealand's GST rules treat an unincorporated body, such as a partnership, joint venture, trust, club, or any other type of unincorporated association, as a separate person for GST purposes. Unincorporated bodies are required to register for GST if they supply or expect to supply goods or services worth more than $60,000 in a 12-month period.

10 Draft Inland Revenue guidance, released in March 2023 for public consultation, concluded that when an unincorporated body is not registered for GST (which may be because it is not carrying on a taxable activity, or because its supplies are under the registration threshold), the current law does not allow members to register individually for the body's activities and claim GST deductions for goods and services acquired by the body.

11 This conclusion, while consistent with the policy intention for most unincorporated bodies, raises issues for joint ventures due to their unique features. In particular, joint ventures are usually not formed to carry on an entirely separate undertaking. Instead, the parties involved often carry on a business of their own separately from the other participants, with their participation in the joint venture often being for the purpose of (or an extension of) that separate business.

12 Specific problems arise when the participants in a joint venture share in the output or product of the venture and each sell their share separately. In this situation, because the output of the venture is sold separately by the members rather than jointly, the joint venture (as a collective body of its members) might not make any supplies of goods or services. When this is the case, the joint venture cannot register for GST because it is not carrying on a taxable activity.

13 This issue commonly arises in the resources industry. For example, participants in oil and gas joint ventures each take a share of the extracted resources and market and sell their share separately, instead of selling the extracted resources jointly. This type of joint venture is referred to as an "output-sharing" joint venture.

14 Even for non-output-sharing joint ventures (where the members make supplies jointly) that can register for GST, the members (who are often already registered for GST for their own separate activities) may prefer not to also register the joint venture for compliance cost reasons. This is the issue for the horse racing and breeding industry with some of its joint ventures.

15 In April 2025, Cabinet agreed to the release of a discussion document, *GST and unincorporated joint ventures*, which included proposals to address these issues (ECO-25-MIN-0045 refers). Public consultation closed on 16 May 2025 and in total nine submissions were received. Submitters on the discussion document included tax and business advocacy groups, the horse racing and breeding industry, and accounting firms specialising in taxation.

16 Public consultation has been crucial to informing the recommendations contained in this paper. Consultation revealed the importance of ensuring that the proposed new rules do not make it more difficult or uncertain for new joint ventures formed after the effective date to register for GST under the existing unincorporated body rules.

17 While most of the submissions received were generally supportive of the proposals, some submitters suggested that instead of flow-through treatment applying by default as proposed in the discussion document, the current GST rules, which are working well for most taxpayers, should instead apply by default to reduce uncertainty and complexity.

Design features of proposed new GST rules for joint ventures

18 Considering the submissions received, I propose that the current GST rules apply by default to non-output-sharing joint ventures (being joint ventures where the members make supplies jointly), but with an option for those joint ventures to elect for flow-through treatment. This should avoid confusion and further compliance costs for joint ventures that wish to continue with the current rules.

19 The proposal to allow the members of non-output-sharing joint ventures to choose to either register the joint venture for GST or elect for flow-through treatment would provide more flexibility than under the current rules, which is expected to ease compliance costs in certain industries (such as the horse racing industry and the commercial property sector). Having the current unincorporated body rules apply by default to non-output-sharing joint ventures would also provide consistency with the current GST framework for unincorporated bodies and would be familiar to many taxpayers.

20 This approach aims to minimise overall compliance costs by ensuring that separate registration of the joint venture is clearly still available as an option in circumstances where it would make more sense for GST to be accounted for at the "entity" or unincorporated body level (rather than at the level of the individual members), which is likely to be the case for most joint ventures.

21 In recognition that unincorporated joint ventures in the resources industry are not ordinarily able to register for GST, and to ensure the proposals achieve the intention of validating current practices in respect of those joint ventures, I recommend that flow-through treatment should apply by default to output-sharing joint ventures. This recognises that flow-through treatment is the only sensible treatment for these joint ventures.

22 Under the proposed flow-through rule, members of a “flow-through joint venture” would separately account for GST on their share of taxable supplies made or received in the course of the venture, if they are individually registered for GST.

23 The proposed flow-through rule is broadly consistent with the approach in overseas jurisdictions. For instance, Australia excludes output-sharing joint ventures from being “entities” for GST purposes, meaning that these joint ventures do not register for GST. Instead, the parties separately account for supplies made or received in their own returns. The United Kingdom, Ireland and Canada do not treat joint ventures as “persons” that are required to register for VAT or GST, meaning that in these jurisdictions, flow-through treatment applies to all joint ventures.

Application date

24 Consistent with the views expressed by submitters, I propose that the changes should take effect on 1 April 2026. As a taxpayer-friendly measure, I also propose that a transitional provision should validate past tax positions taken by members of joint ventures based on a flow-through approach.

Total supplies rule

25 Under the Goods and Services Tax Act 1985, unincorporated bodies such as partnerships must register if total supplies made in New Zealand by the members in the course or furtherance of all taxable activities they carry on as a group exceed (or are expected to exceed) $60,000 in a 12-month period.

26 Consistent with this current law, I propose that in cases where the members of a joint venture jointly make taxable supplies above the $60,000 registration threshold, a “total supplies” rule would provide that either:

26.1 the joint venture must register for GST as a separate person (as is the case under current law), or

26.2 all the members of the joint venture must individually register.

27 This integrity measure is intended to prevent joint venture members from avoiding registration (in addition to not registering the joint venture itself) on the basis that they are individually below the registration threshold, despite supplies made by the joint venture as a whole being over the registration threshold. Allowing an outcome of non-registration in these circumstances would provide an unfair advantage to using an unincorporated joint venture structure instead of a partnership.

28 Some submitters on the discussion document (including the racing industry) were concerned that the total supplies rule would increase compliance costs under flow-through treatment for smaller taxpayers who, in the absence of the rule, would not be required to register due to being individually below the registration threshold.

29 Despite the submissions expressing concerns about compliance costs arising under the total supplies rule, I consider that the proposal is a sensible and necessary integrity measure to prevent revenue leakage and should proceed. To the extent that the rule would result in higher compliance costs for joint venture members under a flow-through approach than would be the case under the current GST rules, the members could still choose to register the joint venture for GST (meaning the members below the registration threshold would not have to register).

Joint and several liability

30 Under the current law, the members of an unincorporated body (including a joint venture) are jointly and severally liable for the body's GST payable. This ensures that Inland Revenue has options for collection if the body defaults on meeting its GST obligations.

31 Under the proposals, the members of a joint venture to which flow-through treatment applies would be separate taxpayers (rather than being grouped together as a single taxpayer as per the current law). This means that each member would be liable for GST payable on its "share" of the supplies made or received, rather than being jointly and severally liable for the total GST payable the members incur as a group in the course of the venture.

32 The absence of joint and several liability under the proposed flow-through treatment may increase the risk of non-collection of GST debt when compared with the current law. Not having joint and several liability would also provide more favourable treatment for members of joint ventures that does not apply to members of other unincorporated bodies, such as partnerships and trusts, which might distort taxpayer behaviour going forward.

33 Consideration was given to whether the members of a joint venture that has elected flow-through treatment should be jointly and severally liable for GST payable on supplies made or received in the course of the venture. However, due to concerns raised by some stakeholders, I consider that this possible integrity measure should not be progressed at this stage. I agree with stakeholders' comments that joint and several liability is likely to present a commercially unacceptable risk for joint ventures that wish to apply flow-through treatment, and therefore would likely defeat the aims that the flow-through proposal was intended to achieve in the first place.

34 Inland Revenue has an increased focus on GST debt management. Any integrity issues resulting from the proposed changes could be identified as part of Inland Revenue's work on monitoring GST debt and managed if necessary. This would include advising Ministers if any significant policy issues arise.

Financial implications

35 The estimated fiscal impact of the proposals is shown in the table below. Over the forecast period (2024/25 to 2028/29), it is expected the proposals would decrease GST revenue by $12 million, with a corresponding impact on the operating balance:

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 and outyears**
GST	-	(0.900)	(3.700)	(3.700)	(3.700)
Total operating	-	**0.900**	**3.700**	**3.700**	**3.700**

36 The revenue implications of these changes will be counted against the Tax Policy Scorecard which will not impact the between-Budget spending contingency directly. Most revenue impacts of items on the Tax and Social Policy Work Programme are aggregated, with any revenue gains being retained for offset against future revenue-negative policy changes – as agreed by the Ministers of Finance and Revenue.

Legislative implications

37 Implementing these proposals requires changes to the Goods and Services Tax Act 1985.

38 If approved, I propose including the legislative changes resulting from these recommendations in the 2025–26 omnibus taxation Bill, scheduled for introduction in August 2025.

39 The 2025–26 omnibus taxation Bill holds a category 5 priority on the 2025 Legislative Programme (to proceed to select committee by the end of 2025).

Impact analysis

Regulatory impact assessment

40 A regulatory impact statement (RIS) has been completed and is attached.

41 Inland Revenue’s RIA Quality Assurance panel has reviewed the *Regulatory Impact Statement: GST and joint ventures* and considers that the information and analysis summarised in the RIA **meets** the quality criteria of the Regulatory Impact Analysis framework.

Climate implications of policy assessment

42 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this policy proposal because the threshold for significance is not met.

Population implications

43 The proposals in this paper are not expected to have any implications for specific demographics in New Zealand.

Human rights

44 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

45 The Government consulted on these proposals in the discussion document *GST and unincorporated joint ventures*, which was released for public consultation in April 2025.

46 The discussion document prompted submissions from Chartered Accountants Australia and New Zealand, the Corporate Taxpayers Group, Deloitte, EY, Findex, Geof Nightingale Advisory Ltd, KPMG, and PwC, as well as a joint submission from the New Zealand racing and breeding industry formally submitted by TAB NZ and the New Zealand Thoroughbred Breeders' Association Inc. Submissions on the discussion document as well as meetings with stakeholders have informed the recommendations in this paper.

47 In preparing this Cabinet paper, Inland Revenue officials consulted with The Treasury, the Department of Internal Affairs, the Ministry of Business, Innovation and Employment, Te Uru Rākau – New Zealand Forest Service, and the Department of the Prime Minister and Cabinet.

Communications

48 I will make an announcement on the contents of the 2025–26 omnibus taxation Bill, including the proposals in this paper, when the Bill is introduced. A commentary on the Bill will be released on the Inland Revenue Tax Policy website at this time. This will explain the technical detail of the proposals. Inland Revenue will also publish details of the new legislation in an Act commentary released on the Tax Policy website after the Bill is enacted.

Proactive release

49 I propose to delay the proactive release of this Cabinet paper, associated minutes, and key advice papers until after the introduction of the 2025–26 omnibus taxation Bill. The expected introduction date for this Bill is August 2025.

Recommendations

The Minister of Revenue recommends that the Committee:

1 **Note** that reviewing the GST rules for joint ventures is an item on the Government's current Tax and Social Policy Work Programme.

2 **Note** that the Government released a discussion document *GST and unincorporated joint ventures* for public consultation between April 2025 and May 2025.

Design features of proposed new GST rules for joint ventures

3 **Agree** to implement changes that would allow the members of a joint venture to account for GST on their share of joint venture supplies and acquisitions, instead of requiring GST to be accounted for at the level of the joint venture itself.

4 **Agree** that when a joint venture makes, or is expected to make, taxable supplies over the $60,000 GST registration threshold in a 12-month period, either the joint venture must register as a separate person, or all the members of the joint venture must individually register.

5 **Agree** that the changes in recommendations 3 and 4 would take effect on 1 April 2026.

6 **Agree** that a transitional provision would validate past tax positions taken by members of joint ventures based on a flow-through approach.

Legislative implications

7 **Note** that the proposals will be included in the 2025–26 omnibus taxation Bill that holds a category 5 priority on the 2025 Legislative Programme (to proceed to select committee by the end of 2025).

8 **Authorise** the Minister of Revenue to make technical decisions necessary to give effect to the policy proposals agreed in this paper, ahead of inclusion in the 2025–26 omnibus taxation Bill.

Financial implications

9 **Note** the following changes to GST revenue resulting from the decisions at recommendations 3 to 6, with a corresponding impact on the operating balance.

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 and outyears**
GST	-	(0.900)	(3.700)	(3.700)	(3.700)
Total operating	-	**0.900**	**3.700**	**3.700**	**3.700**

10 **Note** the Ministers of Finance and Revenue have agreed the revenue implications of these changes will be counted against the Tax Policy Scorecard and that this will not impact the between-Budget spending contingency directly.

Authorised for lodgement

Hon Simon Watts

Minister of Revenue

Cabinet Expenditure and Regulatory Review Committee

Minute of Decision

GST and Unincorporated Joint Ventures

Portfolio **Revenue**

On 29 July 2025, the Cabinet Expenditure and Regulatory Review Committee:

1 **noted** that reviewing the goods and services tax (GST) rules for joint ventures is an item on the Government's current Tax and Social Policy Work Programme;

2 **noted** that in April 2025, the Cabinet Economic Policy Committee approved the release of a discussion document on *GST and Unincorporated Joint Ventures*, and invited the Minister of Revenue to report back with final policy recommendations [ECO-25-MIN-0045];

Design features of proposed new GST rules for joint ventures

3 **agreed** to implement changes that would allow the members of a joint venture to account for GST on their share of joint venture supplies and acquisitions, instead of requiring GST to be accounted for at the level of the joint venture itself;

4 **agreed** that when a joint venture makes, or is expected to make, taxable supplies over the $60,000 GST registration threshold in a 12-month period, either the joint venture must register as a separate person, or all the members of the joint venture must individually register;

5 **agreed** that the changes proposed in paragraphs 3 and 4 above would take effect on 1 April 2026;

6 **agreed** to a transitional provision, which would validate past tax positions taken by members of joint ventures based on a flow-through approach;

Legislative implications

7 **agreed** that the above decisions be included in the Taxation (Annual Rates for 2025-26) Bill, which has a category 5 priority on the 2025 Legislation Programme (to proceed to select committee by the end of 2025);

8 **authorised** the Minister of Revenue to make any minor and technical decisions that may be necessary to give effect to the above paragraphs before the introduction of the Bill;

Financial implications

9 **noted** the following changes to GST revenue resulting from the decisions in paragraphs 3 to 6 above, with a corresponding impact on the operating balance:

	$m – increase/(decrease)				
Vote Revenue Minister of Revenue	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 and outyears**
GST	-	(0.900)	(3.700)	(3.700)	(3.700)
Total operating	-	0.900	3.700	3.700	3.700

10 **noted** that the Minister of Finance and the Minister of Revenue have agreed that the revenue implications of the above changes will be counted against the Tax Policy Scorecard, and that this will not impact the between-Budget spending contingency directly.

Sam Moffett
Committee Secretary

Present:
Hon David Seymour (Chair)
Hon Nicola Willis
Hon Chris Bishop
Hon Simeon Brown
Hon Paul Goldsmith
Hon Louise Upston
Hon Judith Collins KC
Hon Mark Mitchell
Hon Simon Watts
Hon Brooke van Velden
Hon Shane Jones
Hon Casey Costello
Hon Chris Penk
Hon James Meager

Officials present from:
Officials Committee for EXP
Office of the Attorney-General

Cabinet

Minute of Decision

Report of the Cabinet Expenditure and Regulatory Review Committee: Period Ended 1 August 2025

On 4 August 2025, Cabinet made the following decisions on the work of the Cabinet Expenditure and Regulatory Review Committee for the period ended 1 August 2025:

Not in scope

EXP-25-MIN-0065	**GST and Unincorporated Joint Ventures** Portfolio: Revenue	CONFIRMED

Not in scope

Not in scope

Rachel Hayward
Secretary of the Cabinet

Item 25

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Employee share scheme deferral regime – outcome of consultation**

Date:	21 March 2025	**Priority:**	High
Security level:	Sensitive - Budget	**Report number:**	IR2025/126

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations **Note** the contents of this report	25 March 2025
Minister of Revenue	**Agree** to recommendations **Note** the contents of this report	25 March 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Claire McLellan	Acting Policy Lead	s 9(2)(a)	☐
Amber Flesher	Senior Policy Advisor	s 9(2)(a)	☒

21 March 2025

Minister of Finance
Minister of Revenue

Employee share scheme deferral regime – outcome of consultation

Executive summary

Purpose

1. This report seeks your decisions on whether to progress with a tax deferral regime for employee share schemes (ESS), and if so, seeks design decisions on the regime. Subject to that decision, the report seeks agreement to book the cost of the policy in Budget 2025, for inclusion in the August 2025-26 omnibus tax Bill.

Context and background

2. The National Party's 100-point economic plan committed to investigating changes to the tax treatment of share options issued by start-ups to their staff to make it easier to attract and retain talent in their early years.[1] The "Boosting the Tech Sector" manifesto document identifies issues with the current taxing point of ESS, which a deferral regime would address.

3. On 31 January 2025, Inland Revenue released the Officials' Issues Paper *Taxation of employee share schemes: start-up companies.* This paper proposed a deferral regime to allow recognition of taxable income from ESS offered by start-up companies to be deferred until there is a "liquidity event" to fund the tax on the income. Submissions closed on this paper on 14 March 2025. Targeted consultation was also undertaken with key stakeholders.

Problem definition

4. The issue is whether tax changes such as a deferral regime would make it easier for companies in the start-up and tech sector to attract and retain talent. Any changes would be intended to contribute to the growth of the sector.

5. Companies in the start-up and tech sector face issues with liquidity and valuation. They are often cash-constrained, and all available cash is allocated to developing the business. This is primary reason they use ESS, as those schemes reduce the amount of cash salary they pay.

6. However, there are two tax barriers to utilising ESS faced by start-up companies: valuation of the shares, and the ability of the employee to pay the tax on the income.

7. Both of these barriers can be overcome by using options rather than shares.[2] The issue is whether the inability to overcome these barriers with a scheme using shares is a problem that needs to be solved.

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[1] Commitment 87 of the National Party's 100-point plan.
[2] Employee share option plans are a type of employee share scheme. Instead of granting shares directly, these give employees the option to buy shares at a certain price (the exercise price) on or after a future date or event.

Outcome of consultation

8. The key themes that arose in consultation were:

- In the majority of cases, using long-dated options provides an adequate mechanism to defer an employee's ESS tax liability.
- The proposed regime was too complicated and would not provide enough of a benefit compared with existing choice (long-dated options).
- If a regime were implemented, the start-up definition in the proposed regime was too narrow, and would exclude companies that were true start-ups, which the policy was trying to target.

9. In response to feedback, Inland Revenue does not recommend progressing a deferral regime, as compared with the status quo it does not provide enough commercial benefit to companies to justify the cost of the proposal.

10. However, if you did wish to progress a deferral regime, we have developed a simplified version which responds to some of the concerns submitters raised with the design in of the proposal in the issues paper. Feedback from some submitters suggested that this version could be of use to the start-up sector.

11. If a deferral regime is not progressed, resources could be applied to other measures designed to improve the current tax regime. Stakeholders conveyed a strong interest in further consultation on other potential options to encourage the start-up sector, including a non-assessable/non-deductible approach similar to exempt ESS, providing tax concessions, publishing specific guidelines on valuation, or reviewing other compliance cost issues. Officials do not recommend more concessional approaches suggested by submitters, such as delaying the tax obligation on ESS, or extending the ambit of the current exempt ESS scheme.

Next steps

12. If Ministers agree with officials' recommendation, there is no need for further steps. Further engagement with the sector on other improvements to the tax settings for ESS could be considered as part of updating the Tax and Social Policy Work Programme.

13. If you wish to progress a simplified deferral regime, we recommend you invite the option into the Budget 2025 process.

14. Legislation could be included in the August 2025-26 omnibus tax Bill.

Background

Background

15. The National Party's 100-point economic plan, referenced in coalition agreements, committed to investigating changes to the tax treatment of share options issued by start-ups to their employees to make it easier to attract and retain talent in their early years. The "Boosting the Tech Sector" manifesto document identifies issues with the current taxing point of ESS, which a deferral regime would address.

16. The Minister of Science, Innovation and Technology previously wrote to you requesting that you investigate changes to tax rules that would better support start-ups in line with this commitment. The letter recognises that changes, including a deferral regime, could prove beneficial to the growth of businesses in our start-up sector considering they are often "cash-poor".

17. Officials subsequently undertook informal consultation with some start-up sector advisors, who suggested that there might be a benefit from developing a non-concessional tax deferral regime for ESS.

18. On 31 January 2025, Inland Revenue released the Issues Paper *Taxation of employee share schemes: start-up companies*. This Issues Paper primarily focused on a regime which would allow recognition of taxable income from ESS offered by start-up companies to be deferred until there is a "liquidity event" to fund the tax on the income. Start-up companies were defined as companies less than 10-years old, and with a turnover of under NZD$15 million. Along with several liquidity events, a 7-year sunset period was also included as a final taxing event.

19. Submissions closed on this paper on 14 March 2025. Targeted consultation was also undertaken with key stakeholders. Key themes from this consultation are discussed further below.

Current law

20. Under current settings for ESS, tax is required to be paid when the employee holds shares, in the same way as any non-employee shareholder, free of any employment-related restrictions or conditions. For an employee share scheme, this is usually once the employee holds the shares free of employment-related conditions.

21. This can be problematic because tax needs to be paid on illiquid (non-cash) income. The employee is liable to pay tax on shares which they often cannot sell. The tax deduction available to the employer (equal in timing and amount to the employee's income) will not give rise to an immediate tax benefit if the employer is in tax loss (as start-ups often are).

22. Additionally, Inland Revenue requires some evidence of the value of shares at the point of exercise which can in some cases require third-party valuations. This was identified as a problem in manifesto commitments, as well as in the Startup Advisors Council's 2023 *UpStart Nation* report.[3] Many start-ups do regularly value their shares for the purpose of attracting further funding. However, feedback was that these valuations might often be relatively optimistic, and also that they were relevant to shares having superior rights to those offered to employees.

Policy intent

23. The intent of the proposed deferral regime is to increase the use of ESS in the start-up sector by deferring the taxing point for schemes that involve the issue of shares rather than options. In doing so, this would be intended to contribute to the growth of the sector by aiding the attraction and retention of talent. It is important to note though that the benefit provided is one of timing and is not a tax concession.

Problem definition

24. Companies in the start-up and tech sector often face issues with liquidity and valuation. They are often cash constrained, and all available cash is allocated to developing the business. This is a particular reason they use ESS, because those schemes can reduce the amount of cash salary they pay, while remaining competitive in terms of remuneration.

[3] Ministry of Business, Innovation and Employment (July 2023), ISBN: 978-1-99-106959-7, *UpStart Nation*, Wellington.

25. There are two tax barriers to utilising ESS that are faced by start-up companies. The first is the valuation of the shares and second the liquidity on the employee's part to pay the tax on the income.

Valuation

26. Under the current law, calculating the tax payable by an employee requires a valuation of the shares at the relevant taxing point.

27. If the shares are in a listed company, the value of the shares at the time tax is payable can be easily found. It is more difficult to determine the value of the shares in an unlisted company, particularly if it is an early stage or start-up company, with little or no operating history, no net revenue or perhaps even cashflows and very few tangible assets.

Liquidity

28. Start-up companies are also often cash-constrained – all available cash is allocated to developing the business. This is one reason they use ESS to remunerate employees – because it reduces the amount of cash salary, they have to pay to remain competitive. Similarly, an employee may receive a modest cash salary to cover living costs and the rest of their remuneration in shares.

29. Compounding this issue is that in early-stage companies, and often in a broader set of unlisted companies, there is a very limited market for the employee's shares. The employee will often be prohibited from selling the shares other than to existing shareholders (and in some cases, that also may be impermissible). This makes it very difficult for the employee to sell their shares.

Use of options

30. Under current law, it is possible to legitimately structure an ESS so that it has the practical effect of deferring the taxing point – thus avoiding or minimising issues of liquidity and valuation. This can be done by using what is known as a long-dated option.

31. For example, if an employee is given an option which expires in 20 years, the employee can defer the taxing point in relation to that option until the company has an initial public offering (IPO) or the employee wishes to sell the shares. The employee can wait until that time to exercise the option. The employee will then have income equal to the value of the shares at that time, less the option price.

32. As discussed further below, during consultation it was made clear that for a deferral regime to be useful, it would at the very least need to provide a benefit greater than an option and be as easy to administer.

Consultation

33. Eleven submissions were received on the Officials' Issues Paper, and eight consultation meetings were held with stakeholders. Regular stakeholder groups such as Chartered Accountants Australia and New Zealand, New Zealand Law Society, Corporate Taxpayers Group, KPMG, PwC, EY and Deloitte were involved in consultation as well as industry experts such as the Angel Association and Venture Capital firms (Movac, Icehouse Ventures, Altered Capital, Global from Day One).

34. A common theme of consultation was that the proposal provided no real benefit over the status quo of using long dated options. Submitters have suggested that many in the start-up sector are content using options contracts, and the complexity of the proposal may result in employers continuing to use options. Many submitters suggested that tax concessions were a more appropriate way to make an impactful change in the start-up sector.

35. The majority of submitters also found the eligibility criteria for the proposed deferral regime to be too restrictive. Multiple submitters recommended we either remove the turnover and 10-year age limit, or we increase the limits to $50M turnover and an age of 15 years (to align with the Australian legislation).

36. Submitters advised this criterion did not capture "true start-ups" because many New Zealand start-ups are competing in the global market, thus need to be more aligned with international practice. Further, many innovative companies will either have an extended R&D phase, or "false starts" before finding success.

37. A number of submitters suggested removing the listed liquidity events, particularly ceasing to be an employee, and ceasing to be a New Zealand tax resident. This would leave only the sale/cancellation of shares as a taxing point to ensure the employee had the funds to service the tax liability when it is triggered. The point was made that when employees leave a company, they often have to forfeit their shares anyway, and to expand globally some employees may be required to leave New Zealand.

38. Many submitters also suggested that the 7-year sunset clause be removed or at least extended. They advised that the sunset clause would make this regime less attractive than options contracts because, with options, the tax liability may never arise if unexercised, whereas the sunset clause concretes a tax liability.

39. Most submissions agreed that this deferral regime should not be mandatory. Employers should have the choice to offer the deferral regime, and employees should have the choice to elect in. Elections should occur at the beginning of the regime.

Options analysis

40. Due to strong feedback during consultation, Inland Revenue does not recommend a deferral regime. If Ministers wish to progress with a deferral regime, however, a significantly simplified version is set out below that removes the 7-year sunset period and the start-up criteria, as requested throughout consultation.

Retaining the status quo (recommended)

41. Feedback has highlighted that the majority of start-ups use long-dated options as a self-help solution to delay the taxation of ESS. These long-dated options allow employees to exercise an option when they are in position to fund tax on the shares.

42. It also lowers the risk that an employee will owe tax on shares that have decreased in value since the share scheme taxing date and therefore cannot cover the tax by selling the shares.

43. The key issue with using long-dated options is that the employee is not a shareholder in the company until the share is exercised. This means they do not have the same rights as a shareholder, such as voting rights or the payment of a dividend. Holding a share can be seen as beneficial in aligning the interests of the company and employee.

44. However, feedback reinforced that many companies prefer providing options to their employees rather than shares, as it is less administratively burdensome.

45. Retaining the status quo would have no revenue or economic impact. If a deferral regime is not progressed, resources could be applied to other measures designed to improve the current tax regime, subject to prioritisation on the Tax and Social Policy Work Programme. Stakeholders conveyed a strong interest in further consultation on changes to ESS that could have a greater impact on start-ups.

Providing a deferral regime to all New Zealand companies that are not part of a listed group

46. The deferral regime proposed in the officials' issues paper raised many issues in consultation. When compared with a long-dated option, the regime provided less of an advantage and would be more difficult to comply with.

47. Given the proposed seven-year sunset period, and if ceasing to be an employee or a New Zealand tax resident would trigger taxation, a company would be able to defer taxation for longer under an options scheme.

48. Further, the narrow definition of start-ups was consistently raised during consultation as unworkable and would unintentionally exclude many companies that would still be considered true start-ups. The age of a start-up rarely reflects the state of growth that it is in. In many industries, it can take over ten years for a company to move past the start-up phase.

49. In response to this feedback, a simplified version is recommended if the deferral regime is to progress. There was limited time to consult on this simplified regime, but there was some positive feedback from stakeholders that this could be useful for start-ups who wish to provide shares to their employees rather than options schemes.

50. This simplified version would be available to all New Zealand companies that are not a member of a listed group.

51. The deferred taxing points would be limited to:

    - Payment of a dividend on the shares (noting that other shares in the company not subject to deferral can still be paid a dividend)
    - Listing of the company
    - Sale of the shares by the employee
    - Cancellation of the shares.

52. This approach would more closely align with how long-dated options function and would remove the initially proposed sunset period as well as ceasing employment and ceasing to be a New Zealand tax resident as liquidity events.

53. Removing the start-up definition responds to feedback received in consultation that the proposed definition would exclude companies that were in essence still start-ups, despite being over 10 years old, or having a turnover higher than NZD$15 million. It would also greatly reduce the compliance burden on companies as they would not have to monitor whether they meet the definition criteria.

54. The estimated revenue impact over the forecast period is $9.9 million.

55. While this option may provide some benefit to companies, officials do not believe this benefit would outweigh the cost of this proposal.

Conclusion

56. Officials recommend retaining the status quo, as consultation has suggested that a deferral regime would not provide enough of an incentive over options for companies to take up the regime.

57. If Ministers do wish to proceed with a deferral regime, officials recommend a simplified version of the deferral proposal consulted on in order to confer the most commercial benefit.

Financial implications

58. The fiscal impact of the simplified deferral regime results in an overall decrease in tax revenue of approximately $9.9 million over the forecast period, with a corresponding impact on the operating balance and net core Crown debt:

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue: Other persons Company tax	 -	 (1.300) 0.400	 (5.000) 2.000	 (5.000) 2.000	 (4.000) 1.000
Total Operating	**-**	**0.900**	**3.000**	**3.000**	**3.000**

59. This costing assumes a take up rate of 5% on top of those who would move from long-dated options (moving from options would have no revenue impact).

60. Based on the consultation feedback, a large proportion of companies have already structured options to smooth or defer their ESS tax liability. This means that the available data is already reflecting a lag or a preference to pay at the vesting and not sale date.

61. This assumption is why this broader simplified regime has a lower cost than the initially proposed deferral regime. The initial costing did not take into account the fact that most start-ups were already in essence deferring the taxation point by using long-date options.

62. If you agree to progress a simplified deferral regime, we recommend that the cost be charged against the Budget 2025 allowance.

Administrative implications

63. If you agree to progress a deferral regime, changes may be needed to ensure that Inland Revenue is notified when an ex-employee triggers the taxing date. Legislative changes may be required depending on further design decisions.

64. Inland Revenue has completed a high-level assessment of the administration costs based on the current options being considered. Depending on the agreed policy options the implementation and delivery costs could range from $2 million to $3 million over the forecast period. At this stage we propose self-funding these costs up to $3 million.

Agency consultation

65. The Treasury was consulted on this report and agrees with the recommendations.

66. The Ministry for Business, Innovation and Employment was also consulted.

Next steps

67. If Ministers agree with officials' recommendation, there is no need for further steps. Further engagement with the sector on other improvements to the tax settings for ESS could be considered as part of updating the Tax and Social Policy Work Programme.

68. If you wish to progress a simplified deferral regime, we recommend you invite the option into the Budget 2025 process.

69. Legislation could be included in the August 2025-26 omnibus tax Bill.

Recommended action

We recommend that you:

1. **agree** to:

   1.1. Retain the status quo (Inland Revenue's preferred option);

   Agreed/Not agreed Agreed/Not agreed

OR

   1.2. Progress a simplified deferral regime available to unlisted companies and invite the regime into the Budget 2025 process;

   Agreed/Not agreed Agreed/Not agreed

2. **note** that the simplified deferral regime has a fiscal cost of approximately $9.9 million.

   Noted Noted

If you agree to progress a simplified deferral regime initiative in recommendation 1.2 then:

3. **note** the following changes as a result of the decision in recommendation 1.2 above, with a corresponding impact on the operating balance and net core Crown debt:

	$m – increase/(decrease)				
Vote Revenue **Minister of Revenue**	**2024/25**	**2025/26**	**2026/27**	**2027/28**	**2028/29 & Outyears**
Crown Revenue and Receipts: Tax Revenue:	-	(0.900)	(3.000)	(3.000)	(3.000)
Total Operating	**-**	**0.900**	**3.000**	**3.000**	**3.000**

   Noted Noted

4. **agree** that the reduction in Crown tax revenue in recommendation 3 above be charged against the Budget 2025 allowance.

   Agreed/Not agreed Agreed/Not agreed

5. **agree** to include the necessary legislative changes in the Annual Rates 25-26 Tax Bill;

Agreed/Not agreed | Agreed/Not agreed

s 9(2)(a)

Claire McLellan
Acting Policy Lead
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Income derived from the sale of excess electricity – updated options**

Date:	26 June 2025	**Priority:**	High
Security level:	In Confidence	**Report number:**	IR2025/285

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	30 June 2025
Minister of Revenue	**Agree** to recommendations	30 June 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Peter Frawley	Policy Lead	s 9(2)(a)	☐
Hannah Simmonds	Policy Advisor	s 9(2)(a)	☒

26 June 2025

Minister of Finance
Minister of Revenue

Income derived from the sale of excess electricity – updated options

Purpose

1. We have previously reported on the proposal to introduce a capped tax exemption for income derived by individuals from the sale of excess electricity from their residential property (IR2025/187 refers).

2. The Minister of Revenue has requested further advice on options to address the tax implications that may arise for these individuals as a matter of urgency, so that any measure can be included in the 2025-26 annual rates Bill (the Bill). This report seeks decisions on two options ahead of Cabinet approvals for the Bill, which is scheduled to be introduced in August this year.

Background

3. Under current law, amounts derived from the sale of excess electricity are likely to be assessable income. This means that individuals are required to return and pay tax on the income, and are allowed deductions for expenditure incurred in relation to the sale of excess electricity (e.g. depreciation of the solar generation assets). Tax compliance among these individuals is expected to be low, and many would likely be in a tax loss position in relation to the sale of electricity due to expenses outweighing any income.

4. The compliance costs associated with these tax obligations are likely to be disproportionate for individuals deriving relatively small amounts of income. This is because most would not otherwise be expected to file tax returns, as their only other income would be salary, wages, and investment income subject to withholding tax. High compliance costs may also arise from apportionment issues due to the private limitation on deductions.

5. The default position under a broad-base low-rate framework is that income derived from the sale of excess electricity should be subject to income tax. However, we have previously recommended introducing a capped income tax exemption justified on compliance cost grounds. The tax and energy stakeholders we undertook targeted consultation with were generally supportive of this proposal and said it was a practical approach.

6. There is a precedent for a capped exemption approach under the mixed-use asset rules, where income derived from the use of a mixed-use asset in an income year can be treated as exempt income if it is less than $4,000. This exemption was also introduced on a compliance cost basis, as individuals deriving modest amounts of income from mixed-use assets faced complex apportionment issues

7. The Electricity Authority estimates that the average system capacity in New Zealand is 5.1 kilowatts (kW), generating approximately 6,200 kilowatt-hours (kWh) and exporting 4,300 kWh back to the network per year. Applying a relatively high 20 cent buy-back rate[1], this average system would generate $860 in income per year from the sale of excess electricity (against which deductions could be claimed).

[1] The amount the retailer pays the individual per kWh supplied.

8. We proposed a $1,000 threshold at the time of consultation, and stakeholders suggested alternative thresholds between $2,000 and $10,000. We previously recommended a $2,000 threshold, as we expect this would cover the large majority of individuals selling excess electricity from their residential property.

9. The Electricity Authority and Commerce Commission have jointly established the Energy Competition Task Force, which is proposing initiatives to incentivise the supply of excess electricity at peak times. These would take effect in the first half of 2026, and would exacerbate the existing tax issues.

Option 1: uncapped exemption for income derived from residential property

10. Option 1 is to introduce a tax exemption for income derived by an individual from the sale of excess electricity from their residential property, without a cap excluding income above a certain amount.

11. Amounts subject to the exemption would be treated as exempt income. That is, the individual would not need to return or pay tax on that income. However, they would no longer be entitled to deductions for expenditure relating to the sale of electricity, including costs incurred as part of the solar panel installation.

12. The exemption would not apply to income derived from the sale of excess electricity from commercial property. This is because it is unlikely that apportionment issues would arise (i.e. without private use of the solar generation asset), and businesses should be better equipped to deal with the tax implications generally.

13. To help ensure that the exemption applies only in residential situations, the definitions of "domestic consumer" and "domestic premises" in the Electricity Industry Act 2010 could be adopted:

    13.1 **Domestic consumer** is defined as a person who purchases or uses electricity in respect of domestic premises, and

    13.2 **Domestic premises** are defined as premises that are used or intended for occupation by a person principally as a place of residence (with certain exclusions, e.g. commercial accommodation, such as hotels).

14. Income derived by individuals from the sale of excess electricity would be exempt where these definitions are met. This would require minimal interpretation, as typical residential situations would be covered. Individuals with mixed-use residential property (e.g. where they have a home office) may also be covered, provided it is mainly a place of residence. One stakeholder specifically mentioned that these situations should be in scope of the proposal.

Option 2: capped tax exemption for income derived from residential property

15. The Minister of Revenue has raised concerns that the $2,000 threshold for the capped income tax exemption currently proposed would not sufficiently accommodate future increases in energy prices. Rising energy prices would affect the buy-back rate paid by retailers to individuals per kWh supplied, increasing the income they derive from the sale of excess electricity.

16. Option 2 is a tax exemption for income derived by an individual from the sale of excess electricity like option 1, but with a $4,000 threshold. If an individual derives up to $4,000 in an income year, they would not need to pay tax on or return that income (and would not be entitled to deductions). However, if an individual derives more than $4,000 in an income year, they would be subject to tax and reporting requirements on all income derived from the sale of excess electricity (but would remain entitled to deductions).

17. As we expect that a $2,000 threshold would cover the large majority of individuals selling excess electricity from their residential premises, increasing the threshold to $4,000 is likely to only marginally increase the coverage of the proposal. However, this would help to future-proof the policy, and we expect stakeholders would be supportive of the higher threshold.

18. We also propose allowing changes to the threshold to be made by Order in Council (rather than by primary legislation) to provide the Government with greater flexibility to respond to changes in the electricity market. This would help to ensure that the policy continues to achieve its original intent of reducing compliance costs where they are disproportionate to any tax revenue.

Financial implications

19. Both options 1 and 2 have been assigned a notional $200,000 fiscal benefit per annum over the forecast period (i.e. the same fiscal impact assigned to the $2,000 capped exemption previously proposed). This is because we expect there is a very low likelihood that individuals are deriving more than $2,000 from the sale of excess electricity from their residential property. Under current market conditions, we expect that many individuals are likely to be in a tax loss position due to expenses outweighing any income. However, we do not expect the tax loss position to endure over time as market conditions change.

Administrative implications

20. Both options are expected to have a low administrative impact on Inland Revenue, which could be funded within existing baselines. Guidance updates will be required in both cases, and under a capped exemption, we would need to assess whether information we currently hold is sufficient to assess compliance for individuals who may exceed the threshold.

Officials' recommendations

21. We recommend introducing a capped income tax exemption (option 2). This would be most consistent with the compliance cost rationale for the exemption generally, and would better protect against the revenue risk that could arise under an uncapped exemption. A capped exemption would also be consistent with precedents in the tax system (e.g. the capped income tax exemption under the mixed-used asset rules).

22. If the objective of option 1 would be to incentivise uptake of solar generation and the sale of excess electricity, we would note that this could be done in a more transparent and direct way (e.g. through a grant), rather than through the tax system. A grant would also have a finite fiscal cost over a certain period.

23. We would also note that although an income tax exemption would remove compliance cost barriers for individuals earning relatively small amounts of income, it may not be effective as a measure to incentivise investment. This is because individuals subject to the exemption would no longer be entitled to deductions, which would otherwise lower the cost of their investment in its first years.

Consultation

24. Treasury and the Ministry of Business, Innovation, and Employment have been consulted on this report.

Next steps

25. Decisions on this report are required by 30 June 2025 so that if either option is agreed, it can be included in a Cabinet paper for consideration by the Cabinet Economic Policy Committee at its meeting on 16 July 2025. If agreed by Cabinet, the proposal will be included in the Bill at introduction.

Recommended action

We recommend that you:

1. **Agree** to one of these two options:

    1.1 Option 1: progress an income tax exemption for all income derived by an individual from the sale of excess electricity from their residential property; OR

    Agreed/Not agreed Agreed/Not agreed

    1.2 Option 2: progress an annual income tax exemption for up to $4,000 of income derived by an individual from the sale of excess electricity from their residential property. (officials' preference)

    Agreed/Not agreed Agreed/Not agreed

If you agree to EITHER recommendation 1.1 or 1.2:

2. **Agree** to include the amendment in the 2025-26 annual rates Bill.

    Agreed/Not agreed Agreed/Not agreed

3. **Agree** that the amendment apply for the 2026-27 and later income years.

    Agreed/Not agreed Agreed/Not agreed

4. **Note** the following changes to tax revenue as a result of the recommendations above, with a corresponding impact on the operating balance and/or net core Crown debt:

	$m - increase/(decrease)			
Vote Revenue **Minister of Revenue**	**2025/26**	**2026/27**	**2027/28**	**2028/29**
Crown Revenue and Receipts: Tax Revenue - Other persons	0.050	0.200	0.200	0.200
Total Operating	**(0.050)**	**(0.200)**	**(0.200)**	**(0.200)**

    Noted Noted

5. **Agree** that the increase in tax revenue noted in recommendation 4 be added to the Tax Policy Scorecard.

    Agreed/Not agreed Agreed/Not agreed

If you agree to recommendation 1.2:

6. **Agree** to allow the exemption threshold to be changed by Order in Council.

Agreed/Not agreed

Agreed/Not agreed

s 9(2)(a)

Peter Frawley
Policy Lead
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Item 27

POLICY

Tax policy report: Information Sharing

Date:	30 May 2025	**Priority:**	Low
Security level:	In Confidence	**Report number:**	IR2025/231

Action sought

	Action sought	Deadline
Minister of Revenue	**Note** the contents of this report and **Discuss** with officials	None

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Carolyn Elliott	Policy Lead	s 9(2)(a)	☐
Martin Neylan	Principal Policy Advisor	s 9(2)(a)	☒

30 May 2025

Minister of Revenue

Information sharing

Purpose

1. You have asked for advice around increasing Inland Revenue's ability to share information with other government agencies.

2. Information sharing between government agencies is a complex area where a number of Ministers will have both an interest and a potential responsibility.

3. This report provides an overview of existing mechanisms to share information and the changes currently being progressed.

4. The report also outlines options for expanding information sharing. Officials would like to meet with you to discuss the options in light of your objectives to determine next steps.

Background

Inland Revenue's collection powers

5. Inland Revenue's information collection powers are consistent with other OECD revenue authorities but are generally broader than those of other New Zealand government agencies. This reflects the importance of data collection to ensure taxpayers meet their tax obligations to fund government programmes.

6. Information can only be collected by Inland Revenue where it is necessary and relevant for the collection of tax or the administration of the tax system. This means these broad collection powers cannot be used to collect information that is not related to tax, even though it may be useful for another government agency.

7. Inland Revenue's broad collection powers are balanced by a strict rule of confidentiality. Broadly, all "sensitive revenue information"[1] cannot be shared unless one of the exceptions to the rule applies. This confidentiality rule has been in place for over 140 years and, traditionally, has been considered necessary to promote voluntary compliance with the tax system. The confidentiality of a taxpayer's affairs is seen as a critical component of maintaining the integrity of the tax system and compliance with tax obligations. This would be placed in jeopardy if taxpayer information was not kept confidential. Other agencies such as the Serious Fraud Office have similar statutory confidentiality requirements.

8. Despite the general confidentiality rule, Inland Revenue currently shares a significant amount of information with other agencies. These information shares are possible through an Approved Information Sharing Agreement (AISA) under the Privacy Act 2020 or one of the legislative exceptions to confidentiality. There are over 50 legislative exceptions to tax confidentiality enabling Inland Revenue to share information with other agencies. Some of the factors Inland Revenue considers when determining whether to share information include the impact on the integrity of the tax system,

[1] "Sensitive revenue information" includes information held by the Commissioner that could identify a person or entity; or could be viewed as private, commercially sensitive or confidential; or information where the release could result in loss, harm or prejudice. It does not include aggregate or statistical data.

whether there is social licence to share and whether sharing is necessary for the maintenance of the law. A diagram summarising the current flows of information between government agencies is contained in the appendix to this report.

9. AISAs must be published online and are subject to oversight and reporting requirements set by the Privacy Commissioner. These agreements have been used in areas such as law enforcement, social services, and justice to address complex societal issues like crime reduction and assisting with determining entitlement to government support.

<u>The role of the Office of the Privacy Commissioner</u>

10. The Privacy Act 2020 governs how agencies collect and use personal information. The Privacy Commissioner regulates the legislation and ensures agencies are following the rules correctly.

11. Two of the Privacy Commissioner's key areas of work include examining government proposals and draft legislation for its impact on individual privacy and monitoring information sharing programmes between government departments.

12. The Cabinet manual requires public sector agencies to consult with the Privacy Commissioner on any proposal with privacy implications.

Current work on increasing information sharing

13. Officials are currently involved in initiatives that will either improve existing information shares or expand these shares. A summary of these initiatives is outlined below.

New Zealand Police – legislative amendment Legislation to share updated tax information with NZ Police for Criminal Proceeds (Recovery) Act (CPRA) purposes is scheduled for inclusion in the August 2025 Tax Bill (with application from 1 April 2026). This will contribute to the all-of-government response to organised crime. This amendment will enable Inland Revenue to update the information previously provided to NZ Police, to ensure they are aware of the taxpayer's affairs when considering further action under CPRA. This change addresses some but not all of NZ Police's concerns which would require changes to the CPRA legislation (Ministry of Justice legislation).
IR/MBIE Approved Information Sharing Agreement The IR/MBIE AISA enables Inland Revenue and the Companies Office to share information with each other for compliance and administration purposes. The AISA is due to be completed by December 2025. Information shared could identify non-compliance including identifying phoenix activity undertaken by businesses, assist MBIE to prosecute offenders, as well as providing administrative benefit to both agencies and reduce compliance costs for businesses. Public consultation has occurred on the AISA and the parties are now finalising the agreement with the Office of the Privacy Commissioner. The next step is to report to joint Ministers on the outcome of consultation and seek final policy decisions before introducing an Order in Council to give legal effect to the AISA.

Information sharing for family support residency test – legislative amendment

This proposed information sharing is part of the discussion document on *Empowering families: Increasing certainty and preventing debt in working for Families scheme* that was released as part of the Budget package. It proposes that Inland Revenue share with Customs information on family support recipients who are suspected of being overseas and not entitled to family support.

s 9(2)(f)(iv) [redacted]

s 9(2)(f)(iv) [redacted]

s 9(2)(f)(iv) [redacted]

[redacted]

[redacted]

Expanding information sharing

14. There are number of options to expand Inland Revenue's information sharing ability. Officials have concentrated on options for Inland Revenue to share more information rather than options for other agencies to share more information with Inland Revenue. These options include introducing new sharing mechanisms, enhancing the current mechanisms, or focusing efforts on a certain area or on a specific agency. The options are outlined at a high level and we have not undertaken any detailed legal analysis.

<u>Enacting a tax equivalent to the Customs and Excise Act's Ministerial agreements</u>

15. The Customs and Excise Act has the ability for Ministers to enter into an agreement for Customs to share information with another agency for specific purposes or uses. This mechanism could be replicated for Inland Revenue. This would require a legislative change and would require consultation with stakeholders, Ministers and the Privacy Commissioner. Once enacted, whilst we do not have experience with these types of agreements, we expect the process will be much faster, possibly 3 to 6 months.

16. The Customs Ministerial agreements require the Privacy Commissioner to be consulted before Ministers enter into an agreement. This ensures the privacy implications of sharing individuals' information are known. There is not an equivalent process that applies to business information and businesses are likely to be concerned with this. Officials would recommend early-stage stakeholder engagement if this option is progressed to ensure businesses' concerns can be considered and addressed.

17. One way to address this would be for the Inland Revenue proposed Ministerial agreements to be available for sharing individual information but restricted to sharing business information for a narrow range of purposes such as organised or serious crime, where social licence already exists.

18. Customs Ministerial agreements are not publicly available unlike AISAs or legislation. Stakeholders and businesses may also be concerned with this. This could be considered during stakeholder engagement.

19. These agreements would only provide a one-way share of information from Inland Revenue to the other agency. Inland Revenue would need to use other mechanisms to access information from the other agency.

20. However, incorporating these Ministerial agreements in the revenue legislation would be a timelier way for Inland Revenue to share information with other agencies and recommended that officials explore this further.

<u>Improvements to the current sharing mechanism</u>

21. Our view is that the main problem with the current AISA sharing mechanism is that they take too long to conclude, generally 18 months or longer. This is a complex process and requires agencies to work together, have the same understanding of the AISA process, have the same priorities to conclude these agreements in a timely manner. Although Inland Revenue have expertise and experience in sharing information, other departments may not have the same level of skills or resources.

22. Changes could be made to the AISA sharing mechanism to streamline the process and shorten the timeline to conclude agreements. The AISA process requires four reports to be considered by Ministers and/or Cabinet, public consultation to occur, an agreement to be drafted by officials and an Order in Council to be drafted and enacted to give effect to the AISA agreement. This is a lengthy process. However, it enables Ministers to test the sharing proposal with the public to see whether they have social licence to proceed. This process has been used in the past for sharing information to combat crime.

23. Inland Revenue has successfully used the AISA process, including with: MSD to administer the benefit system and identify non-compliance; NZ Police, Customs, and the Serious Fraud Office for serious crime detection; and 12 agencies who are signatories to the Gang Intelligence Centre AISA.

24. The Ministry of Justice has responsibility for the Privacy Act and the AISA process. If you would like to consider this option further, the Ministry of Justice would need to progress any changes. Officials recommend that the next step with this option would be to discuss your concerns with the Minister of Justice.

<u>A wider legislated information sharing provision</u>

25. An option could be to enact a legislative provision that gives the power to the Commissioner to share information that he deems necessary in certain circumstances subject to meeting certain criteria. This would be an exception to the general confidentiality rule in the TAA.

26. A Commissioner sharing provision could incorporate safeguards like transparency; limits on which agencies Inland Revenue could share with, for a narrow purpose; and specify what information could be shared. This would enable information to be shared in a timely manner whilst reducing the risk of going beyond social license. An example of this is the Covid-19 sharing provision which enabled sharing to occur with constraints.

27. We expect that progressing this permission to share information would be of concern to both the public and the stakeholders we regularly engage with (such as CA ANZ, NZLS and CTG). We have experienced significant pushback from stakeholders such as NZLS in the past when we have been considering changes to information sharing. It is also likely that the Privacy Commissioner would have concerns in relation to individuals' information. The safeguards referred to above may mitigate some of the concerns that could be raised. If you wish to progress either of these options, you might like to test the idea first with the Tax System Forum.

28. Our view is that if your objective is to make it easier for Inland Revenue to share information with other agencies, you consider both the Commissioner sharing provision and the Ministerial agreement process outlined above rather than legislating a wide-reaching information sharing provision.

Focusing on specific areas or agencies

29. Another way to improve information sharing is to focus on areas of concern or sharing with specific agencies, for example NZ police and/or Customs. We have outlined below responses to concerns, which we can discuss with you.

Combating crime

30. If you want to undertake further work on combating crime, especially gang and organised crime, then this narrows the scope to serious crime, which the government already has social licence to share information for. Sharing information with limited key agencies in the short term such as NZ Police and Customs would minimise the need to involve other Ministers and may enable existing sharing frameworks to be used or amended to authorise this sharing.

Sharing with specific agencies to assist them undertake their functions

31. Inland Revenue already shares a significant amount of information with other agencies to enable them to deliver services to New Zealanders (see appendix). However, the information shares are not with all agencies and gaps may remain. If you have concerns regarding sharing with another agency, officials would like to discuss this with you and can then provide further advice.

Summary of options

32. The above options involve either an AISA, legislative change, a ministerial agreement or a combination of these. Below is a table that summarises the advantages and disadvantages of the options.

	Advantages	Disadvantages
AISA	• Enables a two-way sharing of information. • Enables public consultation to occur on the proposal. The Privacy Commissioner also needs to be consulted. • Useful in testing public opinion to the sharing of certain information. • A transparent sharing of information.	• Involves reporting to Ministerial/Cabinet four times • Requires an Order in Council to give legal effect to the AISA agreement • Other agencies are not as experienced with the AISA process • The above disadvantages lead to longer implementation times
Legislation	• Can provide two-way sharing but this can involve amendment to both agencies' legislation. • A transparent sharing mechanism.	• Can take 18 months or longer to implement. • May require changes to both agencies' legislation. • Inland Revenue can make changes to tax legislation only.
Ministerial agreements (akin to Customs s316 agreements)	• Enables Inland Revenue to share information with another agency. • Involves a written Ministerial agreement setting out safeguards and specifying what can be shared and for what purpose. • Can be implemented quickly, 3-6 months. • Ministers must consult the Privacy Commissioner and have regards to comments made.	• Does not involve public consultation. • The process is not transparent. • Need ability for the other agency to legally share information with Inland Revenue.
Commissioner's power to share information in certain circumstances	• Enables Inland Revenue to share information with another agency in a timely manner. • The legislation could set out the safeguards, what information can be shared and for a defined purpose, as well as transparency requirement,	• Does not involve public consultation. • Need ability for the other agency to legally share information with Inland Revenue. • No Ministerial oversight. • Privacy Commissioner may not be consulted. • Limits ability to share to only those specific circumstances, and agencies, nothing else.

Consultation

33. The Treasury were not consulted in the drafting of this report.

Next steps

34. The recommended next step is to discuss this report with officials.

Recommended action

We recommend that you:

1. **note** the contents of this report.

   Noted

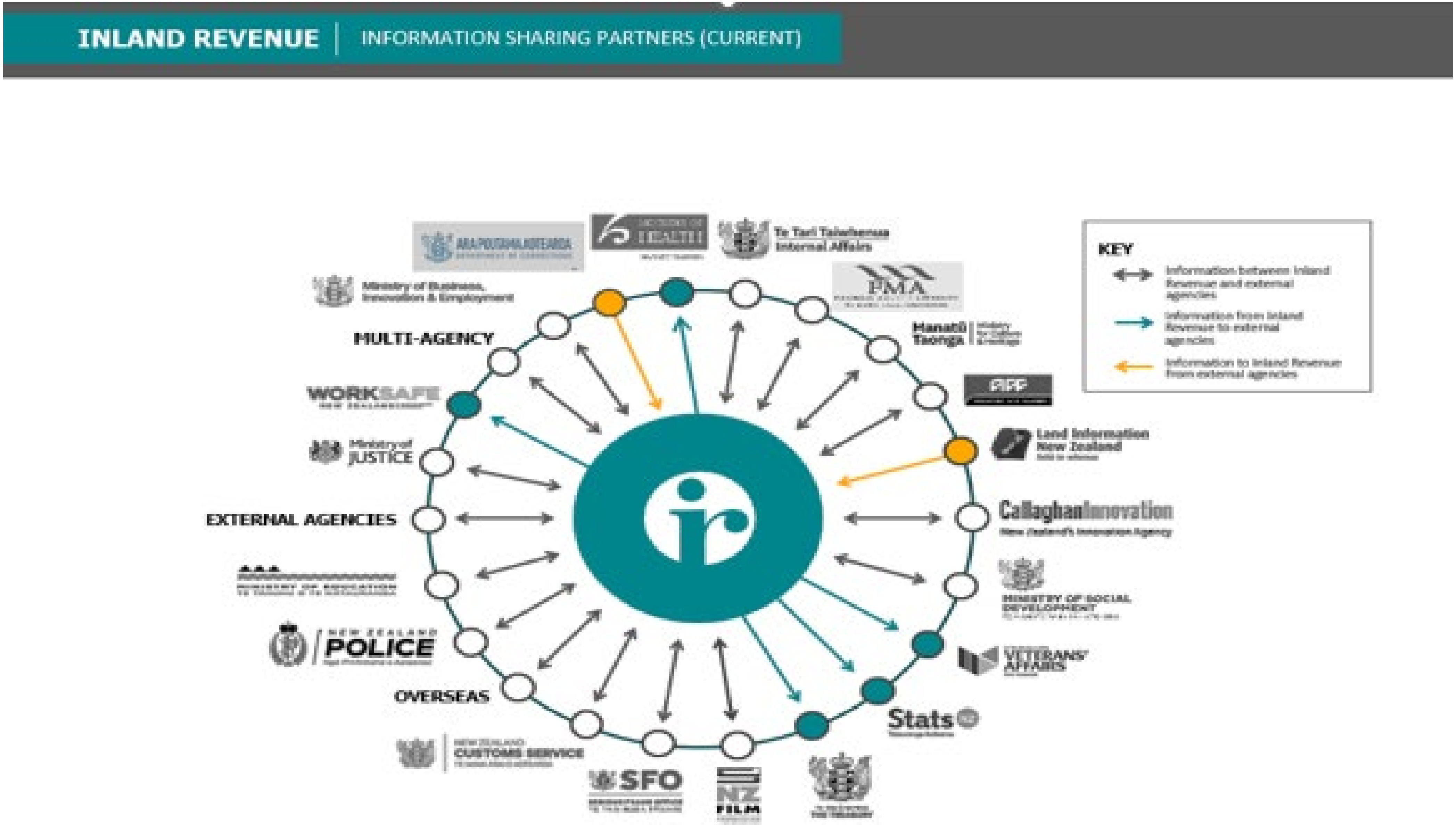
2. **discuss** the options outlined in this report and your objectives with officials.

s 9(2)(a)

Martin Neylan
Principal Policy Advisor
Policy

Hon Simon Watts
Minister of Revenue
/ /202

Appendix


INLAND REVENUE
INFORMATION SHARING PARTNERS (CURRENT)
KEY
Information between Inland Revenue and external agencies
Information from Inland Revenue to external agencies
Information to Inland Revenue from external agencies
MULTI-AGENCY
EXTERNAL AGENCIES
OVERSEAS
Ministry of Business, Innovation & Employment
Te Tari Taiwhenua Internal Affairs
HEALTH
WORKSAFE
Ministry of JUSTICE
NEW ZEALAND POLICE
NEW ZEALAND CUSTOMS SERVICE
SFO
NZ FILM
Stats
VETERANS' AFFAIRS
MINISTRY OF SOCIAL DEVELOPMENT
Callaghan Innovation
New Zealand's Innovation Agency
Land Information New Zealand
Manatū Taonga
FMA

Inland Revenue
Te Tari Taake

Policy
Taukaea
55 Featherston Street
PO Box 2198
Wellington 6140
New Zealand

T. 04 890 1500

Briefing note

Reference: BN2025/335

Date: 24 July 2025

To: Revenue Advisor, Minister of Revenue – Angela Graham
Private Secretary, Minister of Revenue – Helen Kuy

cc: Peter Mersi, Commissioner
David Carrigan, Deputy Commissioner
Emma Grigg, Policy Director
Kerryn McIntosh-Watt, Policy Director
Phil Whittington , Policy Director
Joanne Petrie, Executive Support Advisor to the Commissioner
Jill Compton, PA to Deputy Commissioner
Governance, Ministerial & Ministerial Services

From: Martin Neylan, Principal Policy Advisor

Subject: **Additional information for Cabinet's consideration on disclosing information under a proposed Ministerial agreement**

Issues raised by Cabinet Committee

1. At its meeting on Wednesday 23 July, the Cabinet Economic Policy Committee had concerns with the proposal for a Ministerial information sharing agreement contained in the Cabinet paper on Further Measures for Inclusion in the Taxation (Annual Rates for 2025-26) Bill. The concerns raised by Ministers related to the wording and scope of when information can be shared by Inland Revenue to other agencies. The current wording in the proposal is information can be shared for: the "prevention, detection, investigation, prosecution, or punishment of potential, suspected, or actual offences". The Committee were concerned that this wording could potentially encompass minor offences punishable by fines or community-based sentences which they felt was too broad.

Society's expectations for Government information sharing

2. Disclosing information to other agencies for enforcement of offences punishable by fines or community-based sentences would likely be outside the existing 'social licence' for the sharing of a person's personal information across government agencies. For each proposed Ministerial agreement, officials will be providing advice, informed by previous public consultation, to Ministers on whether they consider that social licence exists for a proposal to disclose information under a Ministerial agreement.

3. The Privacy Commissioner is also required to provide comments to the two Ministers involved in the proposed Ministerial agreements on the privacy impacts of the proposal and whether the Commissioner considers that social licence exists. Also, Ministers themselves would need to be satisfied the proposal to disclose is within social license before entering into an agreement. If there is any uncertainty

as to whether social licence exists to disclose information, then officials would likely advise a Ministerial agreement is not the appropriate mechanism for disclosure of tax information and instead an Approved Information Sharing Agreement (AISA) or legislation are more appropriate as these mechanisms benefit from public consultation and final approval by Cabinet.

Offence categories

4. The Cabinet paper currently encapsulates category 1 offences under the Criminal Procedure Act 2011, which relates to offences punishable by fines or community-based sentences.

5. Putting aside whether social licence exists, potential examples where Inland Revenue could potentially disclose information for offences under the current proposal in the Cabinet paper include:

   - Employers who allow employees to work in New Zealand unlawfully face a maximum fine of up to $50,000 (section 357 Immigration Act 2009).
   - A person who is unlawfully in New Zealand without a valid entry visa faces a sanction of removal from New Zealand (section 154 Immigration Act 2009).
   - A person who knowingly illegally imports tobacco products, could face monetary penalties or a maximum term of imprisonment of up to 6 months (section 389 Customs and Excise Act 2018).

6. Below are two options for limiting disclosure for crimes punishable by terms of imprisonment of one year (option one) or two years (option two).

7. Another option considered but rejected is to limit disclosure of information to category 4 offences (i.e. offences such as murder, treason, espionage, or sabotage). However, this would be of limited benefit to the NZ Police as they could use the existing Targeting Serious Crime AISA, rather than Ministerial agreements, to obtain Inland Revenue information for serious offences, which the AISA defines as crimes with terms of imprisonment of 4 years or more.

Option one

8. Under this option, information could be disclosed to assist the other agency to undertake its function of prevention, detection, investigation, prosecution, or punishment of potential, suspected, or actual offences **punishable by terms of imprisonment of one year or more**. This equates to category 2 offences under the Criminal Procedure Act 2011.

9. Examples where information could be disclosed include:

   - Illegally importing a firearm, which has a maximum term of imprisonment of one year (section 16 Arms Act 1983).
   - Supplying firearms to unlicensed persons, a term of imprisonment up to two years (section 43 Arms Act 1983)
   - Breaches of firearms prohibition orders, a maximum term of imprisonment of two years (section 42A Arms Act 1983)
   - Possession of non-prohibited firearm, a maximum term of imprisonment of one year (section 20 Arms Act 1983).

10. Examples of offence that would not be included are most possession of drug offences, which have a maximum term of imprisonment of 6 months.

11. The NZ Police recommend the adoption of option one. At the time Police request information from Inland Revenue, they may not yet know the final offence category, making it unclear whether they're allowed to access the information. Having a low category of offending reduces this uncertainty.

Option two

12. Under this option, information could be disclosed to assist the other agency undertake its function of prevention, detection, investigation, prosecution, or punishment of potential, suspected, or actual offences **punishable by terms of imprisonment of two years or more.** This equates to category 3 offences under the Criminal Procedure Act 2011.

13. Examples where information could be disclosed include:

- Engaging in a money laundering transaction knowing it to be the proceeds of an offence, a maximum term of 7 years imprisonment (section 243 Crimes Act 1961).
- Obtaining by deception or causing loss by deception, a maximum term of imprisonment of 3 years (section 240 Crimes Act 1961).
- The supply or manufacture of drugs or letting of premises for drug related activities, or cultivation of prohibited plants all have maximum terms of imprisonment of more than 2 years. (section 6 Misuse of Drugs Act 1975).

14. Inland Revenue recommends setting the threshold for disclosure of information at category 3 offences with terms of imprisonment of 2 years or more. We have also consulted with Justice, who consider that the bulk of crimes committed by organised crime groups fall within category 3 offences.

Consultation with the Treasury

15. The Treasury was not informed about this briefing note due to the short timeframe for providing information to the Minister of Revenue for Cabinet on Monday.

Martin Neylan
Principal Policy Advisor
s 9(2)(a)

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Replacing the legislative trust disclosure provisions with Commissioner powers**

Date:	19 June 2025	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2025/274

Action sought

	Action sought	Deadline
Minister of Finance	**Agree** to recommendations	30 June 2025
Minister of Revenue	**Agree** to recommendations **Refer** a copy of this report to the Associate Minister of Justice	30 June 2025

Contact for telephone discussion (if required)

Name	Position	Telephone	Suggested first contact
Peter Frawley	Policy Lead	s 9(2)(a) [redacted]	☒
Hannah Simmonds	Policy Advisor	s 9(2)(a) [redacted]	☐

19 June 2025

Minister of Finance
Minister of Revenue

Replacing the legislative trust disclosure provisions with Commissioner powers

Purpose

1. This report seeks your decisions on whether to repeal the specific legislative provisions for the trust disclosure regime. In the absence of the specific legislative provisions, the Commissioner of Inland Revenue (the Commissioner) may continue to collect substantially the same information from trustees under his general powers.

2. If you would like to repeal these legislative provisions, we seek your agreement to include amendments giving effect to the repeal in the 2025–26 annual rates Bill (the Bill), scheduled for introduction in August 2025.

Background

Trust disclosures regime

3. The additional disclosure requirements for trustees were introduced for the 2021–22 and later income years through changes primarily to the Tax Administration Act 1994 (TAA). The regime was enacted alongside the introduction of the 39% personal income tax rate.

4. The amendments giving effect to these disclosure requirements also empower the Commissioner to request information as far back as to periods beginning after the end of the 2013–14 income year. The Tax Administration (Financial Statements—Domestic Trusts) Order 2022 (the Order) was also made in March 2022 to set the minimum requirements for financial statements prepared by trusts that are subject to the disclosure rules, as the legislative provisions do not specify what information is required.

5. There were two stated purposes for the trust disclosure regime:

   5.1 To support the Commissioner's ability to assess compliance with the new 39% personal income tax rate; and

   5.2 To assist the Commissioner in understanding and monitoring the use of structures and entities by trustees.

6. The disclosure regime requires trustees of trusts that derive assessable income for a tax year to prepare financial statements and disclose details of settlements, settlors, distributions, beneficiaries, persons with powers of appointment, and other information required by the Commissioner.

7. Certain classes of trusts and trustees are excluded from the disclosure regime, including trustees of non-active trusts, foreign trusts, charitable trusts, and trusts eligible to become Māori authorities.

Post-implementation review and independent report

8. A post-implementation review of the trust disclosure regime was undertaken by Inland Revenue in 2024 to improve the rules and reduce compliance costs. The review included interviews with, and surveys of, stakeholder groups, as well as an analysis of the disclosure data from the 2021–22 and 2022–23 income years. Inland Revenue also engaged an external practitioner to undertake a parallel but independent review of the trust disclosure rules.

9. Several themes were evident in feedback from stakeholders, including frustration with the process in which the regime was implemented, high compliance costs, the wide application of the requirements, and concerns about inconsistency and variability in the data provided by trustees.

10. Inland Revenue also commented on New Zealand's Anti-Money Laundering/Countering Financing of Terrorism (AML/CFT) rating uplift. The disclosure requirements, in conjunction with the Trusts Act 2019, led to the Financial Action Task Force (FATF) changing its rating for New Zealand on "transparency and beneficial ownership of legal arrangements" from partially compliant to largely compliant.

11. Both Inland Revenue's report and the independent report concluded that the regime should continue because it provides useful insights that support tax compliance and the development of tax policy. Several recommendations were made to improve the rules by reducing granularity and subjectivity, and to improve the taxpayer experience.

12. In response, Inland Revenue made changes to simplify the 2025 trust tax returns. The Minister of Revenue also agreed to make legislative changes to reduce compliance costs, which were enacted in March 2025 (IR2024/481 and IR2025/048 refer).

Proposal

13. At the Minister's meeting on 6 May 2025, the Minister of Revenue indicated that the legislative trust disclosure provisions in the TAA should be repealed.

14. Inland Revenue does not recommend repealing the legislative provisions for trust disclosures as this would, in practice, simply change the mechanism by which information is collected from trustees. This is because the Commissioner intends to continue to collect information from trustees under his general powers. The change in mechanism for collecting the information could cause some uncertainty or confusion for taxpayers.

15. If you do wish to repeal the legislative provisions, we recommend that this applies for the 2026–27 and later income years. This would take into account the lead-in period required to make any necessary amendments to the tax returns, operational processes, and any guidance material.

16. If the legislative provisions are repealed, we recommend retaining the Order setting minimum requirements for financial standards. Amendments would be required to reflect that trust information would be collected under the Commissioner's general powers rather than under the legislative provisions for trust disclosures. Without any amendments to the Order, there would be uncertainty and inconsistency regarding the level of detail that financial statements must be prepared to. This would affect the quality of data and possibly lead to non-compliance.

17. It is possible that repealing the legislative provisions could adversely affect New Zealand's AML/CFT rating with FATF, given that the enactment of these provisions was cited by FATF as contributing to the increase in New Zealand's rating. This risk

may be mitigated to the extent that the Commissioner continues to collect the same information under his general powers after the legislative provisions are repealed.

18. The Ministry for Regulation has determined that the proposal is exempt from providing a Regulatory Impact Statement on the grounds that it has no or only minor economic, social, or environmental impacts.

Consultation

19. No specific public or targeted consultation has been undertaken on this proposal.

20. The Ministry of Justice has been informed of this proposal and does not support the repeal of the legislative provisions.

Financial implications

21. The repeal of the legislative provisions for trust disclosures does not remove the ability of the Commissioner to continue to collect the information under his general powers. Consequently, there are no financial implications associated with this proposal.

Administrative implications

22. Repealing the legislative provisions for trust disclosures would have minimal administrative impacts on Inland Revenue, provided the Commissioner continues to collect substantially the same information. Some content updates may be required, but these could be absorbed within existing baselines.

23. Inland Revenue is still considering the information that would be collected following the repeal of the legislative provisions. If the Commissioner chose to collect less information under his general powers, this would result in changes to forms and systems, communication to stakeholders including digital service providers, and content updates. Inland Revenue would absorb these costs as part of its annual changes in April following enactment of the Bill.

Next steps

24. If you wish for the legislative provisions for trust disclosures to be repealed, we will include this item in a Cabinet paper for consideration by the Cabinet Economic Policy Committee at its meeting on 16 July 2025, so that it can be included in the Bill at introduction.

Recommended action

We recommend that you:

	Minister of Finance	Minister of Revenue
1. **Note** that if the legislative trust disclosure provisions are repealed, the Commissioner of Inland Revenue may continue to collect substantially the same information under his general powers	Noted	Noted
2. **Agree,** in relation to the legislative trust disclosure provisions, to **EITHER**:		
2.1 Retain the legislative provisions (officials' recommendation)	Agreed/Not agreed	Agreed/Not agreed
OR		
2.2 Repeal the legislative provisions, with effect for the 2026–27 and later income years	Agreed/Not agreed	Agreed/Not agreed
3. If recommendation 2.2 is agreed to, **agree** to include the proposal in the 2025–26 annual rates Bill	Agreed/Not agreed	Agreed/Not agreed
4. If recommendation 2.2 is agreed to, **agree** to amend the Tax Administration (Financial Statements—Domestic Trusts) Order 2022 so that it continues to apply to a trustee of a trust who is required to file a return, with application for the 2026–27 and later income years	Agreed/Not agreed	Agreed/Not agreed
5. **Refer** a copy of this report to the Associate Minister of Justice (Hon Nicole McKee) for their information		Referred/Not referred

s 9(2)(a)

Peter Frawley
Policy Lead
Policy

Hon Nicola Willis
Minister of Finance
/ /2025

Hon Simon Watts
Minister of Revenue
/ /2025

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Request for advice on section 17GB - Tax Administration Act 1994

Date:	14 March 2024	**Priority:**	Low
Security level:	In Confidence	**Report number:**	IR2024/076

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to include a review of section 17GB of the Tax Administration Act in the draft Tax and Social Policy Work Programme.	None

Contact for telephone discussion (if required)

Name	Position	Telephone
Felicity Barker	Policy Lead	s 9(2)(a)

14 March 2024

Minister of Revenue

Request for advice on section 17GB – Tax Administration Act 1994

Summary

1. You have asked for advice on whether section 17GB of the Tax Administration Act 1994 (the Act) should be retained, repealed or amended.

2. This provision gives the Commissioner of Inland Revenue the ability to request information that the Commissioner considers relevant to a purpose relating to the development of policy for the improvement or reform of the tax system. It was inserted in the Act in 2020 to clarify that the Commissioner's information gathering powers extended to collecting information solely for a policy purpose.

3. Having access to information is critical to providing good tax policy advice. Therefore, we consider that there is a justification to retain section 17GB, or to alternatively clarify that the general information collection provision (section 17B) allows the collection of information for policy or research purposes.

4. However, in either case, several issues have arisen with the collection of information for purposes other than compliance or administration. The primary concerns relate to the use of the information once collected and whether there are sufficient safeguards for individuals (such as restrictions on use of the information for purposes other than that for which it was collected).

5. s 9(2)(h) [redacted]

6. Consequently, we recommend adding a review of section 17GB to the draft Tax and Social Policy Work Programme. Undertaking a review would be consistent with the post-implementation review of the additional trust disclosure requirements that were enacted at the same time as section 17GB (IR2023/292 refers).

Background

7. Section 17GB was enacted in December 2020. It provides that the Commissioner of Inland Revenue may require a person to provide information for a purpose relating to the development of policy for the improvement or reform of the tax system.

8. While the Act provides a general information collection provision, allowing the Commissioner to request information related to the administration or enforcement of an Inland Revenue Act or any function lawfully conferred on the Commissioner, section 17GB was inserted as there was some uncertainty as to whether the Act allowed the Commissioner to request information solely for tax policy development purposes.

9. s 9(2)(g)(i) [redacted]

s 9(2)(g)(i) [redacted]

10. There is a limitation on how information collected under section 17GB can be used. Information collected under the provision cannot be used as evidence in proceedings against the person providing the information. However, this limitation does not apply if the information is subsequently collected under another section of the Act. This recognises that the purpose of gathering information under section 17GB is to support the development of tax policy rather than enforcement activities.

11. The genesis of the power relates back to the last Tax Working Group (TWG). The TWG noted that in New Zealand there is a lack of certain information that is important to inform tax policy development – for example information about income or assets that are outside of the tax system. They recommended that the government enhance the capability of agencies to collect such information and make it available to the public.

12. Having access to information is critical to providing good tax policy advice. We therefore consider there is a justification for retention of section 17GB, or alternatively to clarify that the general information collection provision extends to the collection of information for policy or research purposes. However, as discussed below, in either case we recommend consideration be given to possible enhancements to the safeguards provided for individuals.

13. Some members of the public have argued that the powers contained in section 17GB should be vested in another government agency, such as Stats NZ, to ensure a clear separation of compliance functions and policy related functions. We consider that it is appropriate that the power sit with Inland Revenue as the collection of information related to tax matters requires significant knowledge of methodologies and laws relating to tax and as policy work may require a mixture of collected and agency held information. Vesting the power in another agency is likely to cause further ambiguity as to the scope of the general information collection power.

Concerns arising with the provision

14. As noted, section 17GB was inserted in the Act to clarify that the Commissioner may request information solely for tax policy development purposes. A first question that policy work could consider is whether the best approach to making this clarification is having a provision separate to the general provision.

15. Inland Revenue used section 17GB to collect information for the high-wealth individuals research project (the project). The project identified (through internal discussion and commentary from external advisers and stakeholders) several issues with the provision that warrant further consideration. These concerns mostly relate to the use of the information once collected and whether there are sufficient safeguards for individuals. Some of these issues arise with the collection of information for policy or research purposes whether there is a separate provision or not.

16. The issues that have been identified relating to the ***use*** of collected information include:

    16.1 The extent to which the information collected under the power may be used within Inland Revenue for purposes other than that set out in section 17GB (policy development). While the Act provides that information collected by the Commissioner may be used for any purpose under the Revenue Acts, the use of information collected under section 17GB as evidence in proceedings is specifically prohibited. It is unclear whether operational procedures need to be put in place to meet this prohibition on the use of information in proceedings. A policy question is whether there should be further statutory restrictions against other uses by Inland Revenue (i.e., in relation to general tax administration).

16.2 In the project, collected information was secured and kept separated from all other activities beyond the project, including compliance and enforcement activities (this is referred to as ring-fencing). However, the ring-fencing needed reinforcement through other administrative decisions. Inland Revenue has also ring-fenced, from compliance activities, information collected voluntarily or under the general information collection provision – for example information collected in Inland Revenue’s (voluntary) compliance cost survey may only be used for research purposes. Policy work could consider if the legislative basis for ring-fencing should be stronger.

16.3 There is uncertainty as to the scope of the prohibition on the use of information collected under the provision in proceedings. In particular:

16.3.1 It is unclear if collected information is only prohibited from use in criminal proceedings, or if the prohibition also applies to civil tax challenges in the courts, or if the prohibition applies to all proceedings (which would include, for example, debt proceedings).

16.3.2 Some compliance actions fall short of being “proceedings” e.g., the early stages of a dispute, where negotiated settlements or resolutions can take place, or debt recovery scenarios not involving court action. It is uncertain whether information collected under section 17GB could or should be able to be used in such cases.

16.3.3 It is unclear if information collected under section 17GB can be used as evidence in proceedings against third parties, e.g., other taxpayers from whom the information was not collected (i.e., could information provided by an individual be used in proceedings against a company with whom they are connected).

16.4 There are circumstances where information collected under section 17GB (or otherwise) potentially must be disclosed to external agencies (e.g., intelligence agencies or the Auditor-General), other parties or to international tax authorities under a lawful request. It may be that this could lead to subsequent actions by another party. Policy work could consider if greater safeguards on third party use of collected information are warranted, and any implications for New Zealand’s international treaty obligations.

17. Distinct from the issues above concerning the usage of information, there is a question whether the costs involved in complying with a notice under section 17GB should be deductible for income tax purposes. The Commissioner’s provisional view is that in most circumstances the expenses are not currently deductible under the law.

18. There are also some administrative details that warrant further consideration. For example, under the general information gathering power the Commissioner may prescribe the manner in which information must be provided and it is specified that information may be sought from a government department or public authority. These provisions do not appear to extend to section 17GB.

Risks of outright repeal

19. As noted, section 17GB was inserted to remove any ambiguity about whether the Act enabled the Commissioner to collect information for policy development purposes. s 9(2)(g)(i) [redacted]

19.1 s 9(2)(g)(i) [redacted]

19.2 s 9(2)(g)(i) [redacted]

20. There is considerable public interest in section 17GB. Therefore, there would be benefit in stakeholder engagement on modifications to section 17GB.

21. Therefore, we consider that section 17GB should not be repealed without further policy work and engagement being undertaken.

Consultation

22. Treasury has been informed of this report.

Recommended action

We recommend that you

a) **agree** to defer a decision on repealing section 17GB for now and include a review of the provision in the draft Tax and Social Policy Work Programme.

Agreed/Not agreed

b) **agree** that we report back to you within the next two weeks with options on the process for review of section 17GB.

Agreed/Not agreed

Felicity Barker
Policy Lead
Policy and Regulatory Stewardship

s 9(2)(a) [redacted]

Hon Simon Watts
Minister of Revenue
/ /2024

Item 31

Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Further advice on section 17GB of the Tax Administration Act 1994

Date:	2 May 2024	**Priority:**	Low
Security level:	In Confidence	**Report number:**	IR2024/153

Action sought

	Action sought	Deadline
Minister of Revenue	**Decide** whether to repeal or review section 17GB. **Refer** a copy of this report to the Minister of Finance.	None

Contact for telephone discussion (if required)

Name	Position	Telephone
Felicity Barker	Policy Lead	s 9(2)(a)

2 May 2024

Minister of Revenue

Further advice on section 17GB of the Tax Administration Act 1994

Executive summary

1. We previously provided you with advice on whether section 17GB of the Tax Administration Act 1994 (the Act) should be reviewed (IR2024/076 refers). You have asked for further detail on the legal impact of repealing section 17GB.

2. In previous advice, we noted that repealing section 17GB could leave the Commissioner with weaker information collection powers than existed before the section was inserted. s 9(2)(h) [redacted]

3. The main policy risk with removing the power for Inland Revenue to require information for policy purposes is that there may be less information to progress some items on the future work programme. For example, we see value in being able to use section 17GB to collect information from software providers to support work on the fringe benefit tax (FBT) policy project. On the other hand, Inland Revenue has rarely used this power in the past.

4. Inland Revenue's preferred option is to undertake a review of section 17GB to ensure that it is fit-for-purpose. The review would include targeted consultation with key stakeholders and look at options for narrowing the scope of the power or putting stronger safeguards around the power.

5. A straightforward repeal of section 17GB could be progressed as part of the Bill being introduced in August this year. Although amendments to the power could also be included in the August 2024 Bill, by way of Amendment Paper, we recommend any changes to section 17GB follow a slower timeline to allow for sufficient consultation.

Recommended action

We recommend that you:

1. **agree** to one of the following options:

   Option 1 – repeal section 17GB; OR

   Agreed/Not agreed

   Option 2a – undertake an expedited review of section 17GB, with the aim of limiting its scope and improving safeguards in the August 2024 Bill; OR

   Agreed/Not agreed

Option 2b – undertake a review of section 17GB, with targeted consultation, with the aim of limiting its scope and improving safeguards in the August 2025 Bill (Inland Revenue preferred option).

Agreed/Not agreed

2. if you agree to Option 1 (repealing section 17GB):

   2.1 **agree** that the repeal be included in the omnibus taxation bill scheduled for introduction in August 2024; AND

   Agreed/Not agreed

   2.2 **indicate** if you would like officials to develop policy on an alternative information gathering power that could be introduced in a 2025 taxation bill.

   Yes/no

3. **indicate** if you wish to discuss options with officials at the next agency meeting.

   Yes/no

4. **refer** a copy of this report to the Minister of Finance for information.

   Referred/Not referred

s 9(2)(a)

Felicity Barker
Policy Lead
Policy and Regulatory Stewardship

Hon Simon Watts
Minister of Revenue
/ /2024

Background

1. Section 17GB was inserted into the Tax Administration Act 1994 (the Act) in December 2020 to clarify that the Commissioner of Inland Revenue has the power to require information solely for the purposes of policy development. Prior to this, there was some uncertainty about whether this power was contained in the general information collection power (section 17B).

2. The Act provides that information collected under section 17GB must not be used as evidence in proceedings against the person who provided this information. This restriction was adopted to ensure that the provision was consistent with the New Zealand Bill of Rights Act 1990. A similar provision is contained in the Data and Statistics Act 2022.

3. A number of stakeholders have been critical of the manner in which section 17GB was inserted and the scope of the provision. The provision was passed under urgency as part of the Taxation (Income Tax Rate and Other Amendments) Bill 2020 without any stakeholder engagement on the policy prior to introduction. Some stakeholders have commented that they consider the provision to be too broad and that it does not offer the taxpayer enough protection (or that there is ambiguity in the scope of the protections). We discussed these issues in IR2024/076.

Analysis

4. This report provides more detailed analysis of some policy options including the potential risks of each option.

   4.1 The first option we discuss is the repeal of section 17GB. Following your request, we set out advice from Inland Revenue legal counsel on the interpretative effects of a repeal. s 9(2)(h) [redacted]

   4.2 Inland Revenue considers there is value in having some form of power to require information for policy purposes, as this improves Inland Revenue's ability to advise on potential changes to the tax system. A second option involves amending legislation to provide a more limited power to require information for policy purposes and improve safeguards around any information collected.

5. We also outline some timelines and implementation considerations.

Option One: repeal section 17GB with no other changes

6. s 9(2)(h) [redacted]

7. s 9(2)(h) [redacted]

8. s 9(2)(h) [redacted]

9. s 9(2)(h) [redacted]

10. s 9(2)(h) [redacted]

11. s 9(2)(h) [redacted]

12. s 9(2)(h) [redacted]

Risks of repeal

13. We do not have any immediate plans to use section 17GB. However, there are a range of scenarios where the power may be useful in the future. An example of the way section 17GB would be useful is in relation to the fringe benefit tax (FBT) policy project. The 2022 Regulatory Stewardship review on FBT found that Inland Revenue has a lack of data about FBT, whether in relation to the type and value of benefits, use of concessions or aggregate information.

14. To reform the key areas (like motor vehicles or other benefits), information from external parties such as software providers and individual taxpayers would be useful to assist Inland Revenue to set reasonable policy settings. The power in section 17GB would be useful to allow us to collect this information to fill the gap in Inland Revenue data while providing assurance to taxpayers that the data collection will not be used for compliance purposes. While such information could be sought on a voluntary basis, in practice we have encountered difficulties in collecting information from entities that hold information on others' behalf on a voluntary basis. The holders of such information often prefer the certainty of being required to provide the information. This is likely due to concerns relating to the privacy of the underlying information. Officials can make themselves available to discuss this example in more detail if you wish.

15. If the Government repeals section 17GB and then finds itself wanting to collect information for policy purposes in the future, it would need to legislate in order to do so.

16. We do not think repealing section 17GB with the rationale that the Government does not wish Inland Revenue to have this power would preclude the Commissioner from requesting information under section 17B for compliance purposes and subsequently using this information for tax policy development purposes. It may be prudent to clarify in pre-legislative material that the policy intent is that Inland Revenue can (1) use information collected for compliance purposes for a secondary policy purpose and (2) continue to request information for policy purposes by voluntary means.

Option two – retain a more limited version of section 17GB and improve safeguards

17. We consider it is useful to have some form of power to collect information for policy purposes to support the development of policy advice as illustrated in the FBT example. Inland Revenue's preferred option is to undertake a review of section 17GB to ensure it is fit-for-purpose. There are two ways section 17GB could be amended: reduced scope or enhanced safeguards.

Options to limit scope of section 17GB

18. There are options to limit the situations that the power can be used in rather than removing the power completely. For example, there could be a way to restrict information collection to entities other than individuals (e.g., organisations and government agencies). We also considered whether it would be possible to narrow the scope of the policy purpose for which the information could be collected. However, given future policy development is necessarily open-ended, it could be difficult to develop an option that would guarantee the provision could only be used for a narrower range of policy projects. Targeted consultation on the problem definition could help us identify options that would address stakeholder concerns.

Options to improve safeguards

19. When information has been collected under section 17GB in the past, Inland Revenue has been careful to ensure collection, use and disclosure of personal information has followed best practice principles for data collection such as assessing the collection against the Information Privacy Principles in the Privacy Act 2020. However, there are also options to put some of these protections in legislation. Options range from more principle-based to more prescriptive safeguards. Some options that could be consulted on include:

    19.1 strengthening or clarifying the current limitation within section 17GB on use (that the Commissioner must not use the information collected under the provision against a person in proceedings) by:

        19.1.1 clarifying that the meaning of "proceedings" covers all civil and criminal proceedings;[1] and

        19.1.2 clarifying what compliance activity beyond proceedings the prohibition covers.

    19.2 aligning section 17GB more closely with Information Privacy Principles in the Privacy Act 2020 by:

        19.2.1 restricting use and ensuring information must only be used for the particular purpose for which it was collected and destroyed when no longer needed; or

        19.2.2 requiring certain mandatory considerations such as having regard for certain Information Privacy Principles.

Reviewing information gathering powers

20. You have asked whether we should consider reviewing Inland Revenue's information gathering powers more broadly. A comprehensive review of Inland Revenue's information collection, use and disclosure rules was undertaken in 2015 and 2016 with two Government discussion documents released. At that time, the review considered that Inland Revenue's information-collection powers work well and are

[1] Section 17GB provides some protection that the information collected under the provision will not be used in proceedings against the taxpayer. There is some uncertainty about whether proceedings cover criminal and civil proceedings.

consistent with those of revenue agencies in other jurisdictions. The review resulted in several modest changes through the Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Bill.

21. We note that the review did not specifically look at collecting information for policy purposes.[2] However, we do not consider a wider review of Inland Revenue's information gathering powers is necessary at this time.

22. We have recently provided you with advice on information sharing (IR2024/139 refers).

Timing and implementation considerations

23. Repealing section 17GB could be progressed as part of the omnibus taxation bill being introduced in August 2024 (August 2024 Bill). The proposal would be included in the omnibus taxation Cabinet paper for consideration by ECO on 19 June.

24. Your office also suggested we look at an option to repeal section 17GB in the August 2024 Bill with the option to insert a more limited policy information gathering provision in August 2025 Bill. We do not recommend this option as it requires legislation to be amended twice and there is a risk of confusion around Government intentions. However, this could be a way to manage risks of repealing section 17GB in the absence of an alternative.

25. If you wish to amend section 17GB, our preferred option would not see amendments made until the omnibus tax bill being introduced around August 2025 to allow adequate time for consultation and consideration of privacy matters. However, this option could be expedited in order to make the August 2024 Bill (by Amendment Paper) if you wanted the change to come into effect sooner.

26. We recommend any changes to Inland Revenue's information collection powers (other than repeal of section 17GB) should follow the Generic Tax Policy Process (GTTP) and be open to submissions at the Select Committee stage. We note that one of the main criticisms of inserting section 17GB in 2020 was that there was no public consultation and no Select Committee consideration of the amendment.

Consultation

27. Treasury has been informed of this report.

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[2] Instead 17GB had its genesis in the recommendations of the Tax Working Group 2019 who considered Inland Revenue needed to collect and make available more information about the tax system.

Item 32

Inland Revenue
Te Tari Taake

POLICY

Tax policy report: **Options to amend section 17GB of the Tax Administration Act 1994**

Date:	22 August 2024	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2024/213

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Refer** to Minister of Finance	5 September 2024

Contact for telephone discussion (if required)

Name	Position	Telephone
Felicity Barker	Policy Lead	s 9(2)(a)
Adam Carter	Senior Policy Advisor	s 9(2)(a)

22 August 2024

Minister of Revenue

Options to amend section 17GB of the Tax Administration Act 1994

Executive summary

1. Earlier this year, you directed officials to review section 17GB of the Tax Administration Act 1994 with the intention of undertaking targeted consultation with key stakeholders later in the year. This report seeks your agreement to consult on options to amend section 17GB.

2. Section 17GB empowers Inland Revenue to collect information solely for policy purposes. Inland Revenue considers that having this power supports good policy development which is reliant on good quality information. There may be times when such information will only be provided if required. We understand that you may be interested in improving the provision by enhancing its information safeguards and reducing the costs of complying with the provision.

Restricting the use of information

3. The main options we have developed involve restricting the use of information. Restricting the use of information protects individuals' privacy rights and fosters trust in the collection of information because individuals know how their information is going be used. Restrictions on use must be balanced against other considerations, such as being able to generate useful insights from the information collected. Currently, section 17GB prohibits the use of information collected under the provision from use in proceedings (although there is some uncertainty about the people and the kinds of proceedings this prohibition covers). You have options for placing greater restrictions on use. These include broadening the meaning of proceedings and restricting the use of information collected to policy purposes.

Reducing compliance costs

4. There is no compensation for an individual complying with a section 17GB information request and the costs of compliance cannot be deducted against their personal income for tax purposes (although in some circumstances a business complying with a request may be able to claim a deduction). Stakeholders have raised with us whether a section 17GB notice should be deductible. We do not recommend this option, and we note that any envisaged use of section 17GB would have low compliance costs.

Other options we could consult on

5. We have considered an option that would legislate that the Commissioner is required to consider privacy issues and compliance costs before issuing a section 17GB request. We do not recommend progressing this option because a similar result can be achieved non-legislatively and we consider the options to restrict use will more clearly achieve your objective.

Next steps

6. If you agree, officials will undertake targeted consultation and report back to you at the end of October. Any changes could be progressed as part of the next annual rates Bill likely to be introduced in August 2025.

Recommended action

We recommend that you:

a. **Direct** officials to undertake targeted consultation on the following options:

- Option 1 – status quo including non-legislative guidance on how Inland Revenue will exercise section 17GB in the future.

Agreed/Not agreed

- Option 2 – clarify and broaden the protection against information being used in proceedings.

Agreed/Not agreed

- Option 3 – restricting the use of information collected under section 17GB to policy purposes and restricting disclosure to information where individuals cannot be identified.

Agreed/Not agreed

b. **Agree** that NO changes are made to the deductibility of section 17GB requests.

Agreed/Not agreed

c. **Agree** that officials DO NOT consult on the following options:

- Option 4 – allowing a deduction for the costs of complying with a section 17GB request.

Agreed/Not agreed

- Option 5 – legislate that the Commissioner is required to consider privacy issues and compliance costs before issuing a section 17GB request.

Agreed/Not agreed

d. **Refer** a copy of this report to the Minister of Finance for their information.

Referred/Not referred

s 9(2)(a)

Felicity Barker
Policy lead
Policy

Hon Simon Watts
Minister of Revenue
/ /2024

Background

Purpose

1. This report seeks your direction on which options to amend section 17GB you wish officials to consult on.

Earlier advice

2. Section 17GB of the Tax Administration Act 1994 (the Act) empowers Inland Revenue to collect information solely for a policy purpose. Earlier this year, you requested advice on whether section 17GB should be retained, repealed or amended (IR2024/076 refers). In that advice, we noted some of the criticisms of section 17GB and some of the risks with outright repeal.

3. s 9(2)(h) [redacted]

4. Our policy advice was that the power should be retained as it may be useful for tax policy development but should be subject to a review into possible improvements.

5. You agreed to a review of section 17GB with targeted consultation with key stakeholders later in the year. You also agreed not to repeal section 17GB; we therefore do not cover this option in this paper or suggest it for consultation.

Section 17GB purpose

6. Section 17GB allows Inland Revenue to collect information for a purpose relevant to the development of policy or reform of the tax system. It was inserted into the Act in December 2020 as a clarifying amendment. Prior to this, there was some uncertainty about whether Inland Revenue already had this power (through the general information collection power (section 17B)).

7. To ensure consistency with the New Zealand Bill of Rights Act 1990 (NZBORA)[1], section 17GB(2) provides that information collected under the power must not be used as evidence in proceedings against the person who provided the information. To avoid ambiguity, section 17GB(3) clarifies that Inland Revenue may collect the same information independently under the general information-gathering power without concern that this subsequent collection is subject to the prohibition on proceedings.

8. Inland Revenue considers that having the power to collect information for policy purposes supports good policy development. Good policy advice is reliant on good quality information and there may be times where information will only be provided if required. One kind of collection where we think the power may be useful in the future is where information is requested from an organisation that holds information on behalf of third parties. A compulsion power places a clear obligation on information holders to provide information where they may be reluctant or unable to otherwise disclose information they hold about their clients on privacy or contractual grounds.

[1] The NZBORA rights protected are the right against self-incrimination and ensuring that the power do not amount to an unreasonable search and seizure.

9. A key benefit of this information collection power sitting within Inland Revenue is the ability to match new information with information already held by Inland Revenue to generate new insights.

Objectives for amendment

10. When using section 17GB, Inland Revenue has ensured that collection, use and disclosure of personal information has followed Privacy Act 2020 principles, as far as practicable, and best practice information management principles. However, there may be opportunities to strengthen safeguards through legislation. We understand that you may have two objectives in amending section 17GB:

- **Restricting the use of information:** to foster trust in the tax system by ensuring greater certainty as to the potential uses of collected information, with privacy interests and other safeguards given greater weight and consideration.
- **Reducing compliance costs**: ensuring the costs of complying with a section 17GB request are reasonable and commensurate with the benefits of information provision.

11. We consider these objectives in the next sections.

Restricting the use of information

12. As discussed above, information collected under section 17GB must not be used as evidence in proceedings against the person who provided the information. However, it is silent on what other secondary purposes the information can be used for. One matter to consider is the extent, if any, to which the use of this information should be further restricted.

13. For example, the Privacy Commissioner has suggested that section 17GB should include a "prohibition on the use or disclosure of information collected under section 17GB for any purpose other than the improvement, researching or reform of the tax system."[2] The Privacy Commissioner considers that this provides a stronger privacy protection than the current restriction on use and would better align the provision with the equivalent "statistics and research" exceptions in the Privacy Act 2020.

14. Restricting use has the benefit of reducing the extent to which information collections impinge on the privacy of individuals. It can also foster trust in the collection because individuals know that providing accurate information will not have unforeseen consequences for them.

15. Placing greater restriction on use could also address concerns that the current restriction on use in section 17GB(2), to use in proceedings, is too narrow because it does not cover the following:

- *Disputes other than those defined in the Act as proceedings*: the Act currently has a definition of proceedings that relates only to certain tax proceedings (formal objections and challenges). This suggests that the prohibition on proceedings may not cover criminal and other kinds of tax- and non-tax-related proceedings (e.g., debt recovery proceedings). Inland Revenue's view is that it is reasonable to take a broad interpretation of "proceedings", however it is still ambiguous which proceedings are covered.
- *Proceedings taken by other agencies*: there may be situations where the disclosure of section 17GB information to another agency (such as to the Serious

[2] Submission of Privacy Commissioner to the Finance and Expenditure Committee (March 2021).

Fraud Office) could undermine the prohibition if proceedings were taken by these agencies following disclosure.

- *Proceedings against third parties*: there may be situations where the information being provided identifies third parties. Those third parties are not protected from the prohibition on the use of the information in proceedings.

16. However, placing greater restrictions on use creates the following risks:

- *Supporting administrative functions*: the more personal information is restricted, the less the information can be used to support other functions within Inland Revenue that relate to compliance. This may foster trust in the tax system in some instances, but it can also limit simple (sometimes taxpayer-friendly) actions such as updating contact details.

- *Administration costs and legal risks*: greater restrictions on use increase the risks of legal challenge on the basis that restricted information has been used in compliance activities or in taking proceedings. This risk can be managed to a large extent through the use of operational ring-fencing processes, although this increases administrative costs.

- *Other public interest considerations*: restricting the use of information may also involve restricting disclosure. The Privacy Act 2020 and the Tax Administration Act both contemplate a range of situations where public interest may override the presumption against disclosure. For example, where information is necessary to prevent a serious threat to health and safety.

17. We have considered the following three options that increasingly restrict the use of information collected under section 17GB:

- Option 1: Status quo

- Option 2: Clarify and broaden the restriction on proceedings

- Option 3: Restricting use of information to policy development purposes

Option 1: Status quo

18. Under the status quo, Inland Revenue is using non-legislative guidance to provide transparency as to its operational processes. Inland Revenue released a draft operational statement on section 17GB for public consultation in 2021.[3] The statement discusses the matters that the Commissioner will consider before making a section 17GB request, which includes the reasonableness of the request and privacy matters. The statement also clarified that any information requests made for compliance purposes under the Commissioner's general information gathering powers would not be as a direct result of information provided under section 17GB. Inland Revenue intends to finalise the statement once the current policy work on section 17GB has been completed.

19. Further to this work, Inland Revenue is intending to release an information collection framework in relation to its information collection powers generally, which will also apply to section 17GB. One of the aims of the framework is to prompt decision makers to undertake appropriate cost-benefit analysis and ensure appropriate processes and governance arrangements are applied. The framework has had targeted consultation and is intended to be released later in the year. If you would like, officials can provide more information on the framework, the consultation we have undertaken on it, and our planned next steps.

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[3] ED0237: Section 17GB notices – the Commissioner's power to obtain information for tax policy purposes (ird.govt.nz)

20. However, these operational statements cannot fully address the ambiguity in the provision discussed above. Therefore, Inland Revenue considers that at a minimum the Act should be amended to clarify and broaden the prohibition on proceedings, as set out in Option 2 below.

Option 2: Clarify and broaden the restriction on proceedings

21. Under Option 2, information collected under this power would continue to be prohibited from being used as evidence in "proceedings". However, the Act would be amended to clarify that proceedings covers:

- disputes other than those defined in the Act as proceedings; and
- proceedings taken by other agencies; and
- proceedings against third parties.

22. This option makes minimal changes to the purpose and structure of section 17GB and is targeted to the area of greatest ambiguity. However, it does not increase transparency around how Inland Revenue will use information collected under section 17GB.

Option 3: Restricting use of information to policy purposes

23. Option 3 puts greater weight on privacy by strengthening and making more transparent the potential uses of section 17GB information. It would place stronger restrictions on use and disclosure so that:

- personal information (or "sensitive revenue information" as defined in the Act) collected under section 17GB can only be used by Inland Revenue for the purpose that it was collected (i.e., tax policy development purposes); and
- section 17GB information can only be disclosed in an aggregated or de-identified form.[4]

24. The restriction on use would ensure consistency with NZBORA without needing to reference proceedings.

25. The primary advantage of Option 3 is that it would provide strong privacy protection and transparency on the use of information. It would also address concerns about the definition of proceedings and that the current restriction does not cover people other than the person who provided the information. One downside is that Option 3 would require Inland Revenue to put in place operational ring-fencing processes to ensure that taxpayers cannot claim that information used in compliance activities is contaminated with restricted information. It also means that if a section 17GB notice showed non-compliance, Inland Revenue could not act on that information.

26. Option 3 would also restrict the disclosure of personal information collected under the power. This supplements the existing disclosure regime that governs sensitive revenue information (this includes information that could identify an individual). Restricting disclosure has the advantage of ensuring personal information does not find its way into proceedings taken by other agencies (which could be in tension with the spirit of the NZBORA protection). While it does not provide exceptions for competing public interest considerations, we do not anticipate taxpayer specific information from a section 17GB request giving rise to such considerations.

[4] Option 3 is similar to the amendments made to the information-sharing agreement between Inland Revenue and Ministry of Social Development as amended in 2021. These amendments enabled the agencies to collect information for policy purposes so long as the information is not used for another purpose.

27. Allowing the disclosure of information in aggregated form means that the information can be included in policy advice and published as research. However, disclosure of aggregate information would continue to be subject to the disclosure of information regime in the Act. For example, the aggregated information would not be disclosed if doing so would adversely affect the integrity of the tax system or would prejudice the maintenance of the law.

28. We have considered two additional matters for balancing privacy considerations against other objectives under Option 3. These are discussed below and could be tested during consultation.

Restricting international disclosures

29. To ensure New Zealand upholds its international obligations, the Income Tax Act 2007 provides that double tax agreements (DTAs) override the requirements in the other Inland Revenue Acts, including the confidentiality requirements in the Tax Administration Act. This means under Option 3 there may still be instances where we may be required to provide information to foreign tax authorities if requested.

30. To strengthen the restriction on disclosure, we could include an additional exclusion to prevent this information being disclosed under a DTA. However, we do not recommend this. First, it would not be consistent with New Zealand's support for multilateral and bilateral efforts to combat fraud and tax evasion. Second, it would effectively operate as a DTA override. This would be viewed unfavourably by our international treaty partners and lessen our ability to exchange information, to New Zealand's detriment.

31. We consider that there are other operational decisions that we can make, supported by existing restrictions, that can achieve appropriate safeguards without risk to New Zealand's exchange of information framework. For example, information requests cannot be "fishing expeditions" and must be "foreseeably relevant" to the tax administration of the foreign jurisdiction. Inland Revenue can also request information in a form that is unlikely to be relevant to foreign tax liability.

Enabling the use of personal information for taxpayer-friendly purposes

32. One downside of such a tight restriction on use is that it could prevent Inland Revenue using information to do something taxpayer friendly such as updating a taxpayer's contact details. This may lead to complaints that Inland Revenue is asking for the same information more than once.

33. To address this, section 17GB could clarify that the information could be used for another purpose with the taxpayer's explicit consent. Alternatively, personal information could be used for another purpose if that purpose does not have an adverse effect on the interests of the individual concerned. This would need to be managed in a way that minimised the possibility of error (e.g., ensuring consent is unambiguous through written consent).

Reducing compliance costs

34. The costs of complying with a section 17GB request will depend on the nature of the request. Whether or not individuals and businesses subject to a section 17GB request should be compensated for a request largely depends on whether the Government considers there should be compensation for responding to mandatory research and statistical requests generally. Even if the Government's position is that no compensation is necessary, there is a separate question around whether more can be done to minimise the costs of compliance.

Option 4: Allowing a deduction for complying with a section 17GB request

35. Stakeholders have raised with us whether a section 17GB notice should be deductible for tax purposes. Under the current law, the deductibility rules differ slightly between persons carrying on a business, and those that do not (e.g., most individuals). If a business is subject to a section 17GB request, it may be able to claim a deduction for the costs of complying with the request, if it can be shown that the expense arose in the course of carrying on the business, which is likely to be the case, and as long as no capital expenditure was involved.

36. By contrast, individuals (or non-business entities such as many trusts) who wish to claim a deduction for an expense must show that the expense has a direct link to deriving assessable or excluded income and does not fall under a general limitation (for example, if the expense is private in nature). The Commissioner's provisional view is that the costs of an individual responding to a section 17GB request are unlikely to be deductible under the law, though this might depend on the nature of the policy purpose behind the use of the section.

37. The Income Tax Act 2007 could be amended to provide a specific deduction for responding to a section 17GB request. It is not unprecedented to provide for a specific deduction in the Act. For example, a person can claim a deduction for the costs of calculating and determining their tax liability (i.e., accountant fees). This expense occurs after the person has earned the income (so they would usually be unable to claim a deduction) but the policy rationale for this provision is that it encourages the use of professional services to calculate one's liability.

38. On the other hand, there are a range of examples where the cost of an individual complying with a government regulation is not a deductible expense. For example, completing the Household Economic Survey (another kind of statistics and research request).

39. We also note that allowing a deduction for responding to a section 17GB request may create a fiscal cost. However, if you progressed this change, a cost would not be charged against the Budget or scorecard. This is because the timing of this cost is unknown, and the quantum would depend on the nature of the request and so is unquantifiable. Any envisaged use of this provision is likely to have very low compliance costs for individuals or businesses. For example, if the power was used to collect information from a software provider, the fiscal cost is likely to be in the realm of a few thousand dollars (and may be deductible already).

40. On balance, we do not recommend making the costs of complying with a section 17GB request deductible.

Other options we considered

Option 5: legislate that the Commissioner is required to consider privacy issues and compliance costs before issuing a section 17GB request

41. A fifth option we considered would be to place mandatory consideration in the Act to require the Commissioner to consider minimising impacts on privacy and the costs of compliance before issuing a section 17GB request. Option 5 could provide transparency about what the Commissioner will consider before making a request.

42. We do not recommend this option because we consider that operational guidance is sufficient in setting out the Commissioners considerations. Under the status quo, the Commissioner considers that any request for information must be a reasonable request in the circumstances and considers compliance costs and privacy issues as part of determining whether a request is reasonable. These decisions are supported by the duty to protect the integrity of the tax system, and public/administrative law. As discussed above, Inland Revenue has developed operational material to

support decision making around information collection. This includes the draft operational statement and the (soon to be released) information collection framework.

43. In summary, we think restricting the use of section 17GB information to policy purposes deals with the central issues. However, if you wanted to ensure there is greater oversight of the power, there are also other options that could be explored. For example, by requiring the final decision to issue a request to be made at the Ministerial level. If you were interested in these, we can provide further advice.

Consultation

44. We have consulted the Office of the Privacy Commissioner and the Ministry of Justice on the contents of this report. The Privacy Commissioner continues to support greater controls on the use and disclosure of information collected under section 17GB.

45. The Treasury has been consulted of the contents of this report.

Next steps

46. After you identify which options you wish officials to consult on, we will prepare material for consultation. Officials propose consulting with the six organisations who provided feedback on the section 17GB draft operational statement and several academics who have previously engaged with Inland Revenue's tax policy and research-related outputs (see Appendix 1).

47. We propose a six-week consultation period over the months of September and October. We will report back to you towards the end of October 2024. We will also report back to you with some remedial matters to consider in relation to section 17GB.

48. Should you agree to progress any changes, we propose they be progressed as part of the annual rates Bill in 2025, likely to be introduced in August 2025.

Appendix 1: Targeted consultation list

We intend to consult with the following:

- Chartered Accountants Australia and New Zealand (CA ANZ)
- The New Zealand Law Society (NZLS)
- Corporate Taxpayers Group (CTG)
- PwC
- Deloitte
- EY
- Tax Justice Aotearoa
- Craig Elliffe (University of Auckland)
- Max Rashbrooke (Victoria University)
- Statistics New Zealand

Inland Revenue
Te Tari Taake

Policy
Taukaea
55 Featherston Street
PO Box 2198
Wellington 6140
New Zealand

T. 04 890 1500

Briefing note

Reference: BN2024/350

Date: 28 August 2024

To: Revenue Advisor, Minister of Revenue – Angela Graham
Private Secretary, Minister of Revenue – Helen Kuy

From: Adam Carter, senior policy advisor

Subject: **Confirming options for consultation on possible changes to s 17GB**

Purpose

1. We recently provided the Minister of Revenue with advice on options to amend section 17GB of the Tax Administration Act 1994 (IR2024/213). This briefing confirms the options officials will consult on and the approach to consultation.

Options for consultation

Option 1 – status quo with non-legislative guidance

2. This option focusses on improving transparency around how Inland Revenue will exercise section 17GB in the future by finalising two forms of operational guidance:

- an operational statement on section 17GB requests; and
- an information collection framework outlining how Inland Revenue will make decisions when exercising its information gathering powers.

Option 2 – broadening the definition of proceedings

3. This option would clarify and broaden the protection against information being used in proceedings. The Tax Administration Act 1994 (the Act) would be amended so that proceedings covers:

- disputes other than those defined in the Act as proceedings; and
- proceedings taken by other agencies; and
- proceedings against third parties.

Option 3 – restricting the use of information to policy purposes

4. This option restricts the use and disclosure of information collected under section 17GB. The Act would be amended so that:

- personal information collected under section 17GB can only be used by Inland Revenue for tax policy development purposes; and
- section 17GB information can only be disclosed in a form where individuals cannot be identified.

Option 4 – repeal section 17GB

5. This option would repeal section 17GB. We understand the Minister would state an intent to return to the previous legal position. Given this would create uncertainty in the law we would like to check our understanding. The alternative would be to state an intent to remove the power to collect information solely for policy purposes.

Option 5 – allowing a deduction for complying with a section 17GB request

6. This option would amend the Income Tax Act 2007 to allow individuals and businesses a deduction for the costs of responding to a section 17GB request. This would supplement the general permission (nexus with income) and override general limitations (such as the private limitation).

Next steps

7. We seek your view on whether the consultation would be in the form of an official's discussion paper or a government discussion document.

8. An official's discussion paper could be considered appropriate given the proposed number of stakeholders to be consulted and the narrowness of the policy-issue under consideration. Consultation material would be informal and based on the analysis in previous reports. Consultation would begin in mid-September. We would provide the document to your office prior to release.

9. However, if the Minister would like to consult with a government discussion document, the Minister could take a paper to ECO on 25 September. Key agencies have already been consulted on the options so Ministerial consultation could begin later next week. Consultation on the options would begin in early-October.

Adam Carter
Senior policy advisor
s 9(2)(a)

Consultation on possible changes to section 17GB of the Tax Administration Act 1994

Please provide feedback by Wednesday 23 October 2024

Inland Revenue
Te Tari Taake

Policy
Taukaea

Purpose

1. The Minister of Revenue has asked Inland Revenue officials to consult with interested stakeholders on possible changes to section 17GB of the Tax Administration Act 1994 (the Act). Any changes will likely be progressed as part of an annual rates bill later next year.

2. The Minister has asked officials to consult on the following options:

- Option 1 – maintaining the status quo with non-legislative guidance
- Option 2 – clarifying and broadening the restriction on proceedings
- Option 3 – restricting the use of information to policy purposes
- Option 4 – repealing section 17GB
- Option 5 – allowing a tax deduction for complying with a section 17GB request

3. This note provides background on section 17GB, outlines the Minister's objectives and considers how well the options meet the objectives.

Purpose of section 17GB

4. Section 17GB allows Inland Revenue to collect information for a purpose relevant to the development of policy or reform of the tax system. It was inserted into the Act in December 2020 as a clarifying amendment. Prior to this, there was some uncertainty about whether Inland Revenue already had this power (through the general information collection power (section 17B)).

5. To ensure consistency with the New Zealand Bill of Rights Act 1990 (NZBORA)[1], section 17GB(2) provides that information collected under the power must not be used as evidence in proceedings against the person who provided the information. To avoid ambiguity, section 17GB(3) clarifies that Inland Revenue may collect the same information independently under the general information-gathering power without concern that this subsequent collection is subject to the prohibition on proceedings.

Objectives for amendment

6. The Minister has agreed to two objectives for the review of section 17GB:

- **Restricting the use of information:** to foster trust in the tax system by ensuring greater certainty as to the potential uses of collected information, with privacy interests and other safeguards given greater weight and consideration.

[1] The NZBORA protected rights are the right against self-incrimination and unreasonable search and seizures.

- **Reducing compliance costs**: ensuring the costs of complying with a section 17GB request are reasonable and commensurate with the benefits of information provision.

7. We consider these objectives in the next sections.

Restricting the use of information

8. Information collected under section 17GB must not be used as evidence in proceedings against the person who provided the information. However, the Act is silent on what other secondary purposes the information can be used for. One matter to consider is the extent, if any, to which the use of this information should be further restricted.

9. For example, the Privacy Commissioner has suggested that section 17GB should include a "prohibition on the use or disclosure of information collected under section 17GB for any purpose other than the improvement, researching or reform of the tax system."[2] The Privacy Commissioner considers that this provides a stronger privacy protection than the current restriction on use and would better align the provision with the equivalent "statistics and research" exceptions in the Privacy Act 2020.

10. Restricting use has the benefit of reducing the extent to which information collections impinge on the privacy of individuals. It can also foster trust in the collection because individuals know that providing accurate information will not have unforeseen consequences for them.

11. Placing greater restriction on use could also address concerns that the current restriction on use in section 17GB(2), to use in proceedings, is too narrow because it does not cover the following:

    - *Disputes other than those defined in the Act as proceedings*: the Act currently has a definition of proceedings that relates only to certain tax proceedings (formal objections and challenges). This suggests that the prohibition on proceedings may not cover criminal and other kinds of tax- and non-tax-related proceedings (e.g., debt recovery proceedings). Inland Revenue's view is that it is reasonable to take a broad interpretation of "proceedings", however it is still ambiguous which proceedings are covered.

    - *Proceedings taken by other agencies*: there may be situations where the disclosure of section 17GB information to another agency (such as to the Serious Fraud Office) could undermine the prohibition if proceedings were taken by these agencies following disclosure.

[2] Submission of Privacy Commissioner to the Finance and Expenditure Committee (March 2021).

- *Proceedings against third parties*: there may be situations where the information being provided identifies third parties. Those third parties are not protected from the prohibition on the use of the information in proceedings.

12. However, placing greater restrictions on use creates the following risks:

    - *Supporting administrative functions*: the more personal information is restricted, the less the information can be used to support other functions within Inland Revenue that relate to compliance and administration. This may foster trust in the tax system in some instances, but it can also limit simple (sometimes taxpayer-friendly) actions such as updating contact details.

    - *Administration costs and legal risks*: greater restrictions on use may increase the risks of legal challenge for Inland Revenue on the basis that restricted information has been used in compliance activities or in taking proceedings. This risk can be managed to a large extent through the use of operational ring-fencing processes, although this increases administrative costs.

    - *Other public interest considerations*: restricting the use of information may also involve restricting disclosure. The Privacy Act 2020 and the Tax Administration Act 1994 both contemplate a range of situations where public interest may override the presumption against disclosure. For example, where information is necessary to prevent a serious threat to health and safety.

13. We are considering the following three options that increasingly restrict the use of information collected under section 17GB:

    - Option 1: Maintaining the status quo with non-legislative guidance

    - Option 2: Clarifying and broadening the restriction on proceedings

    - Option 3: Restricting use of information to policy development purposes

Option 1: Maintaining the status quo with non-legislative guidance

14. Under the status quo, Inland Revenue is using non-legislative guidance to provide transparency as to its operational processes. Inland Revenue released a draft operational statement on section 17GB for public consultation in 2021.[3] The statement discusses the matters that the Commissioner will consider before making a section 17GB request, which includes the reasonableness of the request and privacy matters. The statement also clarified that any information requests made for compliance purposes under the Commissioner's general information gathering powers would not be as a direct result of information provided under

[3] ED0237: Section 17GB notices – the Commissioner's power to obtain information for tax policy purposes (ird.govt.nz)

section 17GB. Inland Revenue intends to finalise the statement once the current policy work on section 17GB has been completed.

15. Further to this work, Inland Revenue is intending to release an information collection framework in relation to its information collection powers generally, which will also apply to section 17GB. One of the aims of the framework is to prompt decision makers to undertake appropriate cost-benefit analysis and ensure appropriate processes and governance arrangements are applied. The framework has had targeted consultation and in process of being implemented. As the framework is not publicly available, we have attached a draft to enable comment on the section 17GB policy proposals.

16. However, these guidance documents may not fully address the ambiguity in the provision discussed above.

Option 2: Clarifying and broadening the restriction on proceedings

17. Under Option 2, information collected under this power would continue to be prohibited from being used as evidence in “proceedings”. However, the Act would be amended to clarify that “proceedings” covers:

- disputes other than those defined in the Act as proceedings; and
- proceedings taken by other agencies; and
- proceedings against third parties.

18. This option makes minimal changes to the purpose and structure of section 17GB and is targeted to the area of greatest ambiguity. However, it does not increase transparency around how Inland Revenue will use information collected under section 17GB.

Option 3: Restricting use of information to policy purposes

19. Option 3 puts greater weight on privacy by strengthening and making more transparent the potential uses of section 17GB information. It would place stronger restrictions on use and disclosure so that:

- personal information (or “sensitive revenue information” as defined in the Act) collected under section 17GB can only be used by Inland Revenue for the purpose that it was collected (i.e., tax policy development purposes); and
- section 17GB information can only be disclosed in an aggregated or de-identified form.[4]

[4] Option 3 is similar to the amendments made to the information-sharing agreement between Inland Revenue and Ministry of Social Development as amended in 2021. These amendments enabled the agencies to collect information for policy purposes so long as the information is not used for another purpose.

20. The restriction on use would ensure consistency with NZBORA without needing to reference proceedings.

21. The primary advantage of Option 3 is that it would provide strong privacy protection and transparency on the use of information. It would also address concerns about the definition of proceedings and that the current restriction does not cover people other than the person who provided the information.

22. Option 3 would also restrict the disclosure of personal information collected under the power. This supplements the existing disclosure regime that governs sensitive revenue information (this includes information that could identify an individual). Restricting disclosure has the advantage of ensuring personal information does not find its way into proceedings taken by other agencies (which could be in tension with the spirit of the NZBORA protection). While it does not provide exceptions for competing public interest considerations, we do not anticipate taxpayer specific information from a section 17GB request giving rise to such considerations.

23. Allowing the disclosure of information in aggregated form means that the information can be included in policy advice and published as research. However, disclosure of aggregate information would continue to be subject to the disclosure of information regime in the Act. For example, the aggregated information would not be disclosed if doing so would adversely affect the integrity of the tax system or would prejudice the maintenance of the law.

24. We have considered two additional matters for balancing privacy considerations against other objectives under Option 3.

Restricting international disclosures

25. To ensure New Zealand upholds its international obligations, the Income Tax Act 2007 provides that double tax agreements (DTAs) override the requirements in the other Inland Revenue Acts, including the confidentiality requirements in the Tax Administration Act. This means under Option 3 there may still be instances where we may be required to provide information to foreign tax authorities if requested.

26. To strengthen the restriction on disclosure, we could include an additional exclusion to prevent this information being disclosed under a DTA. However, there are two reasons why this may be undesirable. First, it would not be consistent with New Zealand's support for multilateral and bilateral efforts to combat fraud and tax evasion. Second, it would effectively operate as a DTA override. This would be viewed unfavourably by our international treaty partners and lessen our ability to exchange information, to New Zealand's detriment.

27. Inland Revenue considers that there are other operational decisions that we can make, supported by existing restrictions in OECD guidelines, that can achieve appropriate safeguards without risk to New Zealand's exchange of information framework. For example, information requests cannot be "fishing expeditions" and must be "foreseeably relevant" to the tax administration of the foreign jurisdiction. It is much more likely that information we collect using the general information

gathering powers (section 17B) is relevant to foreign jurisdictions than information collected under section 17GB. If Inland Revenue considered there was a risk that the information would be relevant, then in order to preserve the intent of the restriction, we could also tailor the information request so that information is collected in a form that is unlikely to be relevant to a person's foreign tax liability.

Enabling the use of personal information for taxpayer-friendly purposes

28. One downside of such a tight restriction on use is that it could prevent Inland Revenue using information to do something taxpayer friendly such as updating a taxpayer's contact details. This may lead to complaints that Inland Revenue is asking for the same information more than once.

29. To address this, section 17GB could clarify that the information could be used for another purpose with the taxpayer's explicit consent. Alternatively, personal information could be used for another purpose if that purpose does not have an adverse effect on the interests of the individual concerned. This would need to be managed in a way that minimised the possibility of error (e.g., ensuring consent is unambiguous through written consent).

Option 4 – repealing section 17GB

30. Another option is to repeal section 17GB. This would remove Inland Revenue's ability to collect information solely for policy purposes.

31. Inland Revenue considers that having the power to collect information solely for policy purposes supports good policy development. Good policy advice is reliant on good quality information and there may be times where information will only be provided if required. One kind of collection where we think the power may be useful in the future is where information is requested from an organisation that holds information on behalf of third parties. A compulsion power places a clear obligation on information holders to provide information where they may be reluctant or unable to otherwise disclose information they hold about their clients on privacy or contractual grounds.

32. A key benefit of this information collection power sitting within Inland Revenue is the ability to match new information with information already held by Inland Revenue to generate new insights. Further, the relevant expertise to design information requests for tax information sits within Inland Revenue.

33. Under this option, the Commissioner could continue to attain policy insights from information from other sources including:

- administrative information held by Inland Revenue
- administrative information held by other agencies
- information requested for policy purposes and provided voluntarily

34. However, where information is collected for policy purposes from other agencies or provided voluntarily, Inland Revenue will not be able to guarantee that the information will be protected from secondary uses covered by Options 1 to 3 above.

Reducing compliance costs

35. Under the status quo, any request for information must be a reasonable request in the circumstances and Inland Revenue must consider compliance costs as part of determining whether a request is reasonable. These decisions are supported by the guidance documents discussed above and are underpinned by the duty to protect the integrity of the tax system, and public/administrative law.

Option 5: Allowing a deduction for complying with a section 17GB request

36. Stakeholders have raised with us whether a section 17GB notice should be deductible for tax purposes. Under the current law, the deductibility rules differ between persons carrying on a business, and those that do not (e.g., most individuals). If a business is subject to a section 17GB request, it may be able to claim a deduction for the costs of complying with the request, if it can be shown that the expense arose in the course of carrying on the business, which is likely to be the case, and as long as no capital expenditure was involved.

37. By contrast, individuals who are not in trade (or non-business entities such as many trusts) who wish to claim a deduction for an expense must show that the expense has a direct link to deriving assessable or excluded income and does not fall under a general limitation (for example, if the expense is private in nature). The Commissioner's provisional view is that the costs of an individual responding to a section 17GB request are unlikely to be deductible under the law, though this might depend on the nature of the policy purpose behind the use of the section.

38. The Income Tax Act 2007 could be amended to provide a specific deduction for responding to a section 17GB request. It is not unprecedented to provide for a specific deduction in the Act. For example, a person can claim a deduction for the costs of calculating and determining their tax liability (e.g.., accountant fees). This expense occurs after the person has earned the income (so they would usually be unable to claim a deduction) but the policy rationale for this provision is that it encourages the use of professional services to calculate one's liability.

39. On the other hand, there are a range of examples where the cost of an individual complying with a government regulation is not a deductible expense. For example, completing the Household Economic Survey (another kind of statistics and research request). There may also be a fiscal cost from making notices deductible.

Questions

1. How well do each of these options support the objectives?
2. Are there any other options that should be considered?
3. Have we identified the relevant trade-offs of restricting the use of information?
4. If information were restricted to policy purposes (option 3), do you agree that international disclosures are best dealt with on a case-by-case basis?
5. If information were restricted to policy purposes (option 3), should there be exceptions for taxpayer friendly actions? If so, how would you define taxpayer friendly actions?

Additional resources:

Section 17GB in the Act: Tax Administration Act 1994 No 166 (as at 31 July 2024), Public Act 17GB Commissioner may require information or production of documents for tax policy development – New Zealand Legislation

Information of the Taxation (Income Tax Rate and Other Amendments) Bill: Taxation (Income Tax Rate and Other Amendments) Bill (ird.govt.nz)

Attorney-General's NZBORA report on the Bill: Taxation-Income-Tax-Rate-and-Other-Amendments-Bill.pdf (justice.govt.nz)

Finance and Expenditure Committee Report on the Attorney-General's report: 7df608eadebec883fc1909ae8855d5539294bbc3 (www.parliament.nz)

Draft operational statement on section 17GB notices: Section 17GB notices – the Commissioner's power to obtain information for tax policy purposes (ird.govt.nz)

Privacy Impact Assessment for High Wealth Individuals Research Project: privacy-impact-assessment.pdf (ird.govt.nz)

POLICY

Tax policy report: Final decisions on section 17GB

Date:	7 November 2024	**Priority:**	Medium
Security level:	In Confidence	**Report number:**	IR2024/409

Action sought

	Action sought	Deadline
Minister of Revenue	**Agree** to recommendations **Refer** to Minister of Finance	5 December 2024

Contact for telephone discussion (if required)

Name	Position	Telephone
Felicity Barker	Policy Lead	s 9(2)(a)
Adam Carter	Senior Policy Advisor	s 9(2)(a)

7 November 2024

Minister of Revenue

Final decisions on section 17GB

Executive summary

1. We previously reported to you on options to amend section 17GB of the Tax Administration Act 1994 (TAA). Section 17GB allows Inland Revenue to collect information for policy purposes. Once collected, the information can technically then be used for a range of other purposes, except in proceedings against the person who supplied the information.

2. Following your direction, we consulted with stakeholders on five options aimed at further restricting the use of information collected under the provision and limiting potential compliance costs. The purpose of the consultation was to understand stakeholders' preferred options and areas where each option could be improved.

3. A wide range of views were expressed in consultation and there was no consensus on whether to retain, amend, or repeal section 17GB. Those who supported repeal thought that the power was unnecessary or too strong relative to the powers of other agencies. Those who supported retaining the power thought it could help address key information gaps in the tax system. Even those who supported repeal thought that the next best option was to amend section 17GB so that information collected under the provision cannot be used for any purpose other than for policy. This option was generally preferred to the option that merely broadened the meaning of proceedings in the TAA.

4. Inland Revenue supports the option to amend section 17GB so that information can only be used for policy purposes. Consultation has informed our recommendation that this option should not override our international exchange of information obligations and that an exception for taxpayer-friendly or consented actions is not necessary.

5. We also sought views on whether responding to an information request should be made explicitly deductible against an individual's taxable income. Views were mixed. We do not recommend an explicit deduction for the costs of responding to a section 17GB request.

6. Several other options were identified by stakeholders during consultation. These include undertaking a larger review of information gaps in the tax system and reviewing whether the non-compliance penalties relating to a section 17GB request are appropriate. We do not consider a wider review is a good use of resources. We also consider it is appropriate that the penalty for failing to comply with a section 17GB request is aligned with the rest of the TAA.

7. If you choose to retain section 17GB, we recommend you agree to three remedial changes to ensure that section 17GB works as originally intended.

Recommended action

We recommend that you:

a. **Agree** to one of the following options:

- Option 1 – maintain the status quo; OR

Agreed/Not agreed

- Option 2 – clarify and broaden the protection against information being used in proceedings; OR

Agreed/Not agreed

- Option 3 – restrict the use of taxpayer-specific information to policy purposes and restrict disclosure to information where individuals cannot be identified (officials' preferred option); OR

Agreed/Not agreed

- Option 4 – repeal section 17GB.

Agreed/Not agreed

Option 3 design matters (conditional on you agreeing to option 3)

b. **Agree** that option 3 does NOT include an exception for international exchange of information obligations.

Agreed/Not agreed/Not applicable

c. **Agree** that option 3 does NOT include an exception for taxpayers who provide consent for their information to be used for another purpose.

Agreed/Not agreed/Not applicable

Deductibility (conditional on you agreeing to retain section 17GB)

d. **Agree** to NOT allow an explicit deduction for responding to a section 17GB request.

Agreed/Not agreed/Not applicable

Remedial matters (conditional on you agreeing to retain section 17GB)

e. **Agree** that the Commissioner may prescribe the way information must be provided under section 17GB.

Agreed/Not agreed/Not applicable

f. **Agree** that it is specified that information may be sought from a government department or public authority.

Agreed/Not agreed/Not applicable

g. **Agree** that information collected under section 17GB can be used (including in proceedings) where it is necessary to demonstrate non-compliance with the information request.

Agreed/Not agreed/Not applicable

Other recommendations

h. **Refer** a copy of this report to the Minister of Finance for their information.

Referred/Not referred

s 9(2)(a) [redacted]

Felicity Barker
Policy lead
Policy

Hon Simon Watts
Minister of Revenue
/ /2024

Purpose

8. This report seeks final decisions on whether you wish to progress changes to section 17GB of the TAA.

9. Section 17GB allows Inland Revenue to collect information for a purpose relevant to the development of policy or reform of the tax system (policy purposes). Once information is collected it can technically be used for a range of other purposes. The exception to this is that the information must not be used as evidence in proceedings against the person who provided the information.

Consultation

10. You previously directed officials to consult on five options aimed at further restricting the use of information collected under the provision and limiting potential compliance costs (IR2024/213 and BN2024/350 refer). These options included:

- Option 1 – maintaining the status quo
- Option 2 – clarifying and broadening the restriction on proceedings
- Option 3 – restricting the use of information to policy purposes
- Option 4 – repealing section 17GB
- Option 5 – allowing a tax deduction for complying with a section 17GB request.

11. The purpose of the consultation was to understand stakeholders' preferred option and how each option could be improved. The main submission points from each stakeholder are summarised in Appendix 1.

Stakeholders' preferred option

12. There was a wide range of views expressed in consultation and no consensus on whether to retain, amend, or repeal section 17GB. Those who supported repeal thought that the power was unnecessary or too strong relative to the powers of other agencies. Those who supported retaining the power thought it could help address key information gaps in the tax system. If the power is to be retained, most stakeholders favoured restricting the use of the information to policy purposes (option 3). Two stakeholders preferred that Inland Revenue continue to address concerns through non-legislative guidance (option 1).

13. We analyse each of the options below and discuss feedback.

Option 1 – maintaining the status quo

14. As discussed in previous reports, many initial concerns with section 17GB have been addressed through administrative decisions and operational guidance. While some feedback agreed that this is the correct approach, other feedback suggested that stronger legislative restrictions were needed because Inland Revenue is not bound by its guidance.

15. As discussed below, we continue to think that option 3 is the most promising legislative safeguard relating to section 17GB requests. However, there are still a range of non-legislative things we can do if section 17GB is retained or amended.

16. Inland Revenue has developed a draft operational statement on section 17GB and an information collection framework that applies to a range of information collections including section 17GB. Both documents outline the kinds of things that Inland Revenue will consider before issuing a request. The information collection framework is now published, but the consultation has informed us of some minor

areas where the draft operational statement could be expanded before it is finalised. For example, the statement could emphasise that Inland Revenue will consider whether the information can be sourced by other means before issuing a request.

Option 2 – clarifying and broadening the restriction on proceedings

17. Option 2 would amend the TAA to give the restriction on "proceedings" the widest possible meaning. The current restriction technically only applies to technical tax disputes and not to criminal ones. Nor does the restriction apply to proceedings against third parties. This option makes minimal changes to the purpose and structure of section 17GB and is targeted to the area of greatest ambiguity.

18. Some stakeholders thought that option 2 is better than the status quo at achieving privacy objectives. However, most considered that option 3 is preferable to option 2 because it provides more clarity around what information collected under section 17GB can and cannot be lawfully used for. Option 2 would be redundant if you choose option 3.

Option 3 – restricting the use of information to policy purposes

19. Option 3 would restrict the use of taxpayer-specific information collected under section 17GB to policy purposes and limit disclosure of such information. Aggregated information could be used and disclosed for any other purposes. The effect of option 3 is to restrict the secondary use of taxpayer-specific information collected under section 17GB as much as possible. Most submitters thought that this was the minimum necessary change and those who supported repeal supported this option in the absence of repeal.

20. We asked stakeholders whether they thought it was necessary to also limit disclosure of section 17GB information for international exchange of information purposes under double tax agreements (DTAs). Most submitters did not think it was necessary to explicitly legislate to do so and thought requests could generally be managed within the existing framework. We also asked whether information should be able to be used for other purposes, when doing so may be in a taxpayer's interests (e.g., updating contact details). Views were split on whether to include this exception: some suggested we could get written consent from taxpayers for such purposes, others thought it unnecessarily complicates the regime.

21. Inland Revenue continues to support amending the TAA to restrict the use of information to policy purposes. Consultation has informed our recommendation that this option should not modify the exchange of information provisions in the Income Tax Act 2007. We also recommend against an exception for taxpayer-friendly actions given it introduces a potential failure point (i.e., a risk that Inland Revenue misunderstands the consent). We discuss another exception to the limitation on disclosure in paragraph 34 along with other remedial matters.

Option 4 – repealing section 17GB

22. Some submitters supported repealing section 17GB. The main reason was that using the power could erode trust in the tax system if used in a political or particularly intrusive manner. Other submitters did not support this option, and on the contrary, thought the ability to collect information to inform policy supported trust in the tax system and that its removal signalled a lessening of transparency.

23. This is Inland Revenue's least preferred option. As outlined in previous advice (IR2024/213 refers), we think the provision may be particularly helpful for:

- Supporting regulatory stewardship projects, or policy projects where there are information gaps such as the fringe benefit tax review. Particularly where the costs of responding to a request are relatively minor.

- Collecting information in situations where we can offer a high degree of assurance to individuals and businesses that their personal information will not be used for compliance purposes.

- Situations where compulsion gives businesses certainty that they are not in breach of their privacy obligations to their clients.

24. Under this option, the Commissioner could continue to attain policy insights from information from other sources including administrative information held by Inland Revenue, administrative information held by other agencies, and information requested for policy purposes and provided voluntarily.

Allowing a tax deduction for complying with a section 17GB request

25. If section 17GB is retained, you could also create a specific tax deduction for the costs associated with complying with a section 17GB request. Under the current law, businesses are likely to be able to deduct the costs of responding to a request in most cases, but non-businesses may struggle to show there is a close enough nexus with deriving income. There were mixed views about whether the Income Tax Act 2007 should provide an explicit deduction for the costs of responding to a section 17GB request. Those in favour thought creating a specific deduction was a pragmatic and administratively inexpensive way to compensate individuals for the unexpected cost of a request. Others thought a deduction departed too much from the principles of the deductibility rules, which generally requires a nexus with deriving income. There is no specific deduction provision for the cost of complying with the Commissioner's information requests generally.

26. On balance, we do not recommend that a specific deduction is created if section 17GB is retained.

27. As noted in previous advice, allowing a deduction for responding to a section 17GB request may create a fiscal cost. However, if you progressed this change, a cost would not be charged against the Budget or scorecard. This is because the timing of this cost is unknown, and the quantum would depend on the nature of the request and so is unquantifiable. Any envisaged use of this provision is likely to have very low compliance costs for individuals or businesses. For example, if the power was used to collect information from a software provider, the fiscal cost is likely to be in the realm of a few thousand dollars (and may be deductible already).

Other feedback – GTPP

28. Charted Accountants Australia and New Zealand's main submission point was that a more first-principles review of the provision is needed. Such a review would identify the key information gaps in the tax system and the appropriate agency for collecting that information to fill those gaps. It suggested that such a review should be carried out under the Generic Tax Policy Process (GTPP).

29. While there may be merit in such a review, this needs to be balanced against other priorities in the work programme. We also think that there are limits to how much we can determine future information gaps in advance (although we note the genesis of the power was specific information gaps identified by the 2018 Tax Working Group). Future information needs will largely depend on changing government priorities and external factors that we cannot predict (e.g., an emerging tax issue like cryptocurrency that we have limited administrative information on).

Other feedback – penalties

30. Two stakeholders suggested Inland Revenue should also consider whether the penalty for failing to comply with a section 17GB request is proportionate. Non-compliance with an information request is currently a strict liability offence (that is, there is no requirement to show intent). The first time someone is convicted for

such an offence they are liable to a fine not exceeding $4,000. There is also an offence for knowingly failing to comply and this carries a fine of up to $25,000 for a first offence.

31. We do not agree with the suggestion that penalties applying to failure to comply with a section 17GB request are disproportionate. It is appropriate that the same offences apply when the Commissioner exercises their powers across the board. Requests will only be made where we think it is appropriate and any prosecution must meet the Solicitor-General and Inland Revenue's own prosecution guidelines.[1]

32. We can provide you with more analysis on either of these matters if you are interested.

Remedial matters

33. If the power is retained, Inland Revenue recommend progressing three related remedials. Under the general information-gathering power, the Commissioner may prescribe the way information must be provided, and it is specified that information may be sought from a government department or public authority. These provisions do not explicitly extend to section 17GB. We recommend the TAA is amended to extend these provisions to section 17GB, which is consistent with the policy intent. It is important that information is provided in a useable form. Further, government departments are a major source of information that is relevant to tax policy purposes and should be treated consistently with other taxpayers in this respect.

34. The third remedial relates to situations where information collected under section 17GB is necessary for demonstrating non-compliance with the information request. For example, if a person only provides Inland Revenue with part of the information requested, we may need to use the information they provided us to show that they have not fully complied with the request. We recommend the TAA is amended to clarify that, notwithstanding any restrictions on use, information collected under section 17GB can be used when doing so is necessary to show non-compliance.

Next steps

35. Should you agree to progress any legislative changes, we will include them in the cabinet paper for the omnibus taxation Bill to be introduced in 2025.

36. We have consulted the Treasury and Stats NZ on the contents of this report. The Ministry of Justice and the Office of the Privacy Commissioner were consulted as part of designing options in the previous report.

[1] https://www.taxtechnical.ird.govt.nz/about/our-prosecution-guidelines

Appendix 1: Targeted consultation summary

Stakeholder	Summary
Chartered Accountants Australia and New Zealand (CA ANZ)	• Recommend full review under GTPP with public consultation to determine the nature and extent of legislative amendments to be made to section 17GB. This includes asking what information is needed, who is best placed to collect it, what other information is available, and when do compliance and privacy costs become unreasonable. Notwithstanding main submission point: • The use of information collected under section 17GB should be further restricted (option 3). The restriction should not operate to override DTA obligations. • Personal information collected should be allowed to be used for taxpayer-friendly purposes with the taxpayer's written consent. • A specific deduction should be allowed for the costs incurred by a person to comply with the information request.

Corporate Taxpayers Group (CTG)	• Preferred option is to repeal section 17GB:
	  o Section 17GB creates risk that Inland Revenue will impose costs on businesses where the information can be collected by other means.
	  o Section 17GB has been used in a way that some view as intrusive and political in nature – repeal would signal Inland Revenue is focussed on its core administrative functions.
	
	If Inland Revenue makes the case for reinstating a power in the future:
	• Information should only be able to be used for policy purposes (starting point should be Data and Statistics Act 2022 which applies a privilege to data generally rather than to specific individuals).
	• Should allow explicit deduction for complying with the request.
	• Should also consider limiting liability of businesses that provide information about their customers in response to a request that could be in breach of the business's confidentiality policy.

Deloitte	• Preferred option is to repeal section 17GB – exercising power could politicise Inland Revenue and reduce trust in the tax system; Inland Revenue managed to provide good policy advice prior to the provision. • If section 17GB is retained, support option to restrict use to policy. Should manage DTA obligations by limiting information sought rather than via override. Do not support an exception for taxpayer-friendly actions. • Inland Revenue should develop an additional framework to ensure requests are reasonable and frequency of requests are kept to a minimum. • Should be a specific deduction for responding to a request.

EY	• Could see arguments for repeal but also thought it may be best not to make any changes to information gathering powers:
	  o Repeal may be appropriate given other agencies do not have such powers and there are no specific uses for power in the future.
	  o On the other hand, there should be high bar before changes are made to Inland Revenue's information powers. Amending legislation can often have unintended effects and Inland Revenue can generally deal with

	technical issues using its administrative discretion and guidance. • Noted that there are opportunities to improve the draft operational statement such as indicating thresholds for when the power will be used, and how information will be stored, etc.
Max Rashbrooke	• In favour of retaining the provision – defers to officials on the appropriate level of restriction. • Compulsion power is necessary to make up for gaps in other data collections (for example, those done by Stats NZ). The high wealth individuals research project was one of the most powerful pieces of research in New Zealand in modern times. • In the long run, trust depends on transparency and perceptions of fairness. This is enhanced by new research and policy analysis. • Deductibility needs to be part of a wider discussion about when it is appropriate to pay citizens for democratic work.

New Zealand Law Society (NZLS)	• Preferred option is to repeal section 17GB – inappropriate to have such a strong power for policy purposes.
	• If retained:
	    o information should only be able to be used for policy purposes (option 3), should not be disclosed overseas as information was not collected for that purpose.
	    o Civil rather than criminal penalty should be used for non-compliance.
	• Does not support legislating for deduction; IR should make a public statement outlining the current law.

PwC	• More weight should be put on privacy than other information gathering powers because section 17GB is less connected to Inland Revenue’s core functions. Could consider putting mandatory considerations and consultation requirements in legislation. • Support restricting use of information to policy purposes (option 3). • Notes that it is unusual to share information internationally if other jurisdictions do not do so. • Support a specific deduction for responding to a section 17GB request. • Consideration should be given to whether the current penalty for non-compliance is appropriate.
Tax Justice Aotearoa	• Section 17GB is an important response to 2018 Tax Working Group recommendations around improving information about the tax system. • Prefer non-legislative options. The best way to maintain trust is through exercising power appropriately rather than additional legislative safeguards. • Do not support overriding DTA obligations. • Do not support legislating for a deduction as it is not equitable.

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Briefing note

Reference: BN2025/094

Date: 5 March 2025

To: Revenue Advisor, Minister of Revenue – Angela Graham
Private Secretary, Minister of Revenue – Helen Kuy

From: Adam Carter, Senior Policy Advisor

Subject: **Next steps for proceeding with changes to section 17 GB**

Purpose

1. This briefing suggests next steps for proceeding with changes to section 17 GB.

Background

2. In November 2024, the Minister of Revenue agreed to restrict the use and disclosure of information collected under section 17 GB (IR2024/409 refers). Information would only be able to be used for policy purposes and would generally not be able to be disclosed in a form where individuals can be identified. The Minister also agreed to progress several remedial changes related to section 17 GB.

3. The Minister noted that he would like to consult with his colleagues in the first quarter of 2025 before proceeding with the changes.

Next steps

4. We noted in previous advice that changes could be progressed as part of the 2025-26 Annual Rates Bill. We recommended that any changes to section 17 GB go through the select committee process given a major criticism of the provision was that it was inserted at Committee of the Whole House stage.

5. The 2025-26 Annual Rates Bill will likely be introduced to Parliament sometime in August 2025. To meet this date, Cabinet policy approvals will likely be sought by July 2025.

6. Policy approvals for changes to section 17 GB could be sought through a stand-alone Cabinet paper or as part of the omnibus Cabinet paper. If the Minister anticipates significant interest from his Ministerial colleagues, a stand-alone Cabinet paper may be preferable.

7. If we aim for ECO in June, we could provide the Minister with a draft Cabinet paper in May. This would provide at least two weeks for Ministerial consultation. However, given the policy work has been completed on this proposal, we recommend the Minister go to ECO earlier if possible. For example, we could aim for ECO on 7 May and provide the Minister with a draft Cabinet paper in early April.

Adam Carter
Senior Policy Advisor
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