MAKING TAX SIMPLER

INVESTMENT INCOME INFORMATION

SUMMARY OF FEEDBACK

Hon. Judith Collins
MINISTER OF REVENUE

A summary of the feedback on the *Investment Income Information* public consultation

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CHAPTER 1

INTRODUCTION

In July 2016, the Government released the sixth document in a series of discussion documents consulting on the Government's proposals for modernising and simplifying tax and social policy administration in New Zealand.

The sixth consultation, *Making Tax Simpler - Investment Income Information* (the investment income discussion document) outlined proposals to improve the administration of investment income in order to simplify tax and social policy.

An online forum, *makingtaxsimpler.ird.govt.nz*, provided the opportunity for the public to submit comments online to specific questions. Written submissions were also received through the normal submission process. Over 60 online comments were received as well as 32 written submissions.

This document summarises the main themes from both the online consultation and written submissions. The comments quoted in the summaries are representative examples of the comments received and are quoted as supplied, apart from the correction of typographical errors. The summary is organised by topic heading. Each topic contains a summary of what was proposed in the discussion document, followed by a summary of feedback. Some topics do not contain a summary of what was said in the discussion document. This is because the topic was not covered in the discussion document but came through in feedback from submitters.

Although the submitters did express support for some proposals and supported the theme of having better information transfers between investment income payers and Inland Revenue, the clearest theme from the submissions was concern over the compliance cost of the changes and whether they were able to be justified.

CHAPTER 2

JUSTIFICATION FOR THE PROPOSALS

The discussion document outlined that more frequent (quarterly or monthly) and detailed investment income information is required to enable Inland Revenue to help the taxpayer to get their tax right by:

- More accurately pre-populating tax returns and personal tax summaries.
- More accurately determining social policy entitlements, reducing the number of people paid too much during the year and then having to pay it back, and the number paid too little and only receiving their full entitlement at the end of the year.
- Proactively correcting errors and helping customers choose the right withholding rate; and
- Allowing the Government to redesign the social policies that Inland Revenue administers.

Summary of comments

A large number of submitters felt that the proposal to obtain investment income information on a monthly basis was unjustified, as it would impose additional costs on financial institutions that would outweigh the benefits. The general consensus was that as the majority of people do not receive much investment income, the social policy impacts would be minor and would therefore not justify the cost of monthly reporting. There was a strong view that "near enough is good enough" and that the proposals should not shift the costs of compliance and administration from taxpayers and the Government on to payers of investment income.

The social policy justification for these proposals is overstated and statistics indicate that receipt of investment income would not have a material effect on social policy obligations in most instances.

The benefits provided by the ability to adjust social policy entitlements in real time are likely to be marginal. The nature of investment

income is that it is lumpy and generally speaking will not be earned evenly over a year.

In my view, a search for perfection in calculating a taxpayer's social policy entitlements is not justified given the compliance costs involved.

Monthly reporting of this income will impose costs disproportionate to any benefit from more accurate delivery of social policy.

Compelling payers of investment income to provide IR with detailed information monthly is unnecessary and, in our view, the increased costs will outweigh the benefits that will arise.

…supports, in principle, the IRD's aim to make it easier for taxpayers to manage and comply with their tax affairs, pay the right amount of tax and receive correct social assistance entitlements real time. However, … wishes to stress that a careful balance must be struck between the proposals covering the tax position of as many New Zealand taxpayers as possible and managing the compliance burden to investment income payers so that compliance costs do not become excessive… We would have concern if an un-pragmatic outcome was sought to strive for a "utopia" of having every New Zealand taxpayer's tax and social assistance obligations perfect every time, all of the time. Striving for such an approach is likely to create excessive compliance costs for investment income payers. We colloquially refer to such a balance as a "close enough is good enough" approach or applying the 80:20 rule. Striking this balance cannot be done by the IRD in isolation…recommends a partnering approach between the banking industry and the IRD throughout this project to help ensure success of the proposals for the Government and IRD.

The majority of personal taxpayers have relatively little complexity to their tax affairs and should not need to submit income tax returns for their tax position to be correct. There is therefore no pressing need to pre-populate the income tax returns of the majority of taxpayers, and we believe that the number of taxpayers under-returning investment income and over-claiming social security payments (which seems to be the primary focus of IRD with these proposals) should be relatively small. In this regard, we do not believe that a compelling case has been made for the changes proposed and there is a substantial absence of data in the discussion document to support the need for them.

Overall…considers the investment income proposals will not simplify the tax system, but rather transfer the complexity and cost of compliance to large payers of investment income.

CHAPTER 3

TIMING AND FREQUENCY

The discussion document proposed that payers of investment income provide more detailed information on the 20th of the month (end of the month for PIEs) following the month in which the income was paid. The document posed the question whether it would make a significant difference to compliance costs to provide this information quarterly as opposed to monthly.

Summary of comments

There was a resounding response from submitters that more frequent reporting will result in higher compliance costs. Almost all of the written submitters were in favour of quarterly reporting as opposed to monthly reporting. Some of the smaller companies welcomed the ability to file their RWT returns more regularly online.

As a director of a small private company I would welcome the facility to file interest RWT details regularly online, or when paid. The present IR 15 process is cumbersome and antiquated. Hopefully this would remove the need for an annual reconciliation, similar to the way PAYE works now.

Providing taxpayer-specific information should be quarterly or annually. Most financial institutions will have processes around reviews and validations before information is filed with Inland Revenue. Providing monthly information would require constant and on-going reviews and validation of information. Further, monthly filing of taxpayer information would add additional cost and pressure to the industry's accounting monthly processes.

The difference in compliance costs would be marginal as system changes would be needed either way.

…does not support reporting of investment income information on a monthly basis. However if a more frequent reporting requirement were introduced, we would favour a quarterly timeframe. Even if system changes are needed, there are also other costs associated with the process of reporting information provided to Inland Revenue (e.g. staff costs, costs of dealing with employee and IRD

queries). The more times information is required to be reported to Inland Revenue, the higher the costs for the business.

The additional resource and cost involved in monthly reporting would be significant and … doubts that the benefit of providing monthly information, versus quarterly information, will outweigh the cost.

The filing of such information should be required by the end of the month following the relevant reporting period, rather than the 20th of the month following.

CHAPTER 4

PAYERS OF INVESTMENT INCOME

COMPANY DIVIDEND INFORMATION

The discussion document proposed that companies would provide detailed recipient information for dividends paid. This would largely be the information that companies provide to their shareholders now in their shareholder dividend statements.

Summary of comments

There were not many submissions on the provision of detailed dividend information but those that did comment felt that the provision of dividend information was achievable albeit at some cost where systems changes were required. Some submitters also noted that there could also be non-cash dividends.

Companies already have this detailed information. The only issue should be transferring the information in an appropriate format. IR should discuss what difficulties might arise with large service providers, like Computershare. IR needs to be flexible on timing of delivery of information. Close companies should be able to file on a yearly basis.

The effort and complexity will depend on the extent, complexity and format of data requested.

There will be a requirement for systems development to enable registry systems to extract the required information to be provided to the Inland Revenue.

In addition there will be an ongoing monthly cost, direct and indirect, for providing detailed information.

We suggest that early engagement by the Inland Revenue with professional share registries and securities administrators to ensure an efficient solution enabling the containment of initial and ongoing monthly costs. We believe that a common format for data collection would need to be developed for all providers of information.

Difficulties will be reduced if Inland Revenue systems are flexible in how information can be provided; that is, provision is made for large and small taxpayers

Note that dividend taxable income will frequently differ from cash receipts, in circumstances such as deemed dividends on redemption or taxable bonus issues.

… supports the proposal that companies would only be required to provide information that they already hold.

If Inland Revenue is planning on making disclosure of IRD numbers and other detailed information compulsory in the future, there needs to be sufficient warning so that debt and equity issuers can begin to collect this information, build system capacity to store it and report it (if necessary).

…will have to incur significant upfront costs to implement the proposals, including ongoing compliance costs. The proposals will require significant systems and process change.

PORTFOLIO INVESTMENT ENTITIES (PIEs)

Volatility of PIE income

The discussion document proposed that non-locked in PIEs report income on a monthly basis.

Summary of comments

Submitters felt that because of the volatile nature of PIE income, reporting it on a more frequent basis would not result in any meaningful social policy adjustments.

We note that as PIE taxable income does not accrue in a lineal fashion due to factors such as unpredictable movements in exchange and interest rates, and lumpy investment market returns, it can fluctuate from large positives to large negatives very quickly and certainly from month to month.

Accordingly taking PIE taxable income into account when determining social assistance entitlements may result in regular amendments to these entitlements, both up and down. This may make it difficult for people to budget as their entitlements may change more regularly and may result in more work for those agencies managing social assistance, for little overall gain.

PIE income can be volatile due to the nature of the underlying investments. A year-to-date income position can turn to a loss and vice versa. This has potential to cause continuous adjustments during the year. Social policy delivery throughout the year may be "lumpy" (i.e. entitlements and obligations will vary from month to month). We do not believe this is ultimately what is intended for the proposals.

Wholesale PIEs

Summary of comments

There was a view that wholesale PIEs should be exempt from the information requirements as the clients of a wholesale PIE are not individuals so there would be no social policy benefit in obtaining the information, and because it could result in multiple reporting of the same income.

Under the proposals as our PIEs are not locked in, we would need to report monthly the PIE income calculations and investor details. However, our investors as previously noted are not generally individuals. Thus prima facie we would be providing information

monthly that Inland Revenue would not be using given the proposal is geared at social policy calculations for individuals. It is our recommendation that the proposal for locked in PIE exemption for monthly reporting is expanded to include wholesale PIEs, as appropriate.

An investor in a PIE will invest in a retail PIE. That PIE may in turn invest, through one or more wholesale PIEs, in the underlying investments. The PIE income will be reported at least twice. If the investor invests through a PIE proxy (custodian), a further layer of investor reporting will occur.

Locked in PIEs

The discussion document proposed that locked in PIEs, such as KiwiSaver funds, would not need to report income information frequently given locked in PIEs are excluded from social policy calculations. Instead, it was proposed that locked in PIEs provide reporting on investors' details and their current PIRs at some points during the year to enable Inland Revenue to check the investors were on the correct rates.

Summary of comments

This proposal was supported by submitters.

… supports the idea that any additional reporting by PIE funds which are locked in should only consist of investor details and an investor's current PIR... Our preference would be six monthly reporting of this information.

EXEMPT INTEREST AND AIL

The discussion document proposed that payers of investment income provide Inland Revenue with details of recipients with income exempt from withholding tax and income subject to the approved issuer levy (potentially limited to domestically issued debt). It was proposed that these details would include the taxpayer's name, address, IRD number (if held), as well as the income paid.

Summary of comments

Submitters were generally not in favour of providing this information as they would require expensive system changes to implement. There was also a view that this information would be limited in value given it would not be used to prepopulate returns or to adjust social policy payments. As a lot of the AIL information would be provided under AEOI, it was considered that AIL reporting was unnecessary.

In terms of frequency of reporting, most submitters felt that this reporting should align

with the frequency of reporting for RWT, however some felt an annual requirement would be better. Submitters expressed concern that there would be issues implementing these proposals in relation to offshore debt instruments, wholesale funds and custodians. The usefulness of obtaining this information in relation to non-residents was questioned, given they do not file New Zealand tax returns and do not qualify for social assistance.

Frequency of reporting

If detailed reporting is required on interest that is subject to approved issuer levy (AIL), the frequency of providing this information should align with the timing of when interest payments are made and AIL is imposed.

It is recommended that the frequency of detailed reporting for interest subject to AIL is aligned with the frequency of detailed reporting for RWT and NRWT.

…we submit that financial institutions should only be required to provide this information on an annual basis.

Reporting on AIL and exempt interest

We do not support the proposal to require payers to provide customer details if the customers receive interest that is exempt from withholding tax. In our view, to require payers to provide customer details if customers receive interest that is exempt from withholding tax would be inconsistent with the policy rationale for the $5,000 RWT de minimis rule [which] is to reduce compliance costs.

We do not support the requirement that payers provide customer details if the payers deduct approved issuer levy (AIL) because Inland Revenue currently collects this information as part of the registration process… In addition, non-residents who receive interest subject to AIL are not required to file a New Zealand tax return. Therefore, information is not needed to pre-populate tax returns. Furthermore, non-residents do not qualify for WFF tax credits, so the information is not needed for this purpose. The same information will be provided under the AEOI reporting requirements when these come into effect, assuming the payers are financial institutions.

The ability to obtain non-resident investor information would be difficult or impossible for some debt issuances. Any new requirement for payers to report interest subject to AIL must be limited to domestic debt issuances only and not offshore wholesale debt issuances.

We act for a number of non-resident issuers of NZD debt instruments [in] the so called Kauri market.

As these issuers are neither based in New Zealand nor have any business in New Zealand they do not have an IRD number. Assuming that the payment of the interest, which is always to holders of a Certificate of Exemption (COE), will need to be reported under the proposed changes, then some accommodation will need to be available for the reporting.

Many members do not currently have existing systems capability to provide detailed reporting on interest that is exempt from withholding tax…If it was necessary to provide such information, it will be critical that doing so is incorporated into the overall reporting required for withholding tax and not via separate reporting or with excessive additional fields of data being required.

We do not support proposals to require payers of interest that is exempt from withholding tax or is subject to the approved issuer levy to be reported to Inland Revenue… even if the Government decides that financial institutions should be required to provide this information, we submit that financial institutions should only be required to provide this information on an annual basis. Given that it appears this information would be primarily used for auditing compliance (rather than prepopulating tax returns) there is less need for Inland Revenue to have this information as frequently compared to other types of investment income information. …does not support the provision of additional reporting in respect of exempt interest subject to the Approved Issuer Levy.

We have never needed to provide this information in the past and to do so now would be onerous as it would require the development of new data extraction and reporting solutions. Furthermore, we question why such information should be required in respect of Approved Issuer Levy payments, given these relate to non-residents and should not therefore need to be pre-populated in a NZ tax return.

The information will be the same as proposed for AIL reporting… There is no reason for either separate or earlier reporting of AIL information…In any event, in a custodian situation, often non-residents have investment in zero-rate government stocks and bonds. We submit that government stocks and bonds should be carved out of the requirement to provide information… detailed reporting on interest exempt from withholding taxes would add additional costs, especially in situations where all recipients are exempt from withholding, e.g. wholesale funds. In this circumstance, interest derived by the taxpayer does not incur withholding tax and therefore is currently never reported.

Whilst reporting on interest that is exempt from withholding tax may be achievable with significant system development, the proposals are unclear on the following:

(i) whether it would apply for debt securities that qualify for a zero rate of approved issuer levy.

(ii) whether it would apply to non-resident customers that are exempt under the Income Tax Act 2007 or the Tax Administration Act 1994 or exempt under non-tax legislation.

It should be noted that as a sub-custodian…do not hold detailed information on underlying investors…any detailed reporting by … will only show payments to the Global Custodian. We envisage the new Standard for Automatic Exchange of Financial Account Information will address the reporting by requiring the Global Custodians to provide the IRD the investor level information it seeks.

[For the question – If you issue debt instruments offshore do you hold information on the investors and if not are you reasonably able to obtain it?]

Offshore issuances would be done through offshore paying agents and it is very unlikely that any detailed customer level information would be held by…In addition, certain jurisdictions have laws which prevent the ability to trace the holders of debt instruments without the express consent of those holders. Even if the holders were to give their consent, a further issue arises. Offshore debt instruments are regularly traded in the international debt market which presents a real challenge in identifying individual holders at a certain point in time. The only way in which such information could be gathered is by outsourcing the obligation to the foreign paying agents. This presents the further risk of the agents not understanding the complex requirements and results in the real risk of reporting errors and significant compliance costs being incurred by the New Zealand bank.

MĀORI AUTHORITIES

The discussion document proposed that Māori authorities send Inland Revenue detailed information about Māori authority distributions in the month following the month in which the distribution was made.

Summary of comments

The general consensus was that it would be difficult for Māori authorities to provide distribution information to Inland Revenue as the majority of Māori authorities have a large number of unidentified members.

This would be unworkable for a Māori Incorporation for the simple reason they can't trace a large number of their shareholders. Unlike a normal company, when a dividend is declared much of it is not physically paid. From the ones I deal with, around 50% of the dividend each year ends up in unclaimed dividends. You would need to look at making the dividends taxable to the recipient at the time of physical receipt rather than when declared, no payment could be made unless an IRD number had been supplied or it had RWT deducted at the non-declaration rate.

I personally do not think it would be difficult to give Inland Revenue a total listing of dividends declared by a Māori authority. I would presume that Inland Revenue would also need to receive a listing of owners who actually received a cheque or payment into their bank account. The big problem to me is that all owners are credited with the dividend and it is shown in the unclaimed dividends accounting

even though they do not receive a payment. Because many of these owners have also no IRD number available there is a resident withholding tax payment made to Inland Revenue on their dividend where it is over $200. I cannot understand the fairness of this point.

IRD needs to understand the process for the smaller trusts and not lump all Māori authorities together and have one size fits all.

We understand Māori authorities would not be opposed in principle to providing further information as to their distributions so long as they:

- *Do not have to seek, obtain and check additional information from or relating to their many individual beneficiaries (over 10,000 for each of several of our Māori authority clients).*
- *Can provide the information in formats and means which they can extract easily from their current systems, without needing to find and engage additional resource and incur additional costs."*

In determining the appropriate approach with respect to Māori authorities, Officials should have regard to the following factors:

- *Māori authorities typically make a large number of small distributions;*
- *Currently, a significant portion of the distributions are made from non-taxable reserves and therefore are not subject to tax in the hands of the recipients; and*
- *The details held by Māori authorities in respect of their members are limited, and obtaining updated member records is likely to be difficult from a practical perspective.*

Consequently requiring information in relation to Māori authorities would create significant compliance costs that are disproportionate to the benefits suggested in the discussion document. Further, relative to financial institutions or publicly listed companies, from a resourcing and systems perspective Māori authorities are not well placed to provide the details requested. On this basis, we submit that distributions from Māori authorities should be carved out from the proposals because they are likely to be disproportionately disadvantaged by compliance costs associated with the prescribed information requirements.

It should not be difficult for Māori authorities to provide detailed distribution information. Māori authorities are already required under s 31 TAA to complete a notice and give it to the member at the time they make a distribution.

CHAPTER 5

NON-DECLARATION RATE

The discussion document proposed increasing the non-declaration rate that applies to taxpayers who have not provided their IRD number to 45% for interest and PIE income. Feedback was sought on making PIE income taxed at the non-declaration rate taxable for investors, so that those taxed at the non-declaration rate could claim back the excess tax deducted by filing a tax return at the end of the year. Under the current PIE rules, as PIE tax is a generally final tax, the taxpayer could not get a refund of the tax even if they filed a tax return.

Summary of comments

The majority of submitters (written and online) did not support increasing the non-declaration rate. However, if it was increased, all submitters supported allowing PIE income taxed at the non-declaration rate to be treated as taxable income to allow taxpayers to claim the tax credits in their tax return.

The main points raised by submitters were:

- The costs to implement the changes would be substantial.
- The 45% rate will be too high for the majority of taxpayers who do not have significant social policy entitlements/obligations to justify a 45% rate.
- The non-declaration rate isn't the solution to what is essentially a data-matching problem. A better solution would be to require an IRD number to be provided before the investor could use their account.
- The aim of a withholding tax system should be to achieve payment of the recipient's expected income tax liability on an annual basis – no more. Increasing the non-declaration rate seems contrary to the policy behind business transformation as it would result in more taxpayers filing returns at the end of the year to claim back the excess tax.
- Retirement savings PIEs should be excluded from the 45% non-declaration rate. A 45% rate would punish unsophisticated taxpayers and negatively impact their retirement savings – a large

proportion of these taxpayers will likely be heavily reliant on these savings in retirement. Locked-in PIE income is not taken into account for social policy purposes so a 45% non-declaration rate is unwarranted. Further, overpaid PIE tax on retirement savings, which are subsequently recovered when the individual files a return, would be unlikely to be returned to the taxpayer's retirement account.

- Wholesale PIEs should be exempt from applying the increased non-declaration rate as it would be unnecessary for them to incur the cost to build it into their system when it is unlikely to ever apply given the type of investors who invest in wholesale PIEs.
- Consideration should be given to ensuring the non-declaration rate is not applied to investors who legitimately do not require IRD numbers, such as non-residents and exempt persons.
- This proposal shifts the costs of policing IRD numbers from investors and Inland Revenue to payers of investment income.
- Taxpayers taxed at the non-declaration rate should not be able to receive PIE losses cashed out at 45%.
- This proposal would increase compliance costs for financial institutions as they would be the first port of call for complaints.

It will simply punish unsophisticated taxpayers and provide a windfall for the government.

No. It should not be increased. It would be punitive and would tend to fall more harshly on those less sophisticated with online operations and less likely to keep up with their financial details, especially on over 65s, just the people you say the changes are meant to help.

- *They* [the non-declaration proposals] *shift the policing of the use of IRD numbers from investors and Inland Revenue to Investment Income Reporters.*
- …instead suggests *…requiring that IRD numbers are provided to an Investment Income Reporter before an account which generates reportable investment income can be used to transact by an investor.*
- *…the cost to implement the proposed new 45% non-declaration rate may be substantial.*

…we are unconvinced that a penal rate is the solution to a data matching problem. There will be few investors with significant investment income who face a marginal tax rate in excess of 33%, and the top rate of tax on PIE income is only 28%. A 45% rate will clearly amount to significant over-taxation, which will cause a customer relations issue and is not in itself a solution to a matching problem… some members feel that provision of an IRD number should be a requirement at the time of opening up the account.

…disagrees with the proposal to increase the non-declaration rate from 33% to a penal rate of 45%... Nonetheless, if this proposal proceeds and a 45% non-

declaration rate is introduced, a transitional period must be implemented to provide sufficient time for investment income payers to notify investors of the pending increase in their RWT rate or PIR, and to enable affected investors to provide their IRD numbers before the 45% rate is applied.

The imposition of a 45% non-declaration rate would be unfair and inequitable to the many individual members of these schemes, detrimental to the New Zealand retirement savings sector and possessing the potential to negatively affect the economy…In the event that changes are made to make over-paid PIE tax recoverable through individuals' tax returns, there is a strong possibility that:

(a) any recovered monies will not be returned to the member's account in the relevant Workplace Savings scheme thereby negatively impacting members' retirement savings and/or

(b) members of KiwiSaver schemes and Workplace Savings schemes will not act to recover the over-paid tax for the reasons set out below.

We consider there is no justification for a 45% non-declaration rate of withholding tax on interest and PIE income if individuals have not provided their IRD number…The proper aim of any withholding tax should be to achieve payment of the recipient's expected income tax liability on an annual basis - no more…It is likely, if not inevitable, that individuals should complete and file annual returns of income if tax has been deducted at a 45% rate from any portion of their income. Increasing the likelihood and number of individual returns being filed if individuals would otherwise fall within the TAA non-filing criteria would seem counter to current policy and expectations…dealing with PIE income can already be complicated and confusing for individual taxpayers. This proposal would be likely just to add more complication and confusion.

For wholesale fund providers it is unlikely that the proposed new rate for non IRD number declaration will apply to any investors. This is because wholesale investors are generally sophisticated investors such as superannuation schemes and are not individuals. Requiring fund managers and providers to incur the costs of building a new prescribed investor rate in systems that will never apply due to its type of investors, will unfairly penalise those fund managers and providers…Implementing a new rate at 45% for those investors who do not provide an IRD number will affect those who cannot meet this requirement...Non-resident investors in multi-rate PIEs that are not foreign investment PIEs will fall into the category of those who cannot meet the provision of an IRD number requirement. As generally non-resident investors do not have IRD numbers. Thus under this proposal they will suffer PIE tax at 45%.

We do not support this proposal. Financial institutions are likely to be the first port of call for complaints from investors, which will result in increased compliance costs.

We agree that the current non-declaration rates for RWT on interest (33%) and PIE income (28%) are unlikely to act as a deterrent for investors who fail to provide their IRD number and that punitive rates should apply instead…There will be circumstances under which non-declaration would need to be distinguished so that investors who legitimately do not require IRD numbers (such as non-residents, exempt persons) are not inadvertently taxed at the non-declaration rate. In addition mechanisms should be put in place so that tax credits resulting from attributed PIE losses are not available to PIE investors who fail to provide their IRD number.

We support increasing the "non-declaration rate" for RWT on interest and "cash PIEs" to 45% for new accounts when a customer does not provide the payer with their IRD number. It appears that the current deterrent of the maximum rate tax of 33% is insufficient to compel taxpayers to provide their IRD number to the payer of interest… We do not support increasing the non-declaration rate to 45% for superannuation schemes, retirement funds (including KiwiSaver) and other retirement saving schemes. We understand that the provision of an IRD number is a prerequisite for entrance into these schemes. Secondly, income from these investments is not taken into account for social assistance purposes and tax deducted at the default rate of 28% is a final tax.

CHAPTER 6

JOINT OWNERSHIP OF INVESTMENTS

The discussion document proposed three options for allocating income between owners of a joint investment.

Option 1: Joint investments are treated the same way as they are currently, that is, the income is allocated to the person whose IRD number is associated with the account, and it remains the responsibility of each owner to allocate the income between them.

Option 2: The investment income payer splits the income and tax withheld among the owners according to their ownership proportions, and passes this information on to Inland Revenue.

Option 3: The payer informs Inland Revenue that the taxpayers are operating a joint account and provides identifying information for each owner. Inland Revenue then prepopulates the information on the assumption that the account is owned in equal shares. The account owners are then able to adjust their ownership shares if they don't hold equal proportions.

Summary of comments

The majority of submitters preferred option 3 or a variation of option 3 whereby payers informed Inland Revenue that an account was a joint account, but providing more detailed information was at the option of the payer. There was a question around whether Inland Revenue would impose a limit on the number of joint account holders whose details were required to be reported.

Almost all of the submissions stated that they would not be able to split the income between the joint investors because their systems would not be able to do this without significant and costly change, and because payers do not hold information on investors' ownership proportions, which could change throughout the year.

We currently attribute PIE tax at the highest PIR of the account owners and the tax certificate is sent to the nominated "primary owner", which I guess is the same as option 1. Any requirement upon us as payers to attribute tax to an individual rather

than an account would be a very major change to our systems and hugely expensive for the industry to implement.

…our preference is option three outlined on page 25 in the discussion document. The jointly owned investment should remain as a single record in an investment provider's system, with the investment provider disclosing additional information (where held) to IRD regarding the secondary holder(s).

… our systems do not currently have the capability to split the investment between joint account holders so option two would not be possible. Any change to systems to facilitate this would be very complex and costly to implement. In any event, even if our systems had the capability, we would not hold sufficient information to be able to correctly split the income between joint investors, especially for certain types of investors (such as trusts and partnerships). To do so would overly complicate customer onboarding processes and would also require constant communication with certain customers to ensure the split remains accurate – for certain customers, such as partnerships or trusts, the split can change through a tax year. The compliance cost of having to split joint investment income between all owners would be excessive and highly likely to result in inaccuracies.

We are supportive of the third option provided in the discussion document…Further, payers can provide more detailed information to Inland Revenue if they choose to do so, but this should not be mandatory.

It is common to limit the number of joint holders registered to three and is required in some issue documentation. Will the IRD be implementing limits on the number of joint holders that are required to be reported?

CHAPTER 7

COMPLIANCE COSTS

END-OF-YEAR TAX CERTIFICATES

The discussion document proposed removing the requirement for interest payers to provide end-of-year tax certificates to taxpayers who had supplied their IRD numbers.

Summary of comments

Consultation responses were mixed. The four online submitters who commented on this question were not in support of removing the requirement as they felt that end-of-year tax certificates act as an important verification of income earned and tax deducted. Of the written submitters, about 40% were supportive of removing the requirement, and the other 60% felt it should stay.

No – end-of-year certificates are still required even if a customer has provided their IRD number as the customer may not have a myIR account.

Removing this requirement could cause short-term costs in excess of the small long-term savings. Certificates are currently often investment performance provided alongside other communications such as information, with the result that the associated costs of production are marginal and some institutions will likely still send out reports that include the certificates resulting in no cost savings from this proposal at all. In the short term, financial institutions would need to amend systems to determine the taxpayers who have provided their IRD numbers and to switch off the automatic production of certificates. In addition, investors may continue to request end-of-year tax certificates when reviewing the accuracy of the information pre-populated by Inland Revenue.

…this would be a helpful change. However if interest payers are required to provide end-of-year tax certificates to customers on request, the benefits of the change would be eroded. If the requirement was removed our preference would be that customers who request / require tax details are able to obtain these from Inland Revenue.
…does not favour the proposal to remove the obligation for interest payers to provide end-of-year tax certificates.

We consider that officials are offering this as part of a 'balanced package', i.e. as a bargaining chip for increased compliance costs in other areas. The removal of this requirement would only make a minimal difference to compliance costs, as financial institutions already have systems in place to provide these certificates… We also note that if the proposal goes ahead it may be more difficult for taxpayers to independently verify the information that Inland Revenue has about them. Taxpayers have an obligation to confirm the correctness of their tax position under our self-assessment system, and the end-of-year tax certificate assists taxpayers in confirming that interest income and RWT has been correctly reported. If the proposal moves ahead, taxpayers would have to go back to their bank statements to determine this for themselves (and in reality, many would not take this extra step).

i) If the investor provides an IRD number part way through the year, what details/payments would be required to be reported on the certificate i.e. just those payments made when no IRD number had been provided?

ii) If a joint holding where one of the holders had not provided an IRD number what details/payments would be required to be reported?

ELECTRONIC FILING

The discussion document sought feedback on options to encourage investment income payers to file online. Three options were outlined:

- optional paper filing for all payers, subject to a review after a set period of time, or until a set future date after which online filing may be required; or
- online filing for larger payers only, for example those with more than a certain number of recipients they pay investment income to; or
- online filing for all payers, with some exceptions, for example for those who don't have access to digital services.

Submitters were also asked what the threshold should be, in terms of the number of recipients of investment income an investment income payer has, for requiring the payer to file electronically.

Summary of comments

Submitters were of the view that Inland Revenue should consult with the industry to determine an appropriate threshold above which investment payers must file electronically. It was suggested that over time, all information should be provided electronically.

Financial services providers will have different preferences related to their own investment in particular technology. We suggest Inland Revenue seek consensus through industry bodies.

We suggest this be discussed as part of the industry consultation with Inland Revenue.
Over time all information should be electronic, even for close companies. In the interim, smaller entities should be encouraged to file electronically.

CERTIFICATES OF EXEMPTION

The discussion document proposed introducing a searchable database of certificates of exemption from resident withholding tax, to enable payers of investment income to confirm that a customer was entitled to an exemption from resident withholding tax (RWT). It was also proposed that organisations exempt from RWT under other Acts would be required to apply for a certificate of exemption, and thus would be included on the database.

Summary of comments

All submitters were in favour of having a certificate of exemption database, although some questioned the need for a database if payers were going to be required to disclose information regarding exempt investors as part of the proposed more regular reporting. Some submitters cautioned that this proposal should not result in the removal of the requirement for investors to send a copy of their certificate of exemption to their investment income provider. Absent this requirement, costs for payers could increase as they would need to check all of their customers against the database to determine whether or not they were entitled to an exemption from RWT.

Submitters were also supportive of requiring organisations exempt from RWT under other Acts to apply for a certificate of exemption.

We support Inland Revenue maintaining a database of exemption certificates for Investment Income Reporters to rely on. However, the onus should be on exemption certificate holders to advise Investment Income Reporters and for Inland Revenue to ensure the database is up to date.

The provision of a centralised database of COEs will add considerable overhead to our processing when calculating and paying a distribution to investors. Example; if the company has 100,000 shareholders and 25% of the shareholders are joint holders then we would need to complete some 125,000 accesses to the COE database to confirm if the IRD number had a COE or not. This overhead and risk if the database is not available would add considerable stress to what is a tight timeframe to complete distribution payments. We would prefer the current system where investors send us a copy of the COE. We could use access to a COE database to check that the COEs we have recorded are still current.

A database of current holders of RWT certificates of exemption should be made available to ensure interest payers are exempting only eligible taxpayers. Taxpayers who are exempt under other legislation should also apply for a certificate of exemption from RWT – there is uncertainty for interest payers under the current rules…However, if the proposal to disclose exempt investors as part of the regular

reporting is introduced, there may not be the need for a separate database of exempt investors.

IRD would be identifying any investor with an incorrect 0% rate as part of its review of the monthly/quarterly data file received from interest payers. Where errors are identified, IRD should advise the investor (and the interest payer) that they are not eligible for the RWT exemption.

Proposals to have a database of valid certificates of exemption has merit. We are of the view that Inland Revenue should consider whether this idea should be expanded to GST registration and IRD numbers.

CHAPTER 8

METHOD OF PROVIDING THE INFORMATION

The discussion document proposed that information could be reported on a period-by-period basis or on a year-to-date basis. A period-by-period basis would mean that each period an amount would be added, or potentially subtracted if there had been a correction, to the pre-populated amount in the recipient's tax records. A year-to-date basis would enable the pre-populated information to be replaced as each new set of information is transferred to Inland Revenue. It was proposed that only one option would be made available to avoid confusion and unnecessary complications, so feedback was sought on payers' preferences.

Summary of comments

Most submitters felt that the information should be provided on a year-to-date basis as this would make it easier to correct errors made in prior periods during the year.

…would prefer that investment income payers file detailed investor customer information on a year-to-date basis.

Generally, this better aligns with the systems of members and would greatly assist the amendment of prior errors.

It would be preferable to provide flexibility for payers to provide information using either approach given different systems.

Information should be provided to IRD on a 'tax year-to-date' basis, rather than for each individual period. A year-to-date basis would enable immaterial errors to be corrected more easily with the least amount of rework.

It would be preferable to provide the information for each individual period.

…would prefer to provide the information for the year-to-date as …considers this to be more conducive to the current practice of correcting errors within the same tax year. The year-to-date approach would also enable investors to easily track their investment income information on Inland Revenue's systems.

CHAPTER 9

ERROR CORRECTION

The discussion document proposed that investment income payers should be able to self-correct errors below the higher of:

- a simple dollar value threshold; or
- a percentage threshold based on the amount of withholding tax paid.

Submitters were also asked what they felt would be an appropriate threshold.

Summary of comments

Submitters were supportive of the approach to use both a simple dollar threshold as well as a percentage threshold for the correction of errors. The majority felt that there should be no dollar limit on errors that could be corrected during the tax year.

We support the proposed approach to correct minor errors and agree that a threshold based on a dollar amount in addition to a percentage-based approach is a sensible way forward. We also submit that Inland Revenue should be pragmatic in setting the dollar threshold to ensure the bar is not set too low for larger taxpayers to utilise this when minor errors occur.

…there should be no limits on corrections made for over or under deductions of withholding tax due to changes in the investor's tax rate or changes in the income paid to investors…With regards to errors in the reporting…does not agree that there can be a simple threshold for error correction with respect to taxation of investment income due to the complexity and types of investments. PIE reporting gets more complex…Managers of managed investment schemes (including PIEs) are required under the FMCA regime to have a unit pricing remediation policy for errors …recommends that these policies be taken into account when considering whether a threshold is required.

We submit that there should be no limit for self-correction for errors to PIE and RWT returns within the tax year by financial institutions where a move to more regular reporting is made. Outside of the tax year, a 2-limbed test would be appropriate i.e. a dollar threshold per investor and a threshold percentage of the total withholding tax/PIE tax for the filed period, with self-correction possible only if both limbs are met.

We suggest that Inland Revenue work with industry bodies to determine the appropriate thresholds in each instance…No limit to thresholds for errors corrected within the same tax year. For errors corrected outside of the tax year we suggest:

- *Dollar threshold: $50 withholding tax per investor (* number of investors).*
- *Percentage threshold: total error is no more than 2% of total withholding tax liability/PIE tax for payer for the return period.*

We suggest there should be no time limit, dollar or percentage limits on self-correction by payers within the tax year.

We agree that any adjustment can be made and reported in the next month. However this approach does present issues in two situations:

i) If the adjustment occurs in a month following the end of the tax year (31 March) then what tax year does the adjustment need to be recorded for?
ii) If the adjustment requires a cash payment to be made to the investor (tax refund) it may not be possible to fund this by reducing the amount to be paid to the IRD in the month of the adjustment.

This is because, as noted above, payments are not always made every month and many companies may only pay an annual dividend.

CHAPTER 10

LEAD-IN TIME AND APPLICATION DATE OF CHANGES

Summary of comments

The amount of time submitters required to implement the changes varied from 12 months to "at least three years". The majority of the large payers of interest income requested at least three years to implement the proposals, whereas some organisations in the funds industry were happy with 12 to 18 months of implementation time. All cited systems changes as the reason for the lead-in time. Other reasons included competition in the market for the limited specialist skill needed to undertake the changes, as well as other regulatory changes, such as AEOI and FATCA, that were competing for time and resources.

…would suggest a lead time of at least three years following enactment.

A minimum of three years after the date of enactment of the amending legislation would be required … to make the necessary changes to bank systems, potentially build new systems and to test the updated systems to ensure that … would be able to meet the requirements to report additional investor information on a more regular basis.

…to successfully implement the changes being proposed … will need at least three years from the date of enactment of the legislation.

…submits that the application period for the investment income proposals must be at least 24 months post-enactment of the legislation.

…would require a minimum 12-18 month timeframe to scope, implement and test system changes once regulations are finalised.

At least 12 months from the date that the requirements are finalised. If the final requirements include attribution of joint income to individual tax payers, this will require a full understanding and review to determine realistic time frames, but would likely be substantially greater than 21 months.

We are reluctant to commit to expenditure ahead of legislative enactment and finalisation of standards, as our previous

experience is that late changes cause rework and additional cost. A realistic timeframe for making changes to systems and processes, followed by collection of additional data from customers, is 24 months post finalisation of reporting standards. With previous change we have needed to compete in the market for limited specialist technical skill. This time would be no different.

…an implementation period of least three years after the date of enactment of any amending legislation will be required…the New Zealand banking industry is currently facing significant other regulatory change which creates competing interests for resource and systems change.

CHAPTER 11

OTHER TOPICS

IMPACT ON EMPLOYERS

What is not clear in the discussion document, is how employers will be affected when Inland Revenue decides (as a result of receiving investment income information) to update an individual's social policy obligations. We presume this will require the employer to update the social policy withholdings applied to that individual's salary and wage income (e.g. withholdings for student loans or child support)… Assuming the employer will be the one implementing the adjustment to the individual's social policy obligations, this will inevitably lead to tension in the employer-employee relationship. This could in turn create additional costs for employers to liaise with the employee and/or Inland Revenue to resolve issues. While Inland Revenue is the party advising the employer of the adjustment to make, the employer is inevitably, the employee's first port of call whenever take-home pay changes.

CORRECTING INVESTOR TAX RATES

…further work is required on how any errors identified by the IRD regarding investor tax rates that require correction will occur…If this obligation is not carefully managed, a significant compliance burden and error risk will arise for investment income payers, particularly if these corrections are fully aligned to customers' social assistance entitlements and are mandatory. More specifically, …any such errors should be communicated by the IRD to the investor in the first instance. If the IRD requires investment income payers to make changes to investor tax information, this should be mandated through legislation.

USE OF EXISTING REPORTING

…already provides a range of reports to Inland Revenue and to other government agencies and regulators in a variety of formats… We would like all reports to be required in a consistent technical format, with rationalisation of duplicate reporting to both Inland Revenue and investors. Particular regard should be had to information provided via FATCA and the proposed AEOI reporting and utilising that information as much as possible…Over time, Inland Revenue should be coordinating with other regulators to reduce duplication of reporting obligations to both investors and regulators.

We submit that consideration should be given to:

- *Reducing duplicate investor reporting and/or the need for the investment income reporting proposals; and*
- *Standardising, even if multiple reporting is still considered necessary, across Government the information and format of information reporting before any final decisions are made on the proposals.*

We consider Government should engage with financial institutions to determine whether existing processes and reporting can be used as a base to reduce the cost of implementing the proposals.

DUE DATES

The discussion document proposed that year-end March returns would be filed by 20 April for RWT, NRWT and AIL and 30 April for PIE tax.

Summary of comments

The proposal to bring forward the due date for end-of-year returns was not widely commented on and the response was mixed.

We would not be averse to completing the annual reporting process by 30 April after year-end, which would be one month earlier than the current requirement.

We would like to see this due date [for annual RWT, NRWT and AIL returns] *extended to 15 May to provide financial institutions with sufficient time to provide this information (and also reflecting there are a number of public holidays in April). We would also prefer that the current PIE year-end reporting date of 31 May remains.*

The proposal of bringing forward by one month the year-end filing deadline for PIE information to 30 April will sacrifice accuracy for speed. The change in the year-end filing deadline puts further pressure on processes, fund managers and outsource providers personnel for whom it is already a busy time of year.

Further, the time period available for completing PIE year-end and filing by the 30th of April will be shorter in some years depending on when the Easter break falls.

DATE OF BIRTH

The discussion document proposed that investment income payers should provide their customers' date of birth information where that information was held by the payer.

Summary of comments

Submitters were generally open to providing date of birth information to Inland Revenue where they already held that information. There was a consensus that this should be a legislative requirement in order to overcome any privacy concerns. A number of submitters expressed concern about the difficulty and cost of having to obtain date of birth information if they didn't hold it already.

Yes, anything to make it easier to get right.

The provision of date of birth information should be required only where available. If providing such data becomes mandatory, a significant amount of "carve outs" will be required - for example, for trusts and partnerships where date of birth information would be problematic to obtain and, arguably, for no discernible benefit…It will also be important that the requirement to provide such information, where it is held by an investment income payer, is a legislative requirement in order to manage customer privacy obligations.

We question the need for Inland Revenue to receive date of birth information given it's likely that there will be an increase in investors providing their IRD numbers under the proposal to apply a high tax rate to those investors that do not provide their IRD number.

Where investment income payers hold dates of birth for their customers, these could be provided to Inland Revenue, subject to a period of grace being extended to payers to change their disclosure materials and processes to (a) collect this information and (b) inform retirement scheme members that this information will be shared with Inland Revenue. The provision of date of birth information would also have to be subject to the caveat that the payer does not certify that the dates of birth provided are correct or have been verified…The obligation to confirm dates of birth, amongst other things, for such customers does not arise under the current Anti-Money Laundering regime until certain trigger events occur, for example a first withdrawal is made by the scheme member.

Any requirement to provide investor date of birth information to IRD should only be imposed if the information is currently held by investment income payers. The disclosure of date of birth information must be a legislative requirement to ensure no investor privacy issues arise.

ELECTRONIC GATEWAY

The discussion document proposed introducing an electronic gateway, which would allow larger files to be sent to Inland Revenue. For smaller payers, the introduction of an online form was proposed that would enable payers to provide information online without having to make their information fit the gateway requirements.

Summary of comments

Submitters were supportive of having an electronic gateway and online form. Investment income payers were keen to know the specifications of the gateway and wanted to work with Inland Revenue in designing it.

Further consultation is required between investment providers and IRD regarding the proposed electronic gateway. The regular transfer of sensitive customer data via an external platform raises security risks so the design and testing of the electronic platform needs to be robust.

We agree with the proposed approach in the discussion document that there be an electronic gateway for businesses to provide information to Inland Revenue, with the additional option of an online form for payers who would not be suited to using the electronic gateway…IRD needs to provide further detail and specifications around what the electronic gateway will look like, and what will be required from an investment income payer's perspective to be able to transfer data to that platform. This information is necessary to enable investment income payers to plan for the required systems changes.

There will be complex technical constraints. We submit that a separate working group involving information technology specialists from industry and Inland Revenue is set up to work through the systems issues as well as the approach of a consistent technical format for all reporting to Government.

DE MINIMIS THRESHOLD

We suggest that an investment income de minimis could be considered whereby the first $1,000 of investment income would be exempt from social assistance calculations.

FINANCIAL ARRANGEMENT RULES

Non-cash basis persons return financial arrangement income on a non-cash receipt basis (an accruals basis); whereas tax returns will be pre-populated on a cash basis. Accordingly, there needs to be some mechanism to alert taxpayers that the financial arrangement rules need to be considered and provide taxpayers with the ability to calculate and return the investment income on an accruals basis.