Tax Working Group Public Submissions Information Release

Release Document

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SUBMISSION TO THE TAX WORKING GROUP

ON

THE FUTURE OF TAX:

SUBMISSIONS BACKGROUND PAPER

BY

FOODSTUFFS (NZ) LIMITED

APRIL 2018

1.0 Introduction

1.1 We are writing to submit on the Tax Working Group's (TWG) Future of Tax: Submissions Background Paper (the submissions paper). This submission is made by Foodstuffs (NZ) Ltd on behalf of its shareholders: Foodstuffs North Island Ltd and Foodstuffs South Island Ltd (Foodstuffs).

1.2 Foodstuffs appreciates the opportunity to provide our views and observations. We have not attempted to answer all the TWG's questions. Whilst we see all questions raised as important and relevant, we are conscious the TWG will receive many submissions with many different views and appreciate the complex and demanding task to balance and consider all views.

1.3 We have focused on three areas which we see as having the most significant impact on our business – possible capital gains tax, possible land tax, and possible GST exemptions. We have also made some broader observations regarding New Zealand's tax landscape and other possible tax areas that we would like to see addressed as part of the TWG's process.

1.4 We would welcome the opportunity to make an oral submission to the TWG on our submission.

2.0 About Foodstuffs

2.1 Foodstuffs is New Zealand's largest retailer and owns the following brands: PAK'nSAVE, New World, Four Square, Liquorland, Henry's and Gilmours. PAK'nSAVE, New World, Four Square, Henry's and Gilmours stores are licenced to owner-operator retailer members of the Foodstuffs co-operatives, while Liquorland stores are franchised.

2.2 Foodstuffs' focus on grocery wholesaling and distribution is supported by a strategy of long term ownership of supermarket land and buildings.

2.3 Despite Foodstuffs' phenomenal growth, Foodstuffs remains 100% New Zealand owned and operated with all profits and taxes remaining in New Zealand.

2.4 Foodstuffs is a large New Zealand business which makes a significant contribution to the New Zealand economy. Together with members, the wider organisation employs more than 36,000 people and for the year ended 31 March 2018, was responsible for paying or administering over $420 million in taxes, including income tax, PAYE, FBT, and GST.

3.0 General Comments

3.1 We support the continuation of a broad-based low-rate (BBLR) tax framework. We believe this is a fair tax system, treating all income and assets in a fair, balanced and efficient manner whilst being cost effective from a revenue dollar collected relative to collection rate, for New Zealand businesses and the Government. Further, we believe BBLR minimises distortions in the tax system and allows for tax to be a relatively neutral factor in decision making.

3.2 We believe the tax system, whilst revenue generation for the Government, also needs to support and incentivise innovation and economic growth. This in turn creates new business and employment opportunities for New Zealanders, to ensure the long-term sustainability and productivity of the New Zealand economy.

3.3 We support a level playing field between domestic players and foreign businesses. We also acknowledge that the compliance costs for small businesses are a heavier burden than for larger organisations. Given a large proportion of businesses employ fewer than 20 people, consideration needs to be given to how we can reduce compliance costs (not just for tax) for small businesses, to free up resources so they can make a greater contribution to the economy.

4.0 Specific Challenges Identified in Submissions Paper

4.1 Capital Gains Tax (CGT)

4.1.1 As noted above, we see one of the strengths of the New Zealand tax system is its BBLR framework. Further, we support a fair tax system and acknowledge that some may view the lack of a CGT regime as unfair.

4.1.2 Our observation is that it is debatable whether a CGT regime, which excludes owner-occupied housing, improves the tax system. In our view the tax base “gap”, currently not being taxed is much narrower than the perceived gap. This is due to the recently extended five-year bright line test (and ring-fencing of rental losses if introduced) and our current robust land transaction provisions which bring to tax any gains from property speculation and property businesses.

4.1.3 It is contra to the premise of a fair tax system and creates a tax imbalance, to tax certain productive assets. Foodstuffs, and many other productive businesses, including our farming community, do not exist to make a capital gain on its productive infrastructure assets. This is not part of the business model. If a CGT were to be introduced productive assets should be excluded from the regime.

4.1.4 Foodstuffs is a proud New Zealand owned and operated business which makes a significant contribution to New Zealand through its current tax contribution, employing more than 36,000 people, and supporting local growers and businesses as part of the grocery supply chain. Ultimately if a broad-based CGT were introduced, we would absorb as much of the additional tax burden as we could, however in reality some of the cost would be charged through to store owners and ultimately all New Zealanders as part of the cost of goods.

4.1.5 Foodstuffs operates in a highly competitive but fair market. Where costs into store rise as a consequence of any tax on our infrastructure assets, this arguably shifts the balance in favour of offshore competitors, for example where large offshore retailers operate from an offshore distribution centre. We are supportive of a fair tax system for all.

4.1.6 If a CGT were to be introduced for speculative assets, some allowance should be given for inflation in calculating capital gains. Any CGT should look to tax any ‘true’ capital gain and not be looking to tax nominal gains. Further if a CGT were to be introduced, “rollover relief” should be allowed where there is reinvestment in similar assets.

4.1.7 We encourage the TWG to bifurcate the issues facing the housing market from the wider property market, which includes non-residential land and buildings. We would be wary of using the tax system to improve affordability for owners and renters and support the transfer system as a mechanism to address imbalance.

4.2 Land Tax

4.2.1 We acknowledge that one of the perceived gaps in New Zealand’s current BBLR tax framework is land tax. In our view we do currently have a form of land tax via the rates charged by Local Government.

4.2.2 Our observation is that it is contra to the premise of a fair tax system, and creates a tax imbalance, to tax a single class of capital asset.

4.2.3 For the reasons noted above under capital gains taxes, if land tax were selectively introduced, some of this cost would be passed on to New Zealand customers and it potentially creates a competitive imbalance between local New Zealand based businesses and businesses with offshore distribution centres.

4.2.4 If a land tax were to be introduced, it should be limited to “non-productive” assets.

4.2.5 Consideration also needs to be given as to how a land owner would fund the land tax. It could be difficult for some sectors of society, which are asset rich and cash poor, to fund a land tax. If a land tax were to be introduced, consideration should be given to whether the tax is payable on realisation of the asset as opposed to annually.

4.3 GST Exemption for Particular Goods

4.3.1 We support the continuation of a no exemptions policy for GST and are of the view that GST should remain a broad-based tax with few, if any, exemptions.

4.3.2 From our observations New Zealand’s GST system is successful due to its simplicity (in both administration and application). GST is an effective and efficient tax, driven by the fact that the rules are broad and encompassing, with few exceptions. In our view, this simplicity should not be undermined by exclusions, particularly where they would add significant additional upfront costs (by way of systems and people) and ongoing compliance costs for many small businesses.

4.3.3 We are advocates for keeping the administrative costs of New Zealand business low, simple and certain for the business owner and customer. If exemptions were to be introduced, as opposed to zero-rating, this could result in additional costs to New Zealand businesses due to their inability to fully recover input tax.

4.3.4 Our view is the preferred way to support low income families is by the transfer system.

5.0 Other Observations

5.1 Businesses should be able to claim a tax deduction for all business expenditure, either immediately or over time. Currently there are a number of gaps in the tax legislation where legitimate business expenditure is non-deductible. We propose as part of the review of the current and future tax system, consideration is given to the non-deductibility of:

(1) cost incurred in raising debt funding where ultimately the raising of debt is unsuccessful;
(2) costs incurred in raising equity;
(3) due diligence costs where the acquisition does not proceed;
(4) some resource consent costs;
(5) building earthquake strengthening costs; and
(6) certain feasibility expenditure.

5.2 We note Australia adopts a “catch all” approach to black hole expenditure by providing an effective deduction for black hole expenditure, which is not otherwise deductible, spread over a period of 5 years. This could be a solution to the non-deductibility of black hole expenditure in New Zealand.

5.3 Further we would encourage the TWG to recommend the reinstatement of tax depreciation for non-residential buildings. In our experience commercial buildings do decline in value. From a fairness perspective, it is inequitable to treat different business assets differently particularly now in the increasingly omni-channel world, this builds inequality into the sale and distribution model.
