

Tax Working Group Public Submissions Information Release

Release Document

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

30 April 2018

Sir Michael Cullen
Chair of the Tax Working Group
c/o Tax Working Group Secretariat
PO Box 3724
Wellington 6140

Via email: submissions@taxworkinggroup.govt.nz

Submission on: Future of Tax: Submissions Background Paper
Made to the: Tax Working Group Te Awheawhe Tāke
From the: Ministry for Culture and Heritage Manatū Taonga

1. The Ministry for Culture and Heritage (Ministry) welcomes the opportunity to make a submission on the **Future of Tax**.
2. The key contact person for matters relating to this submission is:

Name: Colin Holden
Position: Manager, Arts and Media Policy
Email: [1]
Phone:

Summary

3. The Ministry encourages the Tax Working Group, in its work to examine further improvements to the tax system, to:
 - examine changes to the tax system that may benefit the cultural sector
 - ensure any changes to the tax system consider the impact on New Zealand's cultural sector, particularly New Zealand artists.

Overview of the Cultural Sector

4. New Zealand's cultural sector encompasses a broad range of cultural and creative industries and activities: film, music, broadcasting, design and digital technologies; our built heritage, libraries, literature, museums and galleries, performing and visual arts; and sport and recreation.
5. Engagement with arts, heritage, media and sport connects us with our culture and with our rich heritage. It helps us value who we are as a country and fosters a sense of belonging both nationally and in our

communities. The cultural sector makes a significant contribution to our identity and well-being.

6. It also helps to grow economic prosperity. In recent years, the cultural sector has either matched or outpaced other sectors of our economy in terms of income, employment and value added.
7. The cultural sector relies heavily on public funding, including from lotteries, and on sponsorship and charitable giving from both public and private sources. It is important to ensure New Zealand continues to have a favourable tax environment that can support continued sustainable growth of the cultural sector.

Examine changes to the tax system that may benefit the cultural sector

8. Three potential changes to the tax system that may benefit New Zealand's cultural sector are:
 - creative industry tax reliefs
 - a gift aid scheme
 - a cultural gifting scheme.

Creative industry tax reliefs

9. The United Kingdom has introduced eight kinds of creative industry reliefs, which are similar in form to research and development tax relief. These are: museums and galleries exhibition tax relief (introduced in 2017), orchestra tax relief (introduced in 2016), theatre tax relief (introduced in 2014), film tax relief, animation tax relief, high-end television tax relief, children's television tax relief, and video games tax relief. These allow relief from corporation tax, with qualifying companies able to claim a larger deduction, or in some instances claim a payable tax credit, when calculating their taxable profits.
10. The underlying principle is that qualifying activity is intended to be stimulated by reducing corporation tax or by HMRC making a payment in respect of qualifying expenditure. In effect, the cost of a production is reduced, which should encourage investors or enable producers to produce more.
11. While New Zealand's tax regime differs significantly from the United Kingdom's, there may be benefit in examining whether equivalent creative sector tax reliefs could benefit New Zealand's cultural sector.

Gift Aid

12. Gift aid was recommended by the report of the Cultural Philanthropy Taskforce in 2010. The Taskforce was created in 2009 by the Government, and was asked to investigate new opportunities to increase private investment in the arts in New Zealand. (The Taskforce's report noted that overall New Zealand has a favourable tax environment for charitable giving that requires very little refinement.)

13. Gift aid is not a new tax incentive but rather a redirection of existing tax relief. It enables the tax benefit of charitable donations to go to the donee (the organisation) rather than the donor. This means the donee receives a greater cash donation without any change in giving levels. Gift aid is a tax-effective giving mechanism accessible to all taxpayers, irrespective of their income level or tax rate.
14. In the United Kingdom, gift aid tax relief adds at least 20 percent to the value of donations to charities. This means a donation of £10 would actually be worth £12 to the recipient charity, because the recipient organisation also gains the additional tax relief otherwise owing to the donor. In 2016/17 gift aid was worth around £1.27 billion to charities in the United Kingdom.
15. There are two ways gift aid could operate in New Zealand. Option one is based on the United Kingdom's gift aid scheme, where a donor would make a donation and sign a declaration that they wish to "gift aid" the tax benefit of their donation to the donee organisation. The organisation would maintain a schedule of donations received, using this to claim back the donor's tax benefit from Inland Revenue. Inland Revenue would then pay the gift aid tax credit to the donee organisation.
16. Option two would use the current end-of-year tax credit system. Rather than implement a separate gift aid scheme, there is scope to enhance the current donations tax credit process, by amending the tax credit claim form so donors can tick a box to "gift aid" their tax credit to a donee organisation/s. This option operates on an annual basis, but it depends on each donor individually submitting their tax credit form.
17. In 2010 the Government decided gift aid was not a priority on its tax policy work programme, amid concern gift aid would add to pressure on the tax base. Further work by the Ministry for Culture and Heritage in 2016 confirmed that the difference between the tax systems in New Zealand and the United Kingdom means it is unlikely gift aid would yield the same benefit for charities in New Zealand as the same incentives do not exist. Unlike New Zealand, donors in the UK are unable to claim personal tax rebates on donations.
18. Further, UK researchers have now suggested scrapping the UK Gift Aid tax incentive and that simply giving the money to charities would result in "substantially higher donations". An extensive independent study of 75 million self-assessment tax returns found that for every £1 the Government spends incentivising giving among higher-rate tax payers, 35p is generated for charity.
19. More New Zealand research is required to assess whether or not tax incentives in and of themselves lead to material changes in patterns and/or levels of charitable giving.

Cultural gifting

20. The Cultural Philanthropy Taskforce also recommended the Government consider introducing a cultural gifting scheme in New Zealand. Cultural

gifting is a form of non-cash philanthropy, available to both individuals and businesses, with the market value of a gift being deemed fully or partially tax deductible, and tax relief spread over a number of years. Gifts may range from paintings, jewellery, sculptures, books, manuscripts and personal papers through to technological, scientific or social history collections. In general, any such gift is expected to form part of the recipient organisation's permanent collection. Cultural gifting could encourage increased donation of items of cultural significance from private collections to public institutions and help preserve cultural heritage.

21. Countries with cultural gifting programmes include Australia, Canada, Ireland, the United Kingdom and the United States. Since its establishment in Australia in 1978, over AU\$575 million worth of items have been donated through Australia's "Cultural Gifts Program".
22. In 2012–2013 the Ministry for Culture and Heritage, Treasury and Inland Revenue did policy work on a proposal for a cultural gifting scheme to allow tax relief for non-monetary gifts of cultural significance in New Zealand. Ministers decided not to proceed with implementing such a scheme, in part because of the foregone tax revenue costs (evidence suggested the scheme would fail to raise more in new donations than it would cost to provide the tax relief) and because of the cost and difficulty in implementing any tax changes while Inland Revenue's Business Transformation project was underway.
23. We propose the Tax Working Group could consider further work on whether a cultural gifting scheme in New Zealand might be useful.

Ensure any changes to the tax system consider the impact on New Zealand's cultural sector

24. The Ministry encourages the Tax Working Group to consider the impact that any changes to the tax system might have on the cultural sector.

Digital economy

25. For example, any tax system for the digital economy should be made with an understanding of the impact on New Zealand artists. We want to ensure that there are no unintended negative impacts on New Zealand artists (including filmmakers, musicians, visual artists and game developers) that distribute on New Zealand platforms (or even international platforms) that are subject to income tax, as compared to international artists on international platforms who can avoid this tax. This could otherwise act as a de-facto tax on New Zealand artists compared to international artists, and undermine the work the Ministry for Culture and Heritage does to promote the diversity of New Zealand in the cultural sector, so all New Zealanders can connect to and see themselves in it.

Taxation of charities as it relates to the cultural sector (sport, arts, media and heritage)

26. As noted in the 2010 report of the Cultural Philanthropy Taskforce, one concern is the rulings by the Charities Commission on interpretation of 'advocacy' and subsequent deregistration of established charities the Commission considers have advocacy as a primary rather than an ancillary purpose. This change has been adopted for organisations that have, in some cases, enjoyed charitable status for quite some time.
27. We urge the Tax Working Group to consider with care the potential implications of this ruling on cultural organisations – which can often have a dual public benefit and advocacy role.

Heritage buildings

28. The Ministry is presently looking at ways to enhance the protection of New Zealand's built heritage, which currently faces significant economic challenges such as earthquake strengthening. We would be interested in any changes to the tax system that could increase the economic incentives for building owners to undertake improvements to heritage buildings, given the public benefits that built heritage provides to New Zealand communities.

Conclusion

29. Overall, we think New Zealand's tax system is working well. We support the fundamental design of a broadly defined tax base, which allows tax rates to be lower, thereby reducing the costs associated with taxation ('broad-based low-rate').
30. The Ministry is interested in how to support and encourage more charitable giving, and incentivise investment in built heritage. However we are mindful of not having a disruptive impact on the tax system as a result. We think there is an opportunity to consider broad tax tools that could support the cultural sector, and have outlined some options in this submission. We would be interested in any additional ideas your working group might have in this regard.
31. Thank you again for the opportunity to comment. Please do not hesitate to contact Colin Holden (Manager, Arts and Media Policy) or me if you wish to discuss this submission.

Yours sincerely

[1]

Karen Adair
Group Manager, Policy and Sector Performance



21 March 2018

Paul James
Chief Executive
Ministry for Culture and Heritage
PO Box 5364
Wellington 6140

Dear Paul,

As you might be aware, the Government has asked me to lead the Tax Working Group and look at ways we can improve the fairness, balance and structure of the tax system.

We have opened our consultation process and are seeking the views of as many New Zealanders as possible on the future of tax.

I am determined to ensure we receive submissions from a wide range of stakeholder groups.

That is why I am writing to you. It is vital for us to consider a broader set of governmental perspectives and opinions in this process so I would very much appreciate your organisation's direct input in the form of a submission. Tax affects us all as individuals too so I would welcome the views of your people as well.

There is a Submissions Background Paper on our website at taxworkinggroup.govt.nz to help guide your thinking. Submissions close April 30 and we will be providing our interim report to the Ministers in September. Thank you in advance for your submission.

Yours sincerely,

[1]

Sir Michael Cullen
Chair of the Tax Working Group