Tax Working Group Public Submissions Information Release

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

[1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;

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Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [1] appearing where information has been withheld in a release document refers to section 9(2)(a).

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

NZIV NEW ZEALAND INSTITUTE OF VALUERS

Re Submission to the Tax Working Group.

The New Zealand Institute of Valuers (NZIV) is a professional body providing training and education through professional standards and a code of ethics for Registered Valuers. The function of a Registered Valuer is to provide independent advice to the property sector and property financing sectors with a level of trust, integrity and transparency for confidence in the New Zealand property markets and for the protection of the public. The Valuation profession controlling document is the "**Valuers Act 1948**".

What does the future of tax look like.

The NZIV Council does not have a position on "tax systems". NZIV has an interest in respect of the technical elements of "property valuation" of which the Tax Working Group is investigating how changes in property values should be treated within the taxation system which could include:

: capital gains tax	: land tax	: estate duty
	: stamp duty	: wealth tax

Many are likely to focus on the positive market trends in recent times, however the process needs to be tested under a number of situations and asset types. Appendix 2 of the Tax Working Group paper refers to the design issues with a capital gains tax.

+ Any implementation of a "value" assessment from a start date to end date (typically a sale/annually pending policy decision) that calculates any gain or loss needs to be consistent and robust under the various market situations, to list a few:

+ Market with growth
+ Market with negative value trend
+ Redevelopment of properties, removal of improvements
+ Destruction caused by natural events, earthquake, fire, damage, with and without insurance, relocation of buildings, redeployment of value/funds (Christchurch property situation, red zone issues)
+ Leaky homes, offsetting repair costs
+ Short term disturbance that may impact value over a short period
+ Public Works Act, partial take, full acquisition
+ Resource consents and planning effect on value
+ Leasehold – terminating, perpetual leases
+ Maori Land
+ Relationship property and its potential partial transfers and equalisation of other assets
+ Tangible and non-tangible values associated with property
+ Going Concern properties, goodwill and business values
+ Air rights, water rights effect on value (Agri and water allocations)
+ Boundary realignments, transfer of smaller portions of land between neighbours
+ Addition or removal of easements/interest to a property/title may cause a value change
+ Company ownership of land with ownership via share transfer
+ Sale and purchase agreements with deferred settlement, or nominee or contemporaneous settlements
+ Local body land assets, reserves
+ Sale or purchase by Crown, Regional Council, Councils, Iwi, Assets of "not for profit" entities

The market will react and use the most tax effective form of property ownership.

International Valuation Standard and New Zealand Valuation Standards provide a proven structure for the assessment of value of all properties types. The Institute of Valuers is ideally placed to provide further comment on the application of valuation principles.

Valuation Date

It is proposed that there will be a set date to start the calculation of any potential capital gain tax.

These assessments could be completed from the defined date forward. These assessments are more likely to be completed at the time of sale or transfer and if calculated at the date of sale this would allow a longer period to process the initial assessments. The defined date will become the most analysed and reported on. The average home owner buys and sells over every 7-17 years pending the statistical source, these are owner-occupied transactions and are to be excluded, leaving valuation resources available for the Taxation calculations of properties that are captured by the Tax policy.

Reference https://www.nzfunds.co.nz/Assets/Documents/investment-bulletin/issue-8-how-property-stacks-up.pdf

The Councils engage in a rating valuation function often referred to as the "Rating Value", "Capital Value", or historically the "GV". Under the Rating Act these are typically assessed every 3 years. These assessments follow a defined process under the Rating Act and include the assumption of all property being Freehold (special values can be completed), the property is "occupied" and allowance for any vacancies of commercial property are not included. Over time mass appraisal techniques may not reflect market value in many cases. There will be a strong focus on residential property and as our housing stock ages, older homes will be refurbished with new kitchens, bathrooms and décor which can be completed without a building consent. We consider there will be a difference of value prior to refurbishment and the completed value and in many cases may be substantial. **The tax payer is highly likely to insist that if the sale price or market value is used as the value at the time of sale then the same market value process should be used to set the initial value and be reflected in any taxation calculations.**

Our observation is that many property owners may have not informed Council, at revaluation time of any improvements as a lower Council assessment implies a lower rating liability. Some owners have had these values increased due to potential future sale or personal agenda. The majority of properties within a mass appraisal process have not been inspected or the physical changes that do not require building consents and new features would be taken into consideration.

The concept of “flipping”, upgrading our older housing stock has gained attraction through the number of TV shows currently being screened.

The use of such mass data to set a benchmark or the initial value and then to be tested against “the market” at time of sale may not be seen as “Fair” for calculation of a taxation liability.

Therefore, a fair and transparent process of the assessment value needs to be adopted.

Capital Gain

Market movement is the primary driver of Capital gain or losses from market changes.

The property market does have a cycle linked to local and international events which will bring change. Examples include:

+ The early 1970’s property boom
+ The 1980’s share market and property boom
+ The 2003-2007 property boom
+ The 2012-2017 GFC recovery.

During these periods, property transactions included units to be built and transactions future settlement dates. Transaction dates and settlement dates can be months or years apart which will need to be considered. Conversely, the period outside of these dates the markets were going through the change or correction stages of the property cycle.

Transparency of Market Activity.

Sale and purchase agreements can include “or nominee” and any gain could be achieved by transfer of the contract or settlements contemporaneously.

The current system of recording only transaction on the property Title (Computer Registers) is unlikely to capture all market activity.

A fair and transparent market is required. The recording of transactions and the detail of the inclusion of finance, swaps, trades, chattels content, plant and machinery, goodwill, stock, Dairy company shares, and other part of any consideration (price) will need to be accounted for.

We are concerned that increase in values may also come from additions, alterations, development and subdivision that have associated costs and items such as owners’ personal efforts to improve the property, these may not have easily identifiable costs. This may be as substantial as adding an additional dwelling or the owner painting their investment property.

Commercial and rural properties will also have a large number of considerations that make up a property’s value. These properties also under go alterations and additions, lease changes, have liabilities under earthquake rules, costs asbestos of compliance and any operational consents will impact upon values on commercial, rural and other specialised properties.

We are confident that final proposal will provide clarity around the treatment of these costs associated with the calculation of “Value” and the gain/loss.

A dispute resolution process will need to be addressed.

Land Tax

Our observation is that most Councils have moved from Land Value based rating system to Capital Value based as a fairer system. Under a land value-based system highly developed properties on land that is undeveloped would appear to be seen as having an advantage.

Land Value based systems tend to be easier to administer but are not seen as a true reflection of a natural balance between properties and ownership benefits.

Conclusion

The New Zealand Institute of Valuers has a strong interest in the process of property valuation.

The International Valuation Standards and precedent from well-established New Zealand valuation standards should be referenced of the treatment of property valuation within any taxation process.

The Institute of Valuers would welcome the opportunity to work with the Tax Working Group for a fair and transparent process of property valuation within the taxation system.

The New Zealand Institute of Valuers will be available to answer any questions from the Tax Working Group and /or appear during any hearing process.

Roger Gordon
President of the New Zealand Institute of Valuers