

## **Tax Working Group Public Submissions Information Release**

### **Release Document**

**February 2019**

**[taxworkinggroup.govt.nz/key-documents](http://taxworkinggroup.govt.nz/key-documents)**

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;
- [2] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage.

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.



To: Tax Working Group,  
Wellington.  
By email.

29 October 2018

Dear Sir/Madam,

I am writing as the Chairman of The Pines Apartments Ltd.

The Pines has 40 residential apartments situated on an area of land which is all held in a company structure set up 47 years ago.

To “purchase” an apartment, owners buy existing “parcels” of shares in The Pines Apartments Ltd. Each parcel of shares has attached to an occupation license which gives the right to occupy the relevant apartment. Owners retain any gains (or losses) incurred when the shares are sold. Each owner holds an indirect 1/40<sup>th</sup> interest in the land and buildings.

While not common, the ownership at The Pines Apartments is by no means unique.

#### **Definition of Primary Residence**

Pines shareholders are concerned at the broad language used in the Tax Working Groups interim report (page 140) when discussing what constitutes ownership of a primary residence. Whether by design or inadvertently, the Group has concentrated on the form of ownership rather than the actual beneficial ownership.

We request that the Group provide a clear statement in the final report stating that it is the direct or indirect beneficial ownership, as opposed to the form of legal ownership, that takes precedence when determining what constitutes a primary residence.

#### **Land Area Attached to Primary Residence**

We note the proposal to allow up to 4500 square meters of land as part of a primary residence. In our case, the land area is substantially greater, but is well below this level on a “per apartment” basis.

We request that the Group make a clear statement in its final report that in the case of multiple dwellings, the attached land allowance will be up to 4500 square meters per dwelling or per apartment in the case of multiple dwellings or apartments.

### **Capital Gains Tax on Primary residence Share Transactions**

On our reading of the TWG interim report, we are concerned that broad references to “shares” and “companies” do not specifically exclude shares or companies that are part of ownership involving the taxpayer’s primary residence.

We request that the Group make a clear recommendation in the final report to the effect that the sales of shares in companies involved in ownership of the taxpayer’s primary residence are to be specifically excluded from capture by any capital gains tax, should it be introduced.

Yours faithfully,

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John Hawkins

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