Tax Working Group
Te Awheawhe Tāke

Tax Working Group Public Submissions Information Release

Release Document

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

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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.

TRUSTEE CORPORATIONS ASSOCIATION of NEW ZEALAND INC

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Observations on the **Future of Tax –** ***Interim Report***

Trustee Corporations Association of New Zealand Inc ("TCA") is a long-established association which represents the interests of statutory Trustee Companies and Corporate Trustee Companies that are licenced under the Financial Markets Supervisors Act 2011.

There are currently five licensed members of TCA:

- Public Trust;
- Trustees Executors Limited;
- The New Zealand Guardian Trust Company Limited;
- Covenant Trustee Services Limited; and
- Anchorage Trustee Services Limited.

TCA Members currently act as statutory supervisors for in excess of **$380 billion** of New Zealand savings and investment related products held in Corporate Trust structures.

TCA maintains relationships with government ministries, regulatory bodies, and financial sector groups. TCA sets standards for its Members by way of practice guidelines – standards for integrity, competency, financial capacity, internal controls, powers and duties and the management of conflicts of interest.

TCA Members welcome the Tax Working Group's (the Group) Interim Report but notes the requirement for a final report in February 2019. This clearly leaves little time for the Group to fully consider and receive meaningful feed back on what could become a major

change in tax policy impacting significantly on all New Zealanders. Indeed, it is noted in the Interim Report that “the Group’s views are by no means final”.

The Interim Report identifies a large number of issues which are not resolved and makes few recommendations meaning the opportunity to analyse and comment is severely limited.

On this basis, aside from our brief comments on capital gains tax proposals, our submission has largely focused on the need for any proposal to carefully consider the impact any changes may have on the desirability of investment by New Zealanders into retail managed investment schemes.

Our Members’ focus is on seeing New Zealanders increase their *net* savings and diversify their savings both prior to retirement and in retirement not only for their own personal benefit but for the long-term benefit of the economy as a whole. In our view, any major changes to the country’s tax policy must be considered with this focus in mind.

In this regard our Members’ are conscious that the non-expert investor (or saver) is put off by complexity and is reluctant to invest (save) when they do not fully understand what the implications are. We consider the current portfolio investment entity income tax regime from clarity and simplicity perspective is a vast improvement on previous managed investment scheme income tax regimes and should be retained.

If we assume that retail managed investment schemes (including KiwiSaver) are in ‘competition’ with other forms of retail investment or wealth creation, and in particular, real property investment (including residential property), then from a retail investor’s perspective, managed investment schemes are at a disadvantage as the retail investor typically has a better understanding of real property investments (including the tax implications) than managed fund investments. In addition they are often able to very easily borrow or ‘leverage up’ against real property (which creates economic and social issues as net saving rates do not necessarily increase) whereas it is not typical for a retail investor to be able to borrow or ‘leverage up’ against their investment in a managed investment scheme.

On this basis we consider there is merit in ensuring that widely held and diversified managed investment schemes (including KiwiSaver Schemes) are not only transparent and easily understood from a taxation perspective but also encourage or incentivise saving or investing into these schemes. This will help ensure the retail investor is diversifying their wealth (i.e. managing their risk and exposure) and actually increasing their *net* savings. We also note that these schemes invest predominantly in businesses and capital markets (i.e. the productive sectors of the New Zealand economy) which provide wider social and economic benefits to New Zealand alongside providing direct benefits to the actual investor.

We also recommend that any changes proposed to the portfolio investment income tax regime give consideration to the costs associated with what is proposed, as increased registry and other administrative costs will inevitably largely be carried by retail investors with the likely result of a reduced appetite to save.

We note there is a recommendation to "reduce the lower PIE income tax rates for KiwiSaver Schemes only by five percentage points each". We submit that this change is not restricted to KiwiSaver Schemes only and is instead applied to all widely held and diversified managed investment schemes. We are concerned that this will likely lead to distortions for investors (in particular) retirees, and encourage investment in KiwiSaver products only. In the interests of balance and fairness, we suggest that this recommendation be reviewed.

A Capital Gains Tax: Is it counter intuitive?

We consider there is a strong argument that an introduction of a broad based capital gains tax on most investments (assets) without including the family home (which represents a large percentage of New Zealand's housing stock) is counter-intuitive and could in fact reduce New Zealander's net savings, increase personal borrowings and continue to incentivise investment away from the productive areas of the economy. We are concerned that excluding the family home will encourage increased investment in and borrowing against the family home.

While (based on the interim report and the exclusion of the family home) we are not supportive of a broad based capital gains tax, particularly in relation to widely held retail managed investment schemes, we also consider that an accruals based capital gains tax would be extremely problematic to operate particularly where the underlying investments are not liquid and/or do not produce regular cash flows from which to satisfy any tax obligations. For example, for a managed investment scheme that invests in commercial property (over 95%) and a small amount of working capital (including cash), if capital gains taxes need to be paid on an accrual basis these schemes will either need to hold significantly more cash or borrow against scheme property (if they can). This will reduce the returns on these schemes making them less attractive to investors. These schemes are an investment in the real economy being offices, factories and warehouses.

Our Members have appreciated the opportunity to review the Interim Report but as noted, we are concerned at the minimal resolution of the issues raised and therefore little opportunity to provide any meaningful feedback.

We would be happy to further discuss any matters raised in this letter.

Yours sincerely

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Mark Jephson
Chairman