

Information Release

CAB-23-SUB-0361: Progressing a DST

February 2024

Availability

This information release is available on Inland Revenue's tax policy website at <https://www.taxpolicy.ird.govt.nz/publications/2024/2024-ir-cab-23-sub-0361>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2023/137	Report	Cabinet paper: Progressing a digital services tax	1 June 2023
2	IR2023/215	Report	Administrative Aspects of a Digital Services Tax	18 July 2023
3	IR2023/224	Report	Digital Services Tax: Revised Cabinet paper for discussion	2 August 2023
4	CAB-23-SUB-0361	Cabinet paper	Progressing a Digital Services Tax	14 August 2023
5	CAB-23-SUB-0361 minute	Cabinet paper minute	Proposed Revenue Initiative	14 August 2023

Additional information

The Cabinet paper was considered and confirmed by Cabinet on 14 August 2023.

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

- 6(a) to prevent prejudice to the security or defence of New Zealand or the international relations of the Government
- 6(b)(i) to avoid prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by the Government of any other country or any agency of such a Government
- 6(c) to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial
- 9(2)(a) to protect the privacy of natural persons, including deceased people

- 9(2)(f)(iv) to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions
- 9(2)(h) to maintain legal professional privilege
- 9(2)(j) to enable the Crown to negotiate without disadvantage or prejudice
- 18(c)(i) that the making available of the information requested would be contrary to the provisions of a specified enactment

Accessibility

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Tax policy report: Cabinet paper: Progressing a digital services tax

Date:	1 June 2023	Priority:	Medium
Security level:		Report number:	IR2023/137 T2023/950

Action sought

	Action sought	Deadline
Minister of Finance	<p>Agree to recommendations</p> <p>Authorise lodgement of the finalised Cabinet paper with the Cabinet Office</p> <p>Refer a copy of this report to the Prime Minister, Minister of Foreign Affairs, and the Minister for Trade and Export Growth</p>	10:00am, Wednesday 21 June 2023
Minister of Revenue	Agree to recommendations	10:00am, Wednesday 21 June 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Sam Rowe	Policy Lead, International Tax, Inland Revenue	s 9(2)(a)
Pamela Law	Senior Policy Advisor, International Tax, Inland Revenue	s 9(2)(a)

1 June 2023

Minister of Finance
Minister of Revenue

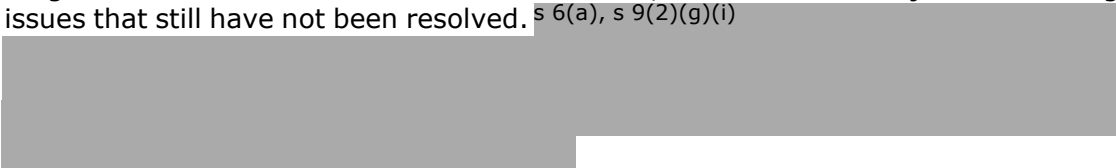
Cabinet Paper – Progressing a Digital Services Tax

Executive summary

Purpose

1. At the Joint Ministers meeting on 9 March 2023, you directed officials to prepare a Cabinet paper that would enable you to seek agreement to introduce legislation for a digital services tax (DST). You also indicated that you wanted to seek from Cabinet delegated authority enabling you to determine the final design of the tax, and the timing of its introduction.
2. We need your direction to finalise details of the Cabinet paper. As such, this report seeks:
 - your input on the attached Cabinet paper, in particular:
 - the factors that would support the exercise of a delegated discretion to introduce a DST Bill to Parliament, and
 - your intentions for the announcement and introduction of the DST.
 - your agreement to refer the finalised Cabinet paper to the Cabinet Office, by 10:00am, Wednesday 21 June 2023 for the Cabinet Economic Development Committee (DEV) to consider at its meeting on Wednesday 28 June 2023.

Context and background

3. Officials continue to contribute to ongoing work on the Organisation for Economic Co-operation and Development's (OECD) Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy. The OECD's Pillar One process has been delayed again (albeit briefly), with the OECD now aiming to get agreement on the text of a multilateral convention by the end of July. It would then be open for signature later in the year.
4. While the OECD Secretary General has been publicly positive about conclusion of Pillar One, there is still a real risk the OECD will not meet this extended timeframe. Progress has continued on the technical issues, but there are major outstanding issues that still have not been resolved. ^{s 6(a), s 9(2)(g)(i)}

5. An additional risk is that either the moratorium preventing unilateral measures is extended or that New Zealand is asked to join other Inclusive Framework members in making a positive commitment to Pillar One's eventual implementation. Both possibilities increase reputational risk if we then decide to pursue a DST.
6. Whilst the Government's position has been that it prefers a multilateral solution to under taxation of the digital economy, you have previously stated you would

progress the DST as an interim solution if the OECD solution could not be implemented within a reasonable timeframe. Recent meetings indicate that progress remains slow, s 9(2)(g)(i), s 9(2)(j)

Progressing work on a DST

7. The attached Cabinet paper seeks Cabinet’s agreement to the potential introduction of a DST and delegates decisions about the timing and final details of the DST to the Ministers of Finance and Revenue. Recognising that the decision to introduce a DST is significant and multi-faceted, the paper suggests that the DST should not be introduced until you are satisfied that, on balance, introduction of the DST is in the best interests of New Zealand.
8. To make this decision, we suggest that Ministers have regard to the below criteria:
 - The 1 January 2024 moratorium. Introduction of legislation before this date could be viewed as premature and as undermining commitment to the OECD’s multilateral solution. However simply announcing legislation would not violate this commitment.
 - s 9(2)(g)(i)
 - s 9(2)(g)(i)
 - s 9(2)(g)(i)
 - Whether other countries are also intending to introduce DSTs. s 9(2)(g)(i)
9. We will finalise the Cabinet paper prior to lodgement to reflect your views. We have provided placeholder text in the paper. In particular we seek to confirm your views on the announcement of, and consultation on, the DST.

Clarification required: communication and progress to introduction

10. We understand that you wish to make a public commitment to address the taxation of large multinationals. On that basis, there are two broad options for launching the DST before the election. These are:
 - 10.1 Introduce the DST Bill shortly after Cabinet’s decision but before the election, or
 - 10.2 Announce that we are preparing a DST Bill but do not introduce it until a date post-election (when you judge it to be in New Zealand’s best interests).
11. We seek confirmation of the timing of the announcement and introduction of the DST Bill. Whether you intend to begin the legislative process for a DST prior to the election will influence next steps, including announcement and consultation, if desired.

Introduction of a DST

12. If you decide to introduce the DST Bill before the due date for completion of Pillar One (the end of July), s 9(2)(g)(i)

§ 9(2)(g)(i) . A similar risk applies if you choose to introduce legislation after the OECD announcement of the Pillar One Solution, but before the OECD's moratorium on unilateral measures expires on 1 January 2024.

Announcement of a DST

13. Before making any public announcement, we should communicate New Zealand's stance to the OECD § 6(a) Officials will develop a strategy following your confirmation of your intentions. § 9(2)(g)(i)
14. The announcement should indicate the likely path to implementation. The earliest practical date for the DST to come into effect is 1 January 2025 (*IR2022/469, T2022/2451 refers*). This date allows for all the necessary steps to enable a DST including the legislative process and the preparation of systems and guidance. Further, it allows time for affected taxpayers to familiarise themselves with the new tax before it comes into effect.

Consultation on a DST

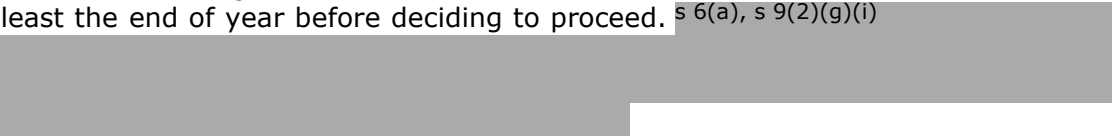

15. Although officials recommend consultation prior to introduction of a DST Bill it is not essential. We seek confirmation of your preferred approach.
 - 15.1 Acknowledging the work undertaken to date on a DST, including public consultation undertaken in 2019, you could elect not to consult prior to introduction, given that consultation can still occur at the Finance and Expenditure Committee (FEC) stage of the DST Bill. § 9(2)(h)
 - 15.2 If you choose to consult, then given that the number of affected taxpayers is small and that the consultation will be technical, we recommend targeted consultation by Inland Revenue. Alternatively, we can prepare for a full public Government consultation.

Proactive release of documents

16. Finally, we seek your direction regarding the release of the Cabinet paper and accompanying documents as a consequence of the above decisions. As previously noted, there is a significant risk that the introduction of a DST Bill, or the announcement of one, will provoke a negative diplomatic response. Accordingly, we recommend the papers and accompanying documents be released when you announce your decision in relation to progressing a DST (whether it be on introduction of the legislation or prior).
17. We think that future steps towards a DST should highlight the Government's continued commitment to a multilateral solution as the preferred option and the interim nature of the DST. We understood from our earlier meeting that this would be your intention, but we would like to confirm that understanding.

Officials' recommendation

18. Officials have previously reported to you on whether you should progress a DST (*IR2022/429, T2022/2053 refers*). This is a significant decision that requires the weighing up of a number of factors and the best way forward is not clear.

19. Our recommendation is it would be better to take a cautious approach and wait until the effectiveness of Pillar One and the reaction of other countries can be assessed before introducing a DST. We remain of the view that it is better to wait until at least the end of year before deciding to proceed. ^{s 6(a), s 9(2)(g)(i)}

20. Following our previous reporting you indicated that you prefer to progress a DST at some point this year. As such, and in light of the implications of the decision, we recommend that the delegated authority is made subject to the best interests test and specified factors at paragraphs 6 and 7 above. Further, if you prefer to progress a DST prior to the election, we recommend that you only announce your intentions now, and defer introduction until a later date.
21. Given the implications for our trading relationships, the MFAT have suggested including the Minister of Trade & Export Growth as part of the group of Ministers with delegated decision-making authority. This would also better support the provision of up-to-date information prior to Ministers making a decision. We seek your views on incorporating this into the Cabinet paper.
22. The announcement of your intention to progress a DST is likely to be of interest to the OECD and to countries with which we have a good relationship, ^{s 6(a)}
. We will need to manage communication of the decision carefully. Officials recommend that we, led by MFAT, develop a strategy for managing the impact of the decision on our international relationships. Further, we recommend that that Minister of Foreign Affairs is consulted prior to making any announcement.

Financial and administrative impacts

23. Officials estimate that the amount of revenue which could be raised by a DST will be approximately \$86.000 million for the first calendar year assessment, rising each year in line with growth in GDP and the digital economy. Introducing a DST will have a consequential impact on the impairment of debt and debt write-off expenditure of circa \$0.500 million per assessment year.
24. Given the attached draft Cabinet paper proposes delegating wide discretion to Joint Ministers, including discretion around when a DST Bill is introduced and when it should apply from, the revenue from a DST cannot be recognised yet. The financial impact will instead be recognised once a decision is made by Joint Ministers (using the authority delegated by Cabinet) that the DST will apply from a specific date, unless the OECD's Pillar One Solution is already effective by that date.
25. The administrative costs of implementing a DST are estimated at \$2.400 million operating and capital funding over the forecast period (2022/23 to 2026/27). This cost may require additional funding for Inland Revenue, or it may be possible that this cost can be self-funded. Inland Revenue will report to you on this at the time that a final decision is made to implement a DST. We are proposing that the Cabinet paper seek a delegated authority to Joint Ministers to provide this funding to Inland Revenue as a pre-commitment against future budget allowances, should it be needed.

Next steps

26. We would like to discuss the contents of this report with you at a Joint Ministers' meeting prior to lodgement of the Cabinet paper.

- 27. We will finalise the Cabinet paper in accordance with your instructions and provide the Cabinet paper to your office for lodgement with the Cabinet Office by 10:00am, Wednesday 21 June 2023.
- 28. Depending on your decisions on the introduction of a DST Bill and the associated steps such as the timing of an announcement, we will then take the appropriate steps to prepare the documents required to support those decisions.

Recommended action

We recommend that you:

- 29. **Note** the attached Cabinet paper is subject to your review and changes.

Noted

Noted

- 30. **Agree** that the delegated authority to the Ministers of Finance and Revenue sought from Cabinet should be to:

- 30.1 decide when to introduce the DST Bill;
- 30.2 direct officials to consult on the detailed design of a DST, if considered desirable;
- 30.3 make minor and technical changes to the draft DST legislation and commentary;
- 30.4 decide on the detailed design of the DST Bill, in particular the administrative provisions and the date of effect;
- 30.5 agree how to manage the financial impact of a decision to implement a DST;
- 30.6 agree to up to \$2.400 million of additional departmental funding to Vote Revenue to meet the up-front and/or ongoing costs arising as a result of these changes.

Agreed/Not agreed

Agreed/Not agreed

- 31. **Agree** that pursuant to recommendation 30.1 the conditions to be considered before the delegated authority to introduce a DST is exercised should be:

- 31.1 The effect on perceptions of New Zealand’s commitment to the OECD’s Pillar One Solution given the 1 January 2024 moratorium;
- 31.2 s 6(b)(ii) [Redacted]
- 31.3 s 9(2)(f)(iv) [Redacted]
- 31.4 s 9(2)(g)(i) [Redacted]
- 31.5 Whether other countries are also intending to introduce DSTs or other unilateral measures.

Agreed/Not agreed

Agreed/Not agreed

32. **Agree** that the Minister of Trade and Export Growth should be included in the delegated authority for the purposes of recommendation 30.1.
33. **Agree** that up-to-date advice from relevant departments, including the Ministry of Foreign Affairs and Trade, will be provided to inform your decision making on the specified conditions.

Agreed/Not agreed

Agreed/Not agreed

34. **Indicate** your intention as to the timing of the release of the DST Bill (acknowledging that this could change):

	Introduce a DST Bill pre-election	Make a pre-election announcement that a DST Bill is being prepared for potential introduction at a suitable time post-election
MoF	Indicated	Indicated
MoR	Indicated	Indicated

35. **Indicate** that consultation should be:

	Public consultation	Targeted consultation	FEC only consultation
MoF	Indicated	Indicated	Indicated
MoR	Indicated	Indicated	Indicated

36. **Agree** that the release of the Cabinet paper and accompanying documents should follow the announcement of the Cabinet decision (if introduction is post-election) or the introduction of the Bill (if introduced pre-election).

Agreed/Not agreed

Agreed/Not agreed

37. **Note** that officials will provide further advice on a communications strategy to manage our diplomatic relationships.

Noted

Noted

38. **Note** that that introducing a DST will result in approximately \$86.000 million per annum in additional revenue, rising each year in line with growth in GDP and the digital economy (assuming the DST applies from 1 January 2025).

Noted

Noted

39. **Note** that introducing a DST would impose an estimated administrative cost of \$2.400 million over the period 2022/23 to 2026/27, including \$1.300 million for capital build costs, \$0.300 million operating build costs and \$0.800 million for operating costs.

Noted

Noted

40. **Note** that Inland Revenue will report back to you on whether additional funding is needed to meet this cost when a decision is made by Joint Ministers to introduce a DST Bill.

Noted

Noted

Next steps

41. **Authorise** lodgement of the finalised Cabinet paper with the Cabinet Office by 10:00am, Wednesday 21 June 2023 for the Cabinet Economic Development Committee to consider at its meeting on Wednesday 28 June 2023.

Authorised

Authorised

42. **Refer** a copy of this report and its attachments to the Prime Minister, the Minister of Foreign Affairs, and the Minister for Trade and Export Growth.

Referred/Not referred

Referred/Not referred

s 9(2)(a)



Stephen Bond
Manager
The Treasury

s 9(2)(a)



Sam Rowe
Policy Lead
Inland Revenue

Hon Grant Robertson
Minister of Finance
/ /2023

Hon David Parker
Minister of Revenue
/ /2023

Background

Context and background

43. There are global concerns about the under taxation of highly digitalised multinational enterprises. These concerns arise because the international tax framework has not yet caught up with changing business models in an increasingly digital world.
44. Following delays to the OECD's Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy and the risk that Pillar One of that solution will not be implemented in the next two to three years, officials reported on how to progress measures addressing the issue (see IR2022/429, T2022/2053). That report provided an updated assessment of a digital services tax (DST) for New Zealand and was discussed at the Joint Ministers meeting on 29 September 2022. You directed officials to develop an indicative work programme for progressing a DST.
45. A proposed work programme was provided on 10 November 2022 (see IR2022/469, T2022/2451). You agreed to continue progressing work on a DST according to this work programme and for officials to prepare a consultation document on the detailed design of a DST (including draft legislation).
46. Following further discussions at the Joint Ministers' meeting on 9 March 2023, you indicated that you wished to signal your intention to address the under taxation of highly digitalised multinational businesses ^{s 9(2)(g)(i), s 9(2)(j)} [REDACTED]. This was to be by the preparation of draft DST legislation, which you could introduce as a Bill at an appropriate time.
47. As a result, work was narrowed to the progression of draft DST legislation and an accompanying Cabinet paper.

Pillar One update

Amount A

48. Completion of the OECD solution was scheduled for mid-July (following previous delays). However, this timeline was recently delayed further due to the amount of work still to be done. The new timeline proposes that the text of the multilateral convention (MLC) and explanatory statement will be agreed by the end of July, with the MLC open for signature at some point after this.
49. Technical progress is being made at the OECD. However, the major outstanding issues (such as the treatment of withholding taxes and the marketing and distribution safe harbour) still have not yet been resolved. ^{s 6(b)(ii), s 9(2)(g)(i)} [REDACTED]
50. We expect the OECD to produce the text of the MLC and explanatory statement by the deadline. However, with issues still to be agreed we expect further work will be necessary before countries can sign. ^{s 9(2)(g)(i)} [REDACTED] Accordingly, success at the OECD, while it would be a very positive step, would not remove the need to consider a DST as an alternative in the interim.

51. s 9(2)(f)(iv)
s 9(2)(g)(i) s 6(b)(i)
We will advise you further should a proposal for extension materialise.

52. s 9(2)(f)(iv)
s 9(2)(g)(i)

53. In other respects, our evaluation of Amount A of Pillar One has not changed – in its current form it is still in New Zealand’s interests. However, there are still significant features to be agreed, the outcome of which could change this assessment. Regardless of the design of Amount A, it is clear that a critical mass of countries, that must include the United States (US), is needed for effective implementation.
s 6(b)(i)

Related observations

54. Other governments and legislative bodies may be giving some thought to Pillar One’s prospects.

55. The European Commission has issued a directive (Council Directive (EU) 2022/2523) for the implementation of Pillar Two that includes a requirement for the Commission to report to the Council on the implementation of Pillar One. The report is required to be submitted by 30 June 2023. If appropriate, the Commission will also submit a legislative proposal addressing the tax issues posed by highly digitalised multinationals in the absence of the implementation of the Pillar One Solution.
s 9(2)(g)(i)

56. s 6(b)(i), s 6(b)(ii)

57. Global implementation of Pillar Two is being opposed in the US Congress (BN2023/179 refers). Members of the US Republican Party have introduced a Bill “To provide an enforcement of remedies against the extraterritorial taxes and discriminatory taxes of foreign countries”.¹ The main measure in the Bill is an ability to implement increased withholding tax and income tax rates against specified citizens, corporations and partnerships from a country listed in a biannual report to appropriate committees of Congress.

Amount B

58. Pillar One also includes a workstream, referred to as Amount B, that aims to simplify and streamline transfer pricing rules for in-country basic marketing and distribution activities, which could result in globally standardised taxable returns for in-scope distributors.
s 9(2)(f)(iv), s 9(2)(g)(i), s 9(2)(j)

¹ The Bill is titled the “Defending American Jobs and Investment Act”, introduced 25 May 2023.

59. The scope of Amount B is broad and is not restricted to multinational enterprises involved in the digitalisation of the economy. In New Zealand, distributors account for approximately 25% of subsidiaries of foreign-owned multinational enterprises operating here, and a similar portion of outbound subsidiaries of New Zealand multinational enterprises.

60. s 9(2)(f)(iv), s 9(2)(g)(i), s 9(2)(j)

61. s 6(a)

Implementing an interim solution

62. The attached Cabinet paper seeks the Cabinet's agreement to the introduction of legislation for a DST as an interim solution s 6(a), s 9(2)(g)(i)

63. The paper recognises that a multilateral solution to the under taxation of highly digitalised multinational enterprises remains the Government's preferred course of action.

64. However, if no action is taken, under taxation of multinational enterprises poses risks to New Zealand's social cohesion and the integrity of the tax system. Per the 2020 Labour Party manifesto, the Government committed to "work with the OECD in order to find a workable solution to the issue of multi-national corporations not paying their fair share of tax". The Government further stated it was "prepared to put in place our own rules to ensure fairness, if that agreement is not possible".

65. As such, and in light of the frequent delays s 6(a), s 9(2)(g)(i), you have expressed a wish to be able to introduce a DST as an interim solution should the Government conclude that is the best course of action.

66. Officials have attached to the Cabinet paper draft legislation for the core provisions of a New Zealand DST and draft Bill commentary. Administrative features have been proposed and described in detail but not yet drafted. An outline of these provisions is included in Appendix 3. Their final design is subject to later decisions by Ministers.

67. A number of decisions which affect the progression of a DST from Cabinet agreement to legislation still need to be made. This report highlights these points below.

Officials' recommendation

68. Officials have previously stated that it would be better to take a cautious approach and wait until the effectiveness of Pillar One can be assessed before introducing a unilateral DST (*IR2022/429, T2022/2053* refers). This is a significant decision that requires the weighing up of a number of factors and the best way forward is not clear. ^{s 9(2)(g)(i)}

[Redacted]

69. ^{s 9(2)(g)(i)}

[Redacted]

70. To better support the provision of this information and given the implications for our trading relationships of progressing a DST, the Ministry of Foreign Affairs and Trade (MFAT) have suggested including the Minister of Trade and Export Growth as part of the group sharing delegated decision-making authority. We seek your views on incorporating this into the Cabinet paper. Officials also suggest that the Minister of Foreign Affairs is consulted before any announcement of New Zealand's intention to progress a DST, to ensure she is briefed on the diplomatic risks and communication strategy.

Introduction of a DST Bill

71. The Cabinet paper seeks Cabinet's agreement to introduce a DST Bill. However, to give the Government sufficient flexibility to change course in light of further international developments, it also proposes to delegate final decisions on the timing of introduction to Parliament and other aspects of the DST Bill to the Ministers of Finance and Revenue.

72. The delegated decision-making authority will enable the Ministers to decide, at an appropriate time, whether the introduction of a DST is in the best interests of New Zealand. This is a nuanced decision which requires balancing the positive effect on the integrity of the tax system and social cohesion against the likelihood and scale of retaliatory trade actions and other international risks. These risks are not simply monetary, they include reputational risk for New Zealand from being seen to diverge from the multilateral process ^{s 6(a)}

[Redacted]

73. In making the final decision, we recommend that Ministers have regard to the below criteria:

- The 1 January 2024 moratorium. Introduction of legislation before this date could be viewed as premature and as undermining commitment to the OECD's multilateral solution. However simply announcing legislation would not violate this commitment.
- ^{s 9(2)(f)(iv)} [Redacted]
- ^{s 9(2)(f)(iv)} [Redacted]
- ^{s 9(2)(f)(iv)} [Redacted]

- Whether other countries are also intending to introduce DSTs. ^{s 9(2)(g)(i)}

74. We recommend that this decision should be based on consultation with the relevant departments, particularly MFAT, and other Ministers to ensure up-to-date information is obtained. Consideration will need to be given to whether the final design of Pillar One as a whole is in New Zealand's best interests.
75. Officials recommend that the effective date of the DST should not be before 1 January 2025. This timing allows for the legislative process and the development of systems and guidance prior to the tax coming into effect.
76. To prepare for introduction, Ministers will also have authority to make final decisions on the detailed design of the DST, including the yet to be drafted administrative provisions. We intend to include the DST Bill in the definition of a "Inland Revenue Act", meaning that the provisions of the Tax Administration Act 1994 (the TAA) would apply. This would mean that existing provisions for penalties, use of money interest and disputes could be leveraged reducing the amount of legislation that would need to be developed. DST-specific provisions, such as the filing requirements for a standalone tax, will need to be drafted. Provided that the final legislation largely conforms to the TAA, the drafting process necessary for legislation to be introduced to Parliament is expected to take approximately six to eight weeks.
77. We have inserted placeholder text in the Cabinet paper to reflect our recommendations above. We have also inserted text to reflect our recommendations below on the communication of the DST and possible consultation on the technical features. We will amend these paragraphs to reflect your decisions.

Communication and next steps

78. We understand that you wish to make a public commitment to address the taxation of large multinationals.
79. There are two broad options for launching the DST prior to the election. These are:
- 79.1 Introduce the DST Bill shortly after Cabinet's decision but before the election begins, or
- 79.2 Announce that we are preparing a DST Bill, with a view to future implementation at a time to be determined, but which will be post-election.
80. We seek clarification of whether you intend to begin the legislative process for a DST prior to the election. This in turn will influence next steps including announcement and consultation, if desired.
81. As previously advised (*IR2022/469, T2022/2451 refers*) the earliest practical date for the DST to come into effect on a prospective basis is 1 January 2025. This date allows for all the necessary steps to enable a DST allowing for the legislative process and the preparation of systems and guidance. Further, it allows time for affected taxpayers to participate in the process and familiarise themselves with the new tax before it comes into effect.

Option one: Introduction of a DST Bill

82. If you decide to introduce the DST Bill before the due date for completing Pillar One (the end of July), ^{s 9(2)(g)(i)}

s 9(2)(g)(i)

83. s 6(a), s 9(2)(g)(i)

84. Due to the sensitive nature of this decision, officials also recommend delaying the proactive release of the Cabinet paper and supporting documents until after the legislation has been introduced into the House under this option. This means that discussion of a proposed New Zealand DST will not pre-empt the decision being taken. It will also allow officials time to manage our international relationships.

Option two: Announcement of DST Bill

85. An alternative option is to announce prior to the election that we are preparing a DST Bill, but not introduce it until a later date (when you judge it to be in New Zealand's best interests). An announcement is likely to draw comment, but not to the same extent as introduction of legislation. In line with the considerations applying to introduction, the announcement should reiterate New Zealand's commitment to multilateralism and emphasise the interim nature of the DST. We recommend this option over option one. The Cabinet paper and draft legislation would also be released at this time, unless you intend otherwise.

Consultation on a DST

86. Although officials recommend targeted consultation on the technical and administrative features of a DST, it is not essential prior to the introduction of the DST Bill. We seek confirmation of your preferred approach.

86.1 Consultation on the taxation of highly digitalised multinationals was undertaken via the Government Discussion Document *Options for taxing the digital economy* (2019). Given this prior consultation, you could elect not to consult prior to introduction. s 9(2)(g)(i)

Instead, consultation can occur at the Finance and Expenditure Committee stage of the DST Bill. s 9(2)(h)

86.2 If you choose to consult prior to introduction then we recommend targeted consultation by Inland Revenue on the basis that that the number of affected taxpayers is small and that the consultation will be technical. This would be by way of a consultation letter sent to the large digital multinationals (and related interest groups) that are likely to be in scope. Broadly, this letter will contain description of the administrative provisions in Appendix 3 of the Cabinet paper.

86.3 Alternatively, we can prepare for a full public Government consultation, which would involve preparing a Government discussion document.

Financial implications

87. To illustrate the fiscal impact of introducing a DST, we have assumed an application date of 1 January 2025, which is the earliest practical date as per previous advice (see IR2022/469, T2022/2451). The fiscal impact of introducing a DST from this date is a revenue gain of approximately \$86-90 million for each assessment year², with a corresponding impact on the operating balance. The timing lag reflected in the table below relates to information flows and assumes the tax is assessed annually with the first return arriving in the first half of calendar year 2026: the first return needs to be filed before the income tax is recognised, and the second year is simultaneously accrued on the basis of that new information.

	\$million – increase/(decrease)				
Revenue recognition by assessment period	2022/23	2023/24	2024/25	2025/26	2026/27 and outyears
Crown Revenue and Receipts:					
Tax Revenue					
1 Jan – 31 Dec 2025*	-	-	-	86.000	-
1 Jan – 31 Dec 2026	-	-	-	43.000	47.000
1 Jan – 31 Dec 2027	-	-	-	-	46.000
Total Revenue	-	-	-	129.000	93.000

* Historic returns are used to estimate revenue. The estimated revenue is replaced by actuals when available. No historical info is available in the first year which results in total revenue for the assessment period being recorded in 2025/26.

88. Introducing a DST will have a consequential impact on the impairment of debt and debt write-off expenditure with a corresponding increase on the operating balance and net debt.

	\$million				
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Non-departmental other expenses:					
Impairment of debt and debt write-off	-	-	-	0.700	0.500
Total operating	-	-	-	0.700	0.500

89. As the application date for the DST is not yet finalised, the financial impact of the DST cannot be recognised yet. This financial impact will instead be recognised once a decision is made by Joint Ministers (using the authority delegated by Cabinet) that the DST will apply from a specific date, unless the OECD's Pillar One Solution is already effective by that date.

Administrative implications

90. If the DST were to proceed to implementation systems changes and the production of guidance would be required.

² The revenue is expected to grow in line with GDP and the growth of the digital economy. Our projection for the revenue in 2027/28 is \$95.000 million.

91. The estimated cost of this is \$2.400 million over the forecast period (2022/23 to 2026/27), including \$1.300 million for capital build costs, \$0.300 million operating build costs and \$0.800 million for operating costs, including ongoing depreciation, capital charge and administration costs. These estimates are subject to any significant changes in the final policies and rules that may materially change these estimates.
92. The following table sets out the capital and operating costs for the up-front build and on-going administration, assuming a 1 January 2025 commencement date and current policy design parameters. A further detailed costing will be required once dates and policy parameters have been set.
93. Officials will provide advice on whether additional funding is needed to meet this cost (or whether it can be partially or fully self-funded) when a decision is made by Joint Ministers to introduce a DST Bill.

	\$million				
Vote Revenue	2022/23	2023/24	2024/25	2025/26	2026/27 & outyears
Operating expenditure					
One-off operating	-	-	0.300	-	-
Ongoing operating	-	-	-	0.400	0.400
Total operating	-	-	0.300	0.400	0.400
Capital expenditure	-	-	1.300	-	-
Total capital	-	-	1.300	-	-
Total expenditure	-	-	1.600	0.400	0.400

Consultation

94. MFAT, Ministry of Business, Innovation and Employment, Customs, Department of Prime Minister and Cabinet and Ministry of Culture and Heritage officials have been consulted on the attached Cabinet paper and the design of the DST and have noted its recommendations.
95. MBIE and MFAT raised similar concerns about the proposed DST. In addition, MBIE raised questions about the context of the problem and the impacts of a DST on New Zealand businesses, in particular New Zealand digital technology enterprises.
96. To support our recommendations, MFAT requested that the Minister for Trade and Export Growth be added to the Ministers approving the introduction of a DST bill (along with yourselves). MFAT also suggests that the Minister of Foreign Affairs is consulted before the announcement of the DST.
97. MFAT and Department of Prime Minister and Cabinet officials have also been consulted on this report and their comments are reflected in the advice given.

Next steps

98. Please let us know your changes to the Cabinet paper. If you agree to refer the Cabinet paper and attachments to the Cabinet Office, the next steps will be as follows:
- **21 June 2023:** The Cabinet paper will be lodged with the Cabinet Office.

- **28 June 2023:** The Cabinet paper goes to the Cabinet Economic Development Committee.
- **3 July 2023:** The Cabinet paper goes to Cabinet for its approval.
- Depending on Ministerial decisions, the proposal will be announced and officials will begin targeted consultation thereafter.
- Subject to Cabinet approval, officials will continue developing the draft legislation and report progress to the delegated Ministers.

POLICY AND REGULATORY STEWARDSHIP

Tax policy report: Administrative Aspects of a Digital Services Tax

Date:	18 July 2023	Priority:	High
Security level:		Report number:	IR2023/215

Action sought

	Action sought	Deadline
Minister of Finance	Agree to recommendations	24 July 2023
Minister of Revenue	Agree to recommendations	24 July 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Bary Hollow	Principal Policy Advisor	s 9(2)(a)
Kaitlyn Saunders	Policy Advisor	

18 July 2023

Minister of Finance
Minister of Revenue

Administrative aspects of a Digital Services Tax

Purpose

1. This report seeks your agreement on a number of administrative aspects relating to the imposition of a Digital Services Tax (DST) in New Zealand.
2. Given the current timetable, a draft Bill implementing a DST is likely to be presented to Cabinet along with policy approval for the DST. To enable this there are some decisions on administrative aspects of the DST which require your approval to be included in that draft Bill.
3. Overall, the DST will be treated the same as any other tax from an administration perspective but because of the unique nature of the tax there are several areas where we recommend specific rules are required to align the DST with recent and proposed tax changes for consistency.

Background

4. Ministers have asked officials to prepare legislation for a New Zealand DST as an interim solution until work undertaken by the Organisation for Economic Co-operation and Development (OECD) provides a satisfactory multilateral solution to the issue that can be implemented within a reasonable timeframe.
5. The DST is an annual tax, imposed at a rate of 3% on digital services revenue from in-scope digital services businesses (IR2023/137 and T2023/950 refer).
6. The DST will be a standalone tax that will have its own legislation, however, a number of aspects of the administration of the tax will be part of the Tax Administration Act 1994 (TAA). Where appropriate, existing provisions within the TAA will be used for the DST, however, given the specialised nature of the DST we recommend several provisions that will require modification for the DST.

Record Keeping

7. Under the TAA, taxpayers are required to keep their business records for a period of seven years after the end of the income year to which the records relate. The business records may be kept at a place in New Zealand, or a place authorised by the Commissioner outside of New Zealand.
8. As the majority of taxpayers subject to DST are unlikely to have a presence in New Zealand, this requirement would seem onerous. The proposed treatment is to exclude taxpayers who are only subject to the DST from the requirement to store business records in New Zealand.
9. This treatment matches the treatment for non-resident suppliers subject to GST who only supply low value imported goods or remote services.

Recommendation	Minister of Finance	Minister of Revenue
Agree that taxpayers who are only subject to the DST not be required to store records at a place in New Zealand.	Agreed/Not Agreed	Agreed/Not Agreed

Registration

10. It is proposed that taxpayers subject to the DST will have a specific registration regime applied. We recommend they be required to register to pay the DST within 90 days following the end of the first revenue year they become liable to the DST.
11. This timeframe would seem appropriate as it will give taxpayers time to assess if they are liable for the DST and give them time to register.

Recommendation	Minister of Finance	Minister of Revenue
Agree that taxpayers be required to register for the DST within 90 days after the end of the first revenue year they become liable to the DST.	Agreed/Not Agreed	Agreed/Not Agreed

Filing and payment date

12. Taxpayers are permitted various periods in which to file returns. For example, GST returns are due at the end of the following month whereas income tax returns can be due from four to 18 months after the end of a taxpayer's financial year.
13. The compilation of a DST return should be reasonably straightforward. It is a flat tax with no associated deductions and based on financial accounts, thus we do not see that an extended period to file the return is required.
14. On balance, officials consider that a six-month timeframe from the end of the relevant revenue year be permitted. Both the DST return and payment would be due on the same date and provisional tax will not apply to the DST.

Recommendation	Minister of Finance	Minister of Revenue
Agree that taxpayers be required to file a DST return and pay any resulting DST six months after the end of the relevant DST revenue year.	Agreed/Not Agreed	Agreed/Not Agreed
Agree that provisional tax not apply to the DST.	Agreed/Not Agreed	Agreed/Not Agreed

Penalties

15. Given the taxpayers who will be subject to the DST will be very large taxpayers, some of the current penalty settings may not be appropriate for the DST. ^{s 6(c), s 9(2)(g)(i)}

16. Notwithstanding this, we recommend a special penalty of up to \$100,000 for not registering for the DST when the taxpayer should have. This penalty aligns with the proposed non-registration penalty that would apply for taxpayers subject to the global minimum tax under Pillar Two.
17. In addition, we recommend a penalty for failing to file a DST return be set at \$500 which is the same level for larger entities not filing tax returns, also noting the non-filing of a return will have additional consequences such as the ability for Inland Revenue to impose an assessment of the DST, and late payment penalties and use of money interest applied to that assessment.
18. All the other current penalties for non-payment of tax will apply to the DST. This includes late payment and shortfall penalties, and the unacceptable tax position shortfall penalty (which is up to 20% of the tax shortfall).

Recommendation	Minister of Finance	Minister of Revenue
Agree that taxpayers liable to the DST who do not to register for the DST be subject to a penalty of up to \$100,000.	Agreed/Not Agreed	Agreed/Not Agreed
Agree that taxpayers who fail to file a DST return be subject to a penalty of \$500.	Agreed/Not Agreed	Agreed/Not Agreed
Agree that all other current penalties apply to DST including late payment and shortfall penalties.	Agreed/Not Agreed	Agreed/Not Agreed

Use of Money Interest

19. The use of money interest provisions will apply to the DST the same as any other amount of unpaid tax.

Binding Rulings

20. Inland Revenue can issue binding rulings on certain tax matters which provide taxpayers with certainty about how the law applies to their circumstances and arrangements. We recommend that Inland Revenue be able to issue binding rulings in relation to the DST. This fits with the purpose and scheme of the binding rulings regime.

Recommendation	Minister of Finance	Minister of Revenue
Agree that Inland Revenue be able to issue binding rulings in relation to the DST.	Agreed/Not Agreed	Agreed/Not Agreed

Consultation

21. The Treasury has been consulted and agree with the proposed treatment.

Bary Hollow

Principal Policy Advisor
Policy and Regulatory Stewardship

Hon Grant Robertson

Minister of Finance

/ /2023

Hon David Parker

Minister of Revenue

/ /2023



Inland Revenue
Te Tari Taake

POLICY AND REGULATORY STEWARDSHIP



TE TAI ŌHANGA
THE TREASURY

Tax policy report: Digital Services Tax: Revised Cabinet paper for discussion

Date:	2 August 2023	Priority:	High
Security level:		Report number:	IR2023/224 T2023/1529

Action sought

	Action sought	Deadline
Minister of Finance	Agree to recommendations	3 August 2023
Minister of Revenue	Agree to recommendations	3 August 2023

Contact for telephone discussion (if required)

Name	Position	Telephone
Sam Rowe	Policy Lead, International Tax, Inland Revenue	s 9(2)(a)
Pamela Law	Senior Policy Advisor, International Tax, Inland Revenue	

2 August 2023

Minister of Finance
Minister of Revenue

Digital Services Tax: Revised Cabinet paper for discussion

Purpose

1. This report provides Ministers with a revised draft Cabinet paper which seeks Cabinet's approval to introduce a digital services tax (DST) Bill. We seek your feedback on the direction we have taken in the attached draft Cabinet paper. This draft is to be discussed with officials at the joint Ministers meeting on 3 August 2023.

Background

2. There is global concern about the under-taxation of the digital economy. It has undermined New Zealand's collective wellbeing by reducing Government revenue and increasing the perception of unfairness which undermines social capital and the public's confidence in the integrity of the nation's tax system.
3. Two options to address this issue have emerged. The first is the OECD-led Pillar One Amount A multilateral proposal (Amount A). This would require the largest and most profitable multinational enterprises (MNEs) to allocate more taxable income to the countries where they earn revenue. This solution would also apply beyond the digital economy. The second option is to unilaterally adopt a digital services tax (DST). A DST is a flat tax charged at a low rate (e.g., 3%) on the gross revenues of large digital companies attributable to a country.
4. The Government's consistent position has been that it prefers a multilateral solution such as Amount A. However, Amount A has suffered repeated delays. In July, New Zealand and 137 other jurisdictions approved an Outcome Statement (*IR2023-214 refers*) that outlines the multilateral convention (MLC) to implement Amount A. This will open for signature before the end of 2023. While agreeing the Outcome Statement was a significant development, the OECD was unable to finalise the text as planned, due to the objections of a small group of countries and two unresolved issues. If finalised, the MLC would need to be signed and ratified by a critical mass of countries (including, most importantly, the United States (US)) before Amount A comes into force and is effective. s 9(2)(g)(i), s 6(a)
5. The Government has repeatedly stated that it would seriously consider a unilateral DST if a multilateral solution could not be effectively implemented within a satisfactory timeframe. However, implementing a DST comes with the risk of diplomatic repercussions s 6(a), s 9(2)(g)(i)
s 9(2)(h)
6. s 6(a), s 9(2)(g)(i)
Ministers have instructed officials to continue developing a DST proposal as an alternative. Officials have reported to Ministers on progress towards this several times over the past year:
 - 6.1. IR2022/429, T2022/2053: International strategy: addressing the problem of under-taxation of highly digitalised multinationals (22/09/2022)

- 6.2. IR2022/469, T2022/2451: Digital Services Tax – proposed work programme (10/11/2022)
 - 6.3. IR2023/045, T2023/315: Progressing a Digital Services Tax (03/03/2023)
 - 6.4. IR2023/202: Digital Services Tax: Finalised Cabinet Paper (28/06/2023)
 - 6.5. IR2023/209: Timeframes for progressing a digital services tax before the election (12/07/2023)
 - 6.6. IR2023/215: Administrative Aspects of a Digital Services Tax (18/07/2023)
7. Officials have nearly finished drafting a DST Bill. Should Cabinet decide to do so, the Bill could be introduced to Parliament before the election. However, as part of approving the Outcome Statement, New Zealand agreed to extend the existing moratorium on *imposing* unilateral measures from 31 December 2023 to 31 December 2024. This moratorium does not prevent New Zealand from *enacting* a DST, provided it is not imposed until 1 January 2025. Further, this extension is conditional on a critical mass of countries (including the United States) signing (but not necessarily ratifying) the Amount A MLC before the end of 2023. It is uncertain whether this will occur.
 8. Prior to the Outcome Statement, Ministers asked officials to draft a Cabinet paper delegating authority to a group of Ministers to decide whether and when to introduce a DST Bill. This Cabinet paper was scheduled for consideration at the Cabinet Economic Development Committee (DEV) on 19 July. However, it was not able to be considered then.
 9. Further background to the DST and OECD-led multilateral solution can be found in the attached Cabinet paper (Appendix 2).

Updated Cabinet paper

10. As the Cabinet paper has been delayed twice, it requires updating to reflect changes in the international environment and the new timeframes available to progress the DST, should a decision be taken to do so.
11. Key changes are:
 - 11.1. Removing the delegated authority to introduce the DST Bill. We have done this due to the short timeframe now remaining between Cabinet consideration and the latest possible introduction date. We consider that it is not practicable for delegated authority to be requested and exercised within this time frame;
 - 11.2. Seeking your preference for setting the effective date either by an Order in Council after the legislation is introduced, or by the Bill, with or without the ability to defer by an Order in Council. When choosing the options, the Ministers should balance their preference for flexibility and certainty, as well as potential reputational risks.
 - 11.3. Adding a sunset clause if the preferred option is to set the effective date by an Order in Council so that, following enactment, the DST Act will be automatically repealed if not brought into force within five years, by which point we will know if Amount A can be effectively implemented;
 - 11.4. Reflecting the latest developments on the OECD-led multilateral solution in the Cabinet paper, noting the failure of Amount A to meet its July deadlines, as well as the possible extension to the moratorium on imposing new DSTs;
 - 11.5. The inclusion of a draft DST Bill - this was not previously expected to be ready for inclusion alongside a Cabinet paper, but a Bill of Rights-vetted near-final Bill can now be included;

11.6.Updating officials' views in light of recent developments.

12. We discuss the delegated authority and the options to set the effective date in more detail below.

Removing delegated authority for introduction

13. Delegating authority to a group of Ministers, following Cabinet policy approval, to determine when to introduce the Bill was intended to allow for the careful timing of its introduction and consideration of developments at the OECD and potential reactions of our overseas partners.
14. This delegated authority was more important when there was going to be a large window for introduction following Cabinet policy approval and before the election during which circumstances could change. However, there is now only going to be a short period between a potential Cabinet date and the latest possible introduction date (31 August) before Parliament rises for the election. This means there is unlikely to be a substantive change in circumstances between the Cabinet paper being approved and the decision on whether to introduce a DST being taken. If we proceeded with the delegated authority option, officials would need to report immediately following the Cabinet decision on whether the delegated authority should be exercised. Ministers would then need to decide whether to exercise that authority a few days later.
15. In addition, officials will have finished drafting the DST Bill by the next lodgement date, so it is no longer necessary to request delegated authority to approve the Bill.
16. As such, officials believe there is no longer a justification for the delegated authority mechanism and advise its removal in the revised Cabinet paper. We seek your guidance on this.

Options for commencement

17. There are three main ways in which the DST's effective date can be set:
 - **Option A:** The effective date can be set by an Order in Council after the introduction of the Bill. This approach will provide maximum flexibility, as well as gives the Cabinet additional time to assess whether and when a DST should come into effect.
 - **Option B:** The effective date, for example 1 January 2025, can be agreed by the Cabinet and set by the DST Bill at the time when it is introduced. This date could be later changed by a legislative amendment, for example, in response to the OECD making sufficient progress before the effective date such that Ministers are confident a deal can be ratified by a critical mass of countries. An amendment would however require some time and would thus reduce the Government's ability to react to some key developments, s 6(a)
This approach will provide maximum certainty around the implementation of the DST, which would enable the expected revenue from a DST to be recognised in fiscal forecasts. s 6(a)
 - **Option C:** The effective date, for example 1 January 2025, can be agreed by the Cabinet and set by the DST Bill, at the time when it is introduced, but with a provision that an Order in Council can later defer it. This approach balances flexibility with certainty and would enable the expected revenue from a DST to be recognised in fiscal forecasts. With an Order in Council mechanism, a deferral of the effective date can be made more swiftly than via legislative amendment, allowing the Government to react more dynamically to international

developments and OECD progress. s 6(a)

18. We seek your views on whether you would like to present all three options to the Cabinet and whether you wish to indicate a preferred option.
19. We recommend bringing the DST into force via an Order in Council. This would give the Government maximum flexibility to impose the DST at an appropriate time following the Cabinet decision. The Government would be able to consider progress towards effectively implementing Amount A, along with the actions of other countries, before choosing to impose the tax.
20. For the option with an effective date set by an Order in Council, the commencement provision has been drafted so that an Order in Council would be made on the recommendation of the Minister of Revenue. A sunset clause has also been included so the Act would be automatically repealed if it does not come into force within five years. The sunset clause avoids having legislation enacted that is not in force as within five years it will be evident whether Amount A can be effectively implemented.

Financial implications & PREFU

21. Neither Pillar 1 or DST were included in the BEFU forecasts. Both were covered by an international tax Specific Fiscal Risk (SFR).
22. A Cabinet decision by 14 August would allow for policy changes to be incorporated into the forecasts and/or the SFRs included in the Pre-Election Economic and Fiscal Update (PREFU).
23. A decision would be incorporated into the forecasts (rather than an amended SFR) if the implementation of a DST is sufficiently certain and if it is quantifiable.
24. Treasury's view is that:
 - Option A above would not provide sufficient certainty and could not be quantified, and so would be reflected at PREFU in an updated SFR rather than in the forecasts; and
 - Options B and C would provide sufficient certainty and could be quantified, and so would be reflected in PREFU fiscal forecasts.
25. As we have previously advised, the fiscal implications of introducing a DST from 1 January 2025 are:

	\$m – increase			
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 and outyears
Total Operating	-	-	(129.000)	(93.000)

Officials' advice

Treasury and Inland Revenue views

26. s 9(2)(g)(i) e consider that New Zealand should maintain its support for Amount A, with the introduction of the DST Bill being expressed as a contingency in case the countries cannot make sufficient progress towards implementation of Amount A over the next period. s 9(2)(g)(i)

s 9(2)(g)(i)

27. s 6(a), s 9(2)(g)(i)

If Ministers do wish to introduce the bill now, the latest possible date for doing so would be the 31 August, the last day before Parliament rises.

28. Despite the merits of introducing the DST Bill now, Treasury and Inland Revenue officials have a mild preference for waiting until the beginning of 2024 so that we have a better indication of whether the critical mass to extend the moratorium on imposing DSTs will be reached. s 6(a), s 9(2)(g)(i)

Ministry of Foreign Affairs and Trade views

29. Ministry of Foreign Affairs and Trade (MFAT) officials continue to advise that taking a unilateral approach and introducing a DST, even if we do not move to impose it immediately, carries significant risks.

30. Firstly, it might be perceived to be inconsistent with New Zealand's long-standing support for multilateralism. s 9(2)(j)

31. s 6(a)

the United States has expressed its strong bipartisan opposition to DSTs. s 6(a), s 9(2)(g)(i)

s 6(a)

s 9(2)(h)

32. s 6(a), s 9(2)(g)(i)

Should Ministers decide to introduce a DST Bill ahead of the election, MFAT and Inland Revenue will work to communicate this decision to key partners, s 6(a)

s 9(2)(g)(i)

s 6(a)

s 9(2)(g)(i)

40. **Note** a Cabinet decision by 14 August would allow for policy changes to be incorporated into the forecasts and/or the SFRs included in the Pre-Election Economic and Fiscal Update (PREFU).

Noted

Noted

41. **Indicate** whether you intend to introduce the DST Bill before the election, noting the international risks associated with moving at this time.

Indicated

Indicated

s 9(2)(a)

Stephen Bond
Manager
The Treasury

s 9(2)(a)

Sam Rowe
Policy Lead
Policy and Regulatory Stewardship

Hon Grant Robertson
Minister of Finance
/ /2023

Hon Barbara Edmonds
Minister of Revenue
/ /2023

Appendix 1: Timelines for introduction of DST Bill

Delegated Authority to introduce	Cabinet decides whether to introduce
10 August 2023 re-lodge updated Cabinet paper	2 August 2023 report to Ministers with updated Cabinet paper
16 August 2023 DEV ¹ (seeking delegated authority)	10 August 2023 lodge Cabinet paper
21 August 2023 Cabinet (seeking delegated authority)	16 August 2023 DEV (for approval to introduce)
22 August 2023 Provision of comms and criteria report to Ministers	21 August 2023 Cabinet (for approval to introduce)
27 August 2023 Decision by delegated Ministers to introduce	21-30 August 2023 Communicating to international partners
28-30 August 2023 Communicating to international partners ²	
31 August 2023 last recommended date for introduction (House rises) ³	31 August 2023 Last recommended date for introduction (House rises)

¹ There is no DEV on 9 August

² s 9(2)(g)(i)

³ s 9(2)(g)(i)

Office of the Minister of Finance

Office of the Minister of Revenue

PROGRESSING A DIGITAL SERVICES TAX

Proposal

1. This paper reflects the Government's concern about our ability to tax income earned in New Zealand by highly digitalised multinational enterprises and our view that a fair tax system requires us to make progress on this issue. Our concern stems from the failure of the international tax framework to keep pace with changes in modern business practice and digitalisation of the economy.
2. While the Government continues to prefer a multilateral solution¹ led by the Organisation for Economic Co-operation and Development (OECD), repeated delays in concluding Pillar One of that solution, s 9(2)(f)(iv) mean that the current issues with taxing the digital economy may need to be addressed in another way.
3. This paper seeks Cabinet's agreement to the introduction of a Bill before the election for a New Zealand digital services tax (DST) as an interim solution that addresses our concerns. The effective date of the Bill, (which would be no earlier than 1 January 2025), could be set by Order in Council or by the Bill, with a provision that allows for the date to be deferred for up to 5 years by Order in Council. If imposed, the DST would be an annual tax imposed at a rate of 3% on digital services revenue from in-scope digital services businesses. The proposal is estimated to raise \$222 million over the forecast period (subject to uncertainties).

Relation to Government Priorities

4. This proposal relates to the international workstream on taxing the digital economy in the Government's current tax policy work programme. It also addresses commitments in the 2020 Labour Party election manifesto and Budget 2023 to put in place New Zealand's own rules to ensure multinationals pay their fair share of tax if a multilateral solution is not possible.

Executive Summary

5. A major issue with the taxation of multinationals is the ability of large, highly digitalised enterprises to have a market presence in a country and consequently derive significant economic income from it without having a sufficient physical presence in that country that would enable it to be taxed under normal income tax rules.

¹ This is the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy.

6. There are two options for solving this problem:
 - 6.1 The first option is Pillar One, a multilateral solution led by the OECD. Broadly, Pillar One is intended to address the same tax challenges as a DST would address. However, as explained below, Pillar One has suffered delays.
 - 6.2 The second option is to adopt a unilateral DST which applies to certain revenues earned by highly digitalised multinationals in New Zealand. This would be an interim measure, which would apply until a satisfactory multilateral solution was successfully implemented.

Government's position to date

7. The Government's position to date has been that it supports an OECD-led multilateral solution and we have signed up to commitments to work towards this. We have agreed to implement Pillar Two² of the OECD's solution and legislation to do this was introduced to Parliament on 18 May 2023.
8. However, the Government has also stated it will seriously consider a unilateral DST if an appropriate multilateral solution cannot be implemented within a reasonable timeframe. While an acceptable multilateral solution would be the best long-term outcome for New Zealand, failing to address the under-taxation of the digital economy risks narrowing the tax base and undermining public confidence in the integrity of the tax system.
9. On 4 June 2019, the Government released the discussion document *Options for Taxing the Digital Economy* (2019 discussion document) seeking feedback on the two options noted above. The majority of submissions received in 2019 were concerned with whether the Government should adopt a DST and did not provide detailed submissions on the design of the DST. All submitters preferred a multilateral solution in principle. The majority of unique submissions (those which did not follow a template) were from business and commercial interests opposed to a DST. Individuals and non-governmental organisations were more supportive of a DST as an interim measure until Pillar One was adopted.
10. Whilst it is important to address the problem of under-taxation, a unilateral approach is not without risks. Unilateral action might be perceived to be inconsistent with New Zealand's longstanding support for multilateralism and risks negative reactions and actions by our international partners, s 6(a)
11. s 6(a), s 9(2)(g)(i) This s 6(a), s 9(2)(g)(i) has occurred when other countries have introduced DSTs (see table in **Appendix 1** and explained further below). s 9(2)(g) s 6(a), s 9(2)(g)(i)

² Pillar Two ensures a minimum of 15% tax is paid on the mobile profits of multinationals, wherever those profits are earned. Pillars One and Two are separate measures and do not need to be progressed together.

12. At the same time, it is important to recognise that New Zealand is one of a number of countries that are seeking to make progress on the issue of taxation of the digital economy. While a multilateral solution remains the preferred solution, a range of countries including New Zealand will have to consider how to achieve its policy goals in this area in the event that insufficient progress is made via the OECD-led solution.

Current state of Pillar One

13. Pillar One of the OECD-led solution consists of two elements:

13.1 Amount A involves the reallocation of taxing rights to market countries and is expected to benefit New Zealand; and

13.2 Amount B is intended to simplify the pricing of certain marketing and distribution activities, s 9(2)(f)(iv)

14. s 9(2)(f)(iv)

15. Pillar One has suffered multiple delays. The initial date for conclusion was pushed from mid-2020 to mid-2022 due to Covid. The timeline for conclusion was then pushed to mid-2023.

16. There has now been substantial agreement on most, but not all, of the key elements on Pillar One. On 11 July 2023, members of the OECD Inclusive Framework (with several exceptions³) endorsed an Outcome Statement recognising the progress to date and substantially approved the text of the Amount A multilateral convention (MLC), barring two technical issues requiring later resolution. These two issues will require resolution before the OECD can open the MLC for signature, intended for near the end of 2023. As such, the OECD did not actually finalise the text of the Amount A MLC by its mid-year deadline.

17. Further, agreement on Amount B was not possible due to strong disagreements between countries. The deadline for Amount B has been extended by six months until January 2024. s 9(2)(f)(iv), s 9(2)(j)

This means that, while the OECD has made real and significant progress, it has not yet landed Pillar One in full. s 9(2)(f)(iv)

18. Moreover, s 9(2)(f)(iv) signing the Amount A MLC is not sufficient to constitute success. The MLC must be ratified by a critical mass of key jurisdictions, including most importantly the US, before it has practical effect. s 6(a), s 9(2)(g)(i)

19. We set out some information on Pillar One and the OECD process in attached **Appendix 2**.

³ India, Brazil and Colombia lodged objections to the text, while the US made a reservation.

New Zealand DST

20. We are committed to addressing the problem of under-taxation of highly digitalised multinational enterprises. s 6(b)(ii), s 9(2)(g)(i) [REDACTED]
- [REDACTED] Given that the OECD has not met its mid-July deadline to finalise Pillar One, we consider that now would be an appropriate time to making provision against further delays in the multilateral process by progressing a DST.
21. In light of these factors, we are seeking approval to introduce a DST Bill before the election. We would envisage imposing a DST from 1 January 2025 if we do not see sufficient progress towards the implementation of the multilateral solution by late 2024. Once enacted, the DST would be repealed if and when a satisfactory multilateral solution is implemented.
22. There are different ways to implement the legislation and impose a DST. Our preference is for the legislation to provide for the imposition of a DST from 1 January 2025, but with a provision allowing that date to be deferred for a maximum of 5 years by one or more Orders in Council. We consider that this approach best balances flexibility with certainty. It will also give Cabinet additional time to assess:
- 22.1 the progress of the multilateral solution in 2024;
- 22.2 s 9(2)(f)(iv) [REDACTED]
- 22.3 whether any further countries introduce a DST, s 6(a), s 9(2)(g)(i) [REDACTED]
- 22.4 s 6(a) [REDACTED]
23. Introducing a DST Bill will generate a lot of media attention, both domestically and internationally. s 6(a), s 9(2)(g)(i) [REDACTED]
- [REDACTED] There is a risk that media coverage could be negative and focus on the risks and downsides of a DST, such as s 6(a), s 9(2)(g)(i) [REDACTED] the risk of digital multinationals increasing their charges to New Zealanders in order to cover the tax. To help mitigate these risks, we should clearly signal that we do not want to unconditionally impose a DST while the OECD process still has a chance of succeeding.

Officials' views

24. s 9(2)(g)(i) [REDACTED]
- [REDACTED] n balance, however, Inland Revenue and Treasury officials prefer waiting until the beginning of 2024 to introduce the DST Bill.

25. s 6(a), s 9(2)(g)(i)

The risks in proceeding with a DST are discussed in further detail in the main body of this paper.

26. s 9(2)(g)(i)

Background

27. There has been international concern over the ability of highly digitalised businesses to derive significant income from a country without being liable for income tax there. This is also an issue for New Zealand. The issue is mostly caused by deficiencies in the current international tax rules, which have not kept up with digitalisation and other modern business developments.
28. The resulting under-taxation of the digital economy negatively impacts the sustainability of Government revenues. It also harms perceptions of the fairness of the tax system. New Zealand businesses must pay tax here on their worldwide profits, whereas multinationals are able to use the tax system to reduce the amount taxable here. This means that there is potentially an uneven playing field.
29. Over the last ten years, New Zealand has taken steps to improve the tax framework that applies to large multinationals, including through early implementation of the OECD's Base Erosion and Profit Shifting (BEPS) project. Changes in New Zealand's collection of goods and services tax (GST) have also helped to level the playing field for local businesses. These measures, combined with our strong anti-avoidance rules, mean that New Zealand's tax laws are comparatively effective at preventing tax avoidance by multinationals. However, these initiatives have not addressed the more structural challenges posed by digitalisation and the growth of the digital economy.
30. On 18 February 2019, Cabinet directed officials to draft a discussion document to consult on options for taxing the digital economy (CAB-19-MIN-0041). The 2019 discussion document was subsequently prepared by officials. On 13 May 2019, Cabinet considered the 2019 discussion document and agreed to its release (CAB-19-MIN-0213).
31. On 4 June 2019, the Government published the 2019 discussion document, which invited public feedback on two options for taxing the digital economy, namely:
- 31.1 a comprehensive unilateral DST; or
 - 31.2 the multilateral solution, in development at the OECD. This solution is discussed in more detail in the attached appendix.

32. Work has focused on these two options for taxing the digital economy. Officials advised that alternative measures would not sufficiently address the policy problem. Alternatives considered include:
- 32.1 A narrow DST focused on digital advertising only. This has been introduced in a few countries (e.g., Austria and Hungary). However, such a narrow DST would create different taxation treatment for different digital business models and would not fully address the underlying tax policy issues. ^{s 6(a)}
- 32.2 A tax on offshore royalties paid into low tax jurisdictions. This would discourage a common form of profit shifting and could serve a role in signalling the Government's intolerance of tax avoidance by multinationals. However, based on the United Kingdom's (UK) experience with such a rule, it does not fully address the policy problem in the same way that a comprehensive DST or the OECD solution would.
33. Most of the feedback received in respect of the 2019 discussion document was focused on whether the Government should adopt a DST. There was widespread opposition to any DST from the business sector (approximately 59% of the 41 unique submissions⁴). In contrast, individuals and non-governmental organisations supported an interim DST until a multilateral solution could be agreed.
34. Following the 2019 consultation, we directed officials to prepare a further DST consultation document (including draft legislation and bill commentary) to enable consultation on the detailed design of the DST. This consultation document was prepared for Cabinet but not considered.
35. In light of the risks to the satisfactory implementation of the multilateral Pillar One solution (discussed below), we have directed officials to refresh the draft legislation and bill commentary so that we can be ready to introduce a DST. The draft legislation and commentary developed by officials are in **Appendix 3** and **Appendix 4**, respectively.

Analysis

36. Although our preferred solution remains the multilateral Pillar One solution, we believe it is appropriate to introduce a DST Bill now ^{s 9(2)(g)(i)}

⁴ Unique submissions are those which were not following a template. 333 submissions from individuals were received — these followed a template and have been counted as a single unique submission.

Status of Pillar One and the DST moratorium

37. In a political statement made in October 2021 ('the October Statement'⁵), 136 OECD Inclusive Framework (IF) members (including New Zealand) agreed to a moratorium on DSTs and other unilateral measures until 31 December 2023 so that Pillar One could be developed.
38. On 11 July 2023, almost all IF members (again including New Zealand) endorsed an Outcome Statement outlining the progress to date on the key deliverables of Pillar One. The text of the Amount A multilateral convention (MLC) has now been substantially agreed by nearly all IF members. However, the text could not be finalised due to both the objections of a small group of countries and two outstanding technical issues. s 9(2)(f)(iv)
39. In recognition of the progress to date, and to allow time for the remaining milestones to be delivered, the Outcome Statement contained a political commitment extending the DST moratorium by one year to the earlier of 31 December 2024 or the entry into force of the Amount A MLC. The extension is conditional on a critical mass of jurisdictions, including the US, signing the Amount A MLC before the end of 2023.⁶ The Outcome Statement also mentions a possible further extension of the moratorium to 31 December 2025 if "sufficient progress has been made towards the entry into force" of the MLC. However, the Outcome Statement does not commit New Zealand to this second possible extension, which will be negotiated at a later date.
40. s 6(a), s 6(b)(ii), s 9(2)(g)(i), s 9(2)(j)
- 40.1 s 6(a), s 9(2)(g)(i)
- 40.2 s 6(b)(ii), s 9(2)(f)(iv)

⁵ OECD (2021), Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy – October 2021, OECD/G20 Inclusive Framework on BEPS, OECD, Paris.

⁶ Whether this critical mass of signatures will be achieved is uncertain but appears more likely than a critical mass of countries ratifying in the next two to three years.

s 6(b)(ii), s 9(2)(f)(iv)

41. s 6(b)(ii), s 9(2)(g)(i)

42. We have heard concerns that moving forward at this time could be seen as undermining New Zealand's support for multilateralism. However, we do not consider introducing DST legislation at this time would undermine the multilateral process, provided we are consistent with our undertakings at the OECD, do not definitively commit to imposing a DST before the moratorium expires, and continue to express support for a successful outcome at the OECD. We have played our part at the OECD, by participating in meetings, approving the texts of the documents and agreeing to a one-year extension to the DST moratorium. s 9(2)(g)(i)

Moreover, the DST moratorium only commits countries that approved the Outcome Statement "to refrain from *imposing*⁷ DSTs. It does not prevent countries from preparing a DST (such as by enacting legislation), s 6(b)(ii)

43. Accordingly, introducing a DST Bill now, as an alternative to Pillar One and only as a contingency in case there is insufficient progress towards its implementation, would be consistent with the outcome of the OECD discussions and s 6(a), s 9(2)(g)(i). If imposed, we propose that the DST would only be in place until a satisfactory multilateral solution is successfully implemented, at which point the DST would be repealed.

Implementing legislation to impose a DST

44. There are different ways to implement the legislation and impose a DST. Our preference is for the legislation to provide for the imposition of a DST from 1 January 2025, but with a provision allowing that date to be deferred for a maximum of 5 years by one or more Order in Council. With an Order in Council mechanism, a deferral of the effective date can be made more swiftly than via legislative amendment, allowing the Government to react more dynamically to international developments and OECD progress.

45. When deciding whether to pass an Order in Council to defer the effective date, factors that the Cabinet might consider could include:

⁷ Emphasis added.

45.1 the effect on perceptions of New Zealand's commitment to the OECD's Pillar One solution given the 1 January 2025 moratorium;

45.2 s 9(2)(g)(i)

45.3 s 9(2)(f)(iv)

45.4 s 9(2)(g)(i)

nd

45.5 whether other countries are also intending to introduce DSTs or other unilateral measures.

46. We also considered other implementation options, such as having:

46.1 the effective date set by an Order in Council after the introduction of the Bill (with no specified introduction date); and

46.2 a set introduction date, with no ability to defer (except by legislative amendment).

47. A set introduction date would increase the foreign policy risks, by appearing to definitively commit to a DST at this stage, while the OECD progress is still ongoing. It would also provide limited flexibility to react to developments late in 2024. On the other hand, having the date be set by Order in Council (with no fixed date) would not give any indication of when we might want to impose a DST if we did not see sufficient progress at the OECD. Accordingly, we consider that our preferred approach best balances certainty with flexibility.

s 6(a)

48. s 6(a)

49. s 6(a)

s 9(2)(g)(i), s 9(2)(j)

50. s 6(a), s 9(2)(g)(i)

51. s 6(b)(i)

s 6(a), s 9(2)(g)(i)

52. s 6(a)

MFAT, supported by Inland Revenue and the Treasury, will prepare a communications plan to address this. MFAT advises that the tight timeframes to communicate any decision risks the effectiveness of this plan. We discuss this further below.

Other countries' DSTs

53. Countries that have introduced full DSTs (i.e., ones that apply to intermediation platforms, search engines, social media and content sharing platforms) are France, Italy, Kenya, Nepal, Sierra Leone, Spain, Tanzania, Tunisia, Türkiye and the UK. Some other countries have enacted digital taxes that only apply to advertising, such as Austria, Hungary and India.⁸ s 6(a)

54. Australia consulted on a DST in 2018 but is not officially planning to implement one at this time.⁸ s 6(a), s 9(2)(f)(iv), s 9(2)(g)(i)

⁸ Australia's approach to digital platforms includes the development of a mandatory code of conduct to address power imbalances between digital platforms and Australian news media businesses. This workstream is distinct from a DST and the Australian Government has not officially announced any intention to adopt one: see [Digital platforms | ACCC](#). Similar work has been undertaken in New Zealand by the Ministry of Culture and Heritage.

55. Canada has published draft legislation which would enable it to implement a DST. Like New Zealand, Canada prefers a multilateral solution ^{s 6(a)} [REDACTED] Consistent with the earlier DST moratorium in the 2021 October Statement, Canada's DST requires a further decision before it is adopted, would not be imposed earlier than 1 January 2024, and would only be imposed if Pillar One is not in force by then.^{9 s 6(a), s 9(2)(g)(i)} [REDACTED]
56. ^{s 6(a), s 9(2)(g)(i)} [REDACTED]
57. The European Commission's directive for the implementation of Pillar Two required the Commission to submit a report assessing progress on the implementation of Pillar One on 30 June 2023, and periodically thereafter.^{10 s 9(2)(g)(i)} [REDACTED]
58. It is not yet clear whether other countries which have not committed to a DST will introduce one if Amount A of Pillar One is not implemented by a critical mass of countries (particularly the US) in the next two to three years.^{s 9(2)(g)(i)} [REDACTED]
- ^{s 6(a), s 9(2)(g)(i)} [REDACTED] ¹¹

Design of a New Zealand DST

59. The detailed design of core provisions for the New Zealand DST is set out as a draft Digital Services Tax Bill and associated draft commentary on the Bill (**Appendix 3** and **Appendix 4** of this paper respectively).
60. We intend that the DST will operate as an annual tax paid and reported via self-assessment.
61. The DST would be a flat tax charged at a low rate (3%) on gross revenues that are attributable to New Zealand users. This rate is comparable to the rates applied in other countries, such as France, Italy, Spain and Canada.

⁹ Digital Services Tax Act: Backgrounder, Department of Finance Canada, 14 December 2021, <https://www.canada.ca/en/department-finance/news/2021/12/digital-services-tax-act.html>.

¹⁰ Report from the Commission to the Council: Progress Report on Pillar One COM(2023) 377 final, 30 June 2023: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023DC0377>. As the report was issued prior to the July 10-12 Inclusive Framework meeting, it does not comment on the progress achieved at that key meeting.

¹¹ *France Says EU Must Prepare Digital Tax as Global Deal Blocked*, Bloomberg, 20 February 2023.

62. This DST would apply to digital platforms whose value is dependent on the size and active contribution of their user base. Namely:

62.1 intermediation platforms s 18(c)(i)

62.2 social media and content sharing platforms s 18(c)(i) and

62.3 internet search engines like s 18(c)(i)

These steps would apply to determine if the DST applies to the group:

- **Step 1** – one of the group’s business services includes any of the above digital activities; and
- **Step 2** – the group satisfies the following two thresholds:
 - i. its global revenue from in-scope activities exceeds 750 million euros per year; and
 - ii. its revenue from in-scope activities that is connected to New Zealand users or land exceeds NZD \$3.5 million per year.

Although it is a new tax, the New Zealand DST outlined in the appendices has been broadly modelled on the UK and other comprehensive DSTs. The 750 million euro threshold is consistent with OECD guidance and derives from Country-by-Country reporting requirements for large companies. Other countries, such as the UK, France, Italy, Spain and Türkiye have selected a similar threshold.

If the DST applies, the group would calculate and pay its DST liability. This would involve these further steps:

- **Step 3** – the group determines the amount of its revenues that are attributable to New Zealand users or land from its in-scope activities;
- **Step 4** – the group calculates the DST on those attributable revenues at the rate of 3%; and
- **Step 5** – the group returns and pays the DST to Inland Revenue by the due date in the following financial year.

63. Following the above steps ensures that the proposed DST would only apply to certain highly digitalised business models. It would not apply to sales of goods or services (other than advertising or data) over the internet.

64. The proposed DST takes into account the submissions received on the design of the DST in the 2019 discussion document. The following changes have been made to the 2019 proposal:

64.1 The scope of the DST has been narrowed to exclude some business models outside the policy intent, such as loyalty programmes, and licensed financial services including financial markets and exchanges;

- 64.2 Included within the scope of the DST are any services that are incidental to in-scope activities (e.g., delivery service provided by an intermediation platform) and excluded from scope are digital services that are merely incidental to an out-of-scope service;
- 64.3 We have clarified that the sale or licence of data would only be within the scope of a DST if the data arose from an in-scope business activity; and
- 64.4 We have tightened the global turnover threshold, so that the DST only applies where a multinational has 750 million euros of global revenue from taxable digital services (in line with the DSTs adopted by France and the UK), rather than 750 euros million from any source (which is the approach adopted in Canada's DST). This is to target the DST at large digital businesses, who are more likely to benefit from the existing deficiencies in the international tax rules.
65. We have also made a further design change to include revenue from transactions involving New Zealand land, to the extent to which it has been generated by an intermediation platform, within the scope of the DST. This applies regardless of whether the owner/provider of the land or the person that uses/rents the land is normally located in New Zealand. This reflects the importance of New Zealand land and is similar to a rule included in the DST adopted by the UK.

Officials' views

Inland Revenue and the Treasury's assessment from a tax policy perspective

66. Overall, officials from Inland Revenue and the Treasury prefer a robust Pillar One solution because it addresses the issues of under-taxation more comprehensively than a DST ^{s 9(2)(g)(i)} [REDACTED]. However, ^{s 6(b)(ii)} [REDACTED] officials see merit in progressing a DST as an interim measure.
67. A DST would address some system integrity issues and the public perception of fairness in a way that would likely improve social cohesion. But whether a DST is a net benefit to the wellbeing of New Zealand will depend ^{s 6(a)} [REDACTED]
68. On balance, officials prefer waiting until the beginning of 2024 to introduce the DST Bill because:
- 68.1 introducing the DST Bill in early 2024 would not delay the imposition of the DST. There would still be enough time for the Bill to be enacted before 1 January 2025, which is the earliest proposed effective date for the DST;
- 68.2 an introduction in early 2024 would allow more time to communicate in good faith with key stakeholders ^{s 6(a)} [REDACTED]
- 68.3 we will have a better idea of Pillar One's prospects of success, while maintaining New Zealand's support for multilateralism, particularly whether a critical mass

of countries (including the US) has signed the Amount A MLC and s 9(2)(f)(iv) and

68.4 it is likely that other countries will begin to adopt a unilateral DST if it becomes clear that Pillar One will be unsuccessful, including most immediately Canada. s 6(a), s 9(2)(g)(i)

69. However, Inland Revenue and Treasury officials also see merit in introducing a DST Bill now, following the OECD's inability to land Pillar One by its July 2023 deadline s 9(2)(f)(iv) This is provided the Government makes clear it is not making a definitive commitment to a DST. Officials would prefer the commencement date of the Bill be set by an Order in Council, but consider that our preferred approach is a reasonable way to progress a DST while still allowing flexibility to respond to future developments. Introducing a DST Bill now would send a stronger signal than waiting until early 2024, but also comes with greater risk. Ultimately it is a judgement call which approach is adopted.

70. Officials consider that introducing a DST Bill is likely to generate significant media attention, both domestically and internationally. Based on submissions on the 2019 Discussion Document, officials expect the business sector will oppose the introduction, while civil society and many individuals will support it. However, there is a real risk that media coverage could trend negative and focus on the risks and downsides of a DST. In particular, coverage could focus s 6(a), s 9(2)(g)(i) increased costs incurred by New Zealanders from digital companies passing on the costs of the DST.

71. Officials advise that other options for expressing the Government's concern with the taxation of digital services provided by large multinationals include:

71.1 A public statement that the Government is concerned about OECD progress and has developed a draft DST Bill so it could act quickly should the OECD process stall. The Government would not commit to adopting a DST at this time; or

71.2 A public statement that the Government remains generally interested in pursuing a DST without mentioning any further work.

MFAT's assessment of the s 9(2)(h) foreign policy implications of a DST

72. MFAT officials continue to recommend that waiting until 2024 to consider introducing a DST Bill would allow for more of the factors (discussed above at paragraph 68) to manifest, and therefore support more informed decision-making.

73.

s 9(2)(h)

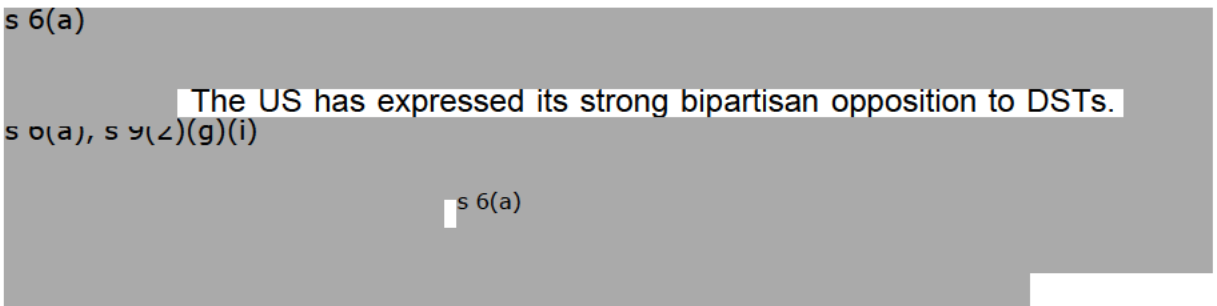


74. MFAT consider that introducing a DST could be seen as contrary in spirit to the commitments New Zealand made in the October Statement and the Outcome Statement and is likely to be perceived as undermining the multilateral process. This would stand in sharp contrast to New Zealand's consistent international advocacy for multilateralism and the international rules-based system, and MFAT recommends proactively engaging with the OECD Secretariat and other key participants to explain our actions, including that the DST is not being unconditionally imposed.

75. Furthermore, pursuing a unilateral course of action could be perceived as undermining the OECD's multilateral process at a time when the OECD is trying to encourage members to conclude and ratify an outcome. This perception could be mitigated by clearly communicating that any DST would only be imposed after 31 December 2024 (when an agreed moratorium on not imposing DSTs will expire, unless countries agree to extend it) and then only if the Government was not satisfied with the progress of countries towards implementing Amount A. Additionally, we could emphasise that the DST would be an interim measure until the OECD solution is operational.

76.

s 6(a)



The US has expressed its strong bipartisan opposition to DSTs.

s 6(a), s 9(2)(g)(i)

s 6(a)

77. s 6(a), s 9(2)(g)(i)

[Redacted]

s 9(2)(n)

78. s 6(a), s 6(b)(i)

[Redacted]

79. s 6(a)

[Redacted]

80. s 6(a), s 9(2)(j)

[Redacted]

81. s 9(2)(g)(i)

[Redacted]

MFAT assesses that proactive engagement with key partners is essential to ensuring that this decision is carefully and effectively communicated.

s 9(2)(g)(i)

Progressing the New Zealand DST

82. We have considered all the factors outlined above. ^{s 6(a)} [REDACTED] we believe it is important to show the Government's commitment to dealing with the under-taxation of large digital multinationals in New Zealand. We consider that the current problems with taxing the digital economy are not sustainable. These problems threaten the Government's revenue base and they undermine the social cohesion which underpins voluntary compliance with the tax system. These problems will increase as the digital economy continues to grow. A solution is necessary, whether it be through the OECD's Pillar One solution or a unilateral measure.
83. ^{s 9(2)(f)(iv)} [REDACTED]
Therefore, we need to be ready now to enact an alternative, and we seek Cabinet's approval to introduce a DST Bill before the election.
84. If Cabinet approves the introduction of a New Zealand DST, then we will introduce the attached Digital Services Tax Bill before Parliament rises on 31 August 2023.

Financial Implications

85. Implementing a DST is estimated to raise \$222 million over the forecast period (subject to uncertainties). It is estimated to raise approximately \$86 million of tax for the first assessment year (assuming the DST applies from 1 January 2025), increasing thereafter with the growth of the digital economy.
86. Neither Pillar 1 nor DST were included in the BEFU forecasts. Both were covered by an international tax Specific Fiscal Risk (SFR). A Cabinet decision by 14 August would allow for policy changes to be incorporated into the forecasts and/or the SFRs included in the Pre-Election Economic and Fiscal Update (PREFU). A decision would be incorporated into the forecasts (rather than an amended SFR) if the implementation of a DST is sufficiently certain and if it is quantifiable. If our preferred effective date is agreed to (including the application date of 1 January 2025 in the relevant Bill) then that would satisfy the accounting standards to allow the additional tax revenue to be included in the current tax forecasts. If our preferred effective date is agreed to, the additional revenue could either be:
- 86.1 **Managed against Budget 2024 allowances:** this option would mean that the additional revenue could be used to increase total gross spending for Budget 2024, while not increasing overall allowances for Budget 2024; or
- 86.2 **Allowed to flow through:** this option would mean that the additional revenue would be allowed to flow through, positively impacting the OBEGAL and supporting the Government's objective of achieving a surplus in 2026/27.
87. The fiscal effect of our preferred option is as follows.

	\$ m – increase / (decrease)			
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 and outyears
Crown Revenue and Receipts: Tax Revenue			129.000	93.000
Total Operating			(129.000)	(93.000)

88. We note that officials' preferred effective date (set by Order in Council) would not provide sufficient certainty and could not be quantified, and so would be reflected at PREFU in an updated SFR rather than in the forecasts.
89. The administrative capital and operating costs of implementing the DST are estimated at \$2.4 million over the forecast period. This is comprised of \$1.3 million capital and \$1.1 million operating costs. Some of the capital cost could be incurred even if the DST did not proceed to enactment or revenue collection. This would be the case if the Amount A of Pillar One gained sufficient traction to have practical effect and the DST was abandoned prior to the filing of the first returns and corresponding payments. The total cost of \$2.4 million will be self-funded from Inland Revenue's departmental appropriations.
90. s 6(a), s 9(2)(g)(i)

Legislative Implications

91. Implementing a DST would require primary legislation as a standalone Act.
92. We propose including the legislation resulting from our proposals in a Digital Services Tax Bill, which would be introduced before the election. However, a first reading would be delayed until some point after the election.
93. This Bill would go through the normal select committee process following its first reading.

Impact Analysis

Regulatory Impact Assessment

94. A Quality Assurance reviewer from Inland Revenue has reviewed the regulatory impact assessment prepared by Inland Revenue and considers that the information and analysis summarised in the assessment partially meets the quality assurance criteria. This is because the stakeholder views summarised in the assessment are mainly informed by a public consultation which took place in 2019, and there has not been more recent stakeholder consultation.

Climate Implications of Policy Assessment

95. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

96. The DST is not expected to have any undue implications for specific demographics in New Zealand. No submissions were made on this point in consultation on the 2019 discussion document.



Human Rights

97. There are no human rights implications associated with the introduction of the DST.

New Zealand Bill of Rights Act 1990

98. We consider the provisions in the Bill are consistent with the rights and freedoms affirmed by the New Zealand Bill of Rights Act 1990 (NZBORA). The Ministry of Justice have undertaken the required NZBORA vetting and have not advised of any issues arising from this process.

Compliance

99. The Bill complies with:
- 99.1 the principles of the Treaty of Waitangi;
 - 99.2 the [disclosure statement](#) requirements (the draft disclosure statement is attached in **Appendix 5**);
 - 99.3 the principles and guidelines set out in the [Privacy Act 2020](#);
 - 99.4 relevant international standards and obligations ^{s 9(2)(h)} 
- 

s 9(2)(h)

and

99.5 the [Legislation Guidelines](#) (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

100. Consultation has occurred across Inland Revenue, the Treasury, MFAT, the Ministry of Culture and Heritage, the New Zealand Customs Service, the Ministry for Business, Innovation and Employment (MBIE), and the Department of Prime Minister and Cabinet.
101. We have considered the feedback provided in preparing this Cabinet paper. MFAT's comments are incorporated in the analysis above. MBIE raised concerns with a DST along similar lines to MFAT. In addition, MBIE raised questions about the context of the problem and the impacts of a DST on New Zealand businesses, in particular New Zealand digital technology enterprises.
102. Officials from Inland Revenue and the Treasury have met with key stakeholders to discuss the DST in light of submissions on the 2019 discussion document. As such, further pre-introduction consultation is not essential and technical consultation on the design features of a DST may be undertaken via the Finance and Expenditure Committee's (FEC) processes following introduction. s 9(2)(g)(i)

103. s 9(2)(h)

104. s 9(2)(h)

Binding on the Crown

105. The DST Act will be binding on the Crown.
106. The legislation will not create a new agency.

107. The legislation will not amend the existing coverage of the Ombudsman Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of Decision-Making Powers

108. The draft legislation does not involve the allocation of decision-making powers between the executive, the courts, and tribunals.

Associated regulations

109. The Bill has a specified application date of 1 January 2025. However, this date can be deferred for a maximum of 5 years by an Order in Council. Any such Order in Council is likely to be introduced late in 2024, to allow the Government to assess the OECD's progress towards implementation and to take account of any relevant political developments internationally, including in the US. Drafting the Order in Council is not expected to be a significant task.
110. The proposed Bill does not include any provision empowering the making of other instruments that are deemed to be legislative instruments or disallowable instruments (or both).

Definition of Minister/Department

111. The Bill does not contain a definition of Minister, department, or chief executive.

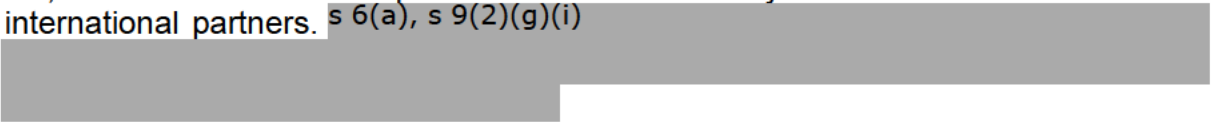
Commencement of Legislation

112. The Bill specifies that it will commence on 1 January 2025, unless an Order in Council is made to defer that commencement date. However, the commencement date cannot be deferred beyond 1 January 2030.

Parliamentary Stages

113. The Bill should be introduced on 31 August 2023 but will not proceed to first reading at this stage.

Communications

114. Subject to Cabinet's agreement, the Minister of Finance and Minister of Revenue will, on introduction of the DST Bill, make an announcement that, while New Zealand prefers a multilateral solution, it is introducing a DST Bill so that a DST can act as an interim measure in case the multilateral Pillar One solution cannot be implemented within a reasonable timeframe. The announcement will make clear that the Government is not making a definitive commitment to impose the DST at this stage.
115. Ahead of any announcement or public communications around introduction of the DST Bill, officials will execute a plan to most constructively communicate this decision to international partners. ^{s 6(a), s 9(2)(g)(i)}
- 

116. s 9(2)(g)(i)

117. s 6(a), s 9(2)(g)(i)

118. A commentary on the Bill would also be released when the DST Bill was introduced.

119. Inland Revenue will include details of the new legislation in a *Tax Information Bulletin* prior to the effective date.

Proactive Release

120. We propose to delay the proactive release of this Cabinet paper, associated minutes and key advice papers with appropriate redactions, until after the introduction of the Digital Services Tax Bill. Therefore, if Cabinet does not agree to introduce the DST Bill now, we propose to withhold this Cabinet paper and its associated materials.

Recommendations

The Minister of Finance and Minister of Revenue recommend that the Committee:

1. **Note** that the 2020 Labour Party election manifesto and Budget 2023 include commitments to:
 - 1.1 work with the Organisation for Economic Co-operation and Development (OECD) to find a workable solution which ensures multinational enterprises pay their fair share of tax, and
 - 1.2 implement a Digital Services Tax (DST) if a multinational agreement is not possible.

Introducing a DST Bill

2. **Approve** the attached Digital Services Tax Bill for introduction before the election.
3. **Agree** that the Bill's commencement date is 1 January 2025, with the ability of Cabinet to defer this date for a maximum of five years by an Order in Council.
4. **Note** the DST Bill will not proceed beyond introduction before the election.
5. **Note** that the earliest practicable effective date for the DST Bill is 1 January 2025.
6. **Agree** that the DST should:

- 6.1 apply to entities that carry on taxable digital services where:
 - 6.1.1 the global group digital services revenue is 750 million euros per year or more; and
 - 6.1.2 the total taxable digital services revenue connected to New Zealand is \$3.5 million or more;
- 6.2 be charged at a 3% rate to taxable digital services revenue connected to New Zealand;
- 6.3 be assessed by an annual self-assessment return filed the following year; and
- 6.4 be paid by the due date in the following year.
- 7. **Note** that the core provisions of the DST Bill and associated bill commentary are consistent with the features of the DST in recommendation above.
- 8. **Note** that the DST Bill makes amendments to the Tax Administration Act 1994.
- 9. **Agree** to delegate authority to the Minister of Finance and Minister of Revenue to make minor and technical changes to the draft DST legislation.

Financial implications

- 10. **Note** that a DST, once implemented, is expected to raise approximately \$86 million per annum in additional revenue rising each year in line with growth in GDP and the digital economy (assuming the DST applies from 1 January 2025).
- 11. **Note** if our preferred effective date is agreed to, the following changes as a result of the decisions in recommendations 3 to 6 above, with a corresponding impact on the operating balance and/or net debt:

	\$ m – increase / (decrease)			
Vote Revenue Minister of Revenue	2023/24	2024/25	2025/26	2026/27 and outyears
Crown Revenue and Receipts: Tax Revenue			129.000	93.000
Total Operating			(129.000)	(93.000)

- 12. **Note** if our preferred effective date is agreed to, the additional tax revenue indicated above will be reflected in the Pre-Election Economic Update.
- 13. **Agree** either that that the changes in tax revenue indicated in recommendation 10 above (if applicable) be:

13.1 **Managed against the Budget 2024 allowance:** the changes in tax revenue are managed against the Budget 2024 operating allowance, which can be used to increase total gross spending for Budget 2024, while not increasing overall allowances for Budget 2024;

OR

13.2 **Allowed to flow through:** the changes in tax revenue are allowed to flow through, positively impacting the OBEGAL and supporting the Government's objective of achieving a surplus in 2026/27.

14. **Note** that the administrative capital and operating cost of implementing the DST is estimated at \$2.4 million and will be self-funded by Inland Revenue.

15.

s 6(a)

International reaction

16. **Note** the potential for adverse international reaction s 6(a), s 9(2)(g)(i) to the introduction of a DST Bill, s 6(a), s 9(2)(g)(i)

17. **Note** that the Ministry of Foreign Affairs and Trade supported by Inland Revenue and the Treasury will communicate the decision to introduce a DST to key partners, s 9(2)(g)(i)

18. **Note** that alternative options to progress a DST without introducing a Bill now include:

18.1 A public statement that the Government is concerned about OECD progress and has developed a draft DST Bill so it could act quickly should the OECD process stall. The Government would not commit to adopting a DST at this time; and

18.2 A public statement that the Government remains interested in pursuing a DST without mentioning any further work.

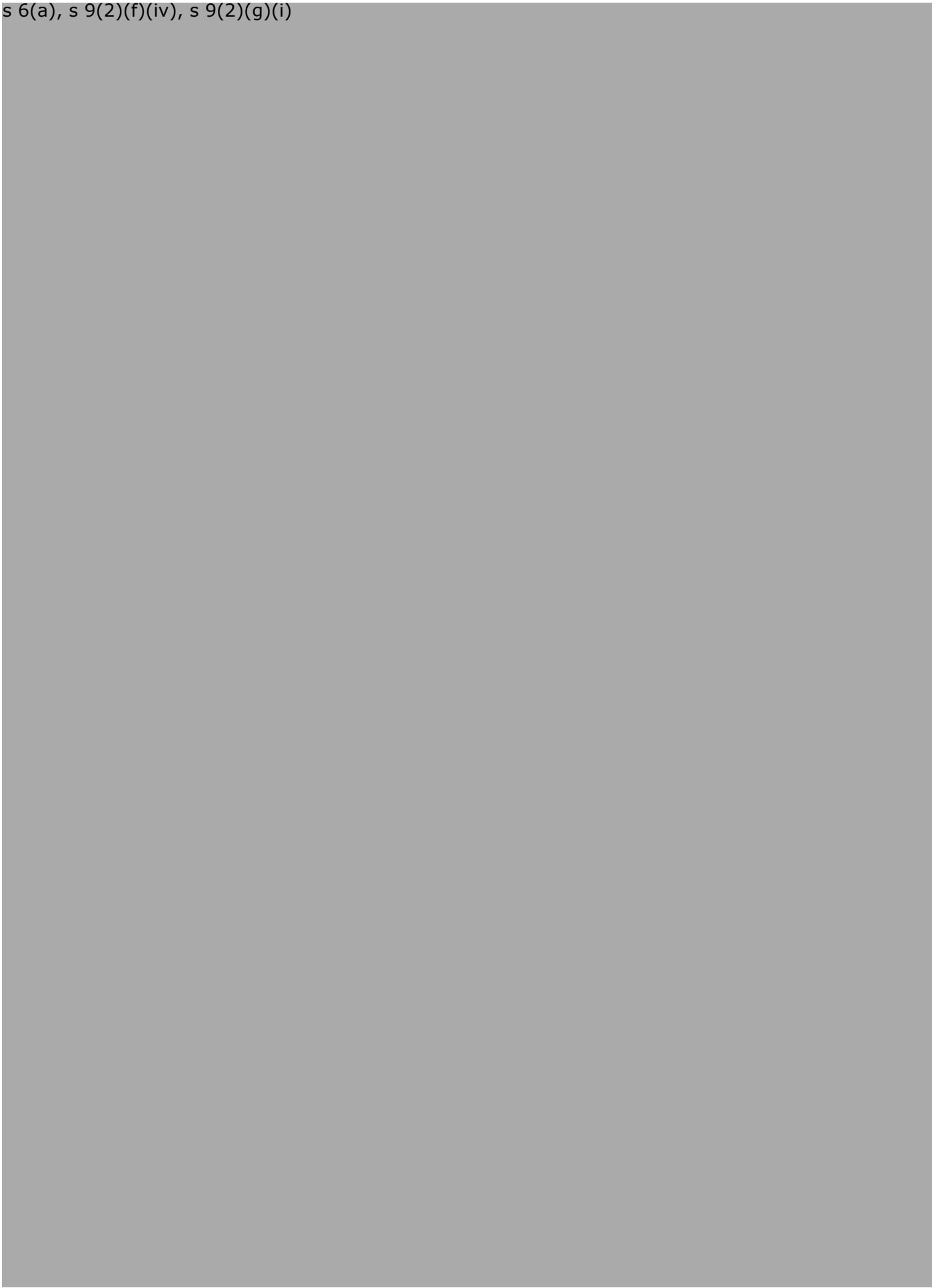
Under either of these options, the Minister of Finance and Minister of Revenue would seek further Cabinet approval at an appropriate time for the DST Bill to be introduced.

Authorised for lodgement

Hon Grant Robertson
Minister of Finance

Hon Barbara Edmonds
Minister of Revenue

s 6(a), s 9(2)(f)(iv), s 9(2)(g)(i)



APPENDIX 2: THE OECD'S TWO-PILLAR SOLUTION AND THE OECD PROCESS FOR IMPLEMENTATION

Introduction

1. The OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (Inclusive Framework) is a group of 143 members including the OECD, the G20 countries and developing countries. The Inclusive Framework has been working to develop and agree the Two-Pillar Solution to address the challenges posed by the globalisation and digitalisation of the economy.
2. In essence, there are four main challenges:
 - 2.1 The international tax rules require a physical presence in a country to enable the country to tax them. Digital businesses do not require a physical presence to do business to the same extent as traditional businesses.
 - 2.2 The current rules which allocate value to a country (if the business does have a physical presence there) do not recognise the significant value generated by users of highly digitalised products, such as social media.
 - 2.3 Intangible assets, such as branding and goodwill, are difficult to value and are mobile, enabling the shifting of profits to lower tax jurisdictions. This is not just an issue for digital businesses but is more acute because of the valuation challenges.
 - 2.4 It is possible for a multinational to reduce its global tax bill by shifting mobile assets into countries with very low tax rates. This reduces the revenues of other countries. It also creates pressure on countries to lower their corporate tax rates and grant tax concessions to attract foreign investment.
3. The Two-Pillar Solution seeks to update the international tax framework to address these challenges. Pillar One and Pillar Two were originally part of a package but are no longer linked. Countries can therefore adopt Pillar One without Pillar Two. New Zealand could also adopt a DST and Pillar Two. However, New Zealand could not adopt a DST and Pillar One. We discuss each pillar below.

Pillar One



4. Pillar One expands the taxing rights of market jurisdictions over large multinationals. Pillar One consists of two main elements: Amount A and Amount B.
5. Pillar One has suffered multiple delays. The initial date for conclusion was pushed from mid-2020 to mid-2022 due to Covid. The timeline for conclusion was then pushed to July 2023.

Amount A

6. Amount A will only apply to the largest 100 or so multinationals, with annual group revenues of more than 20 billion euros. No New Zealand companies are within scope of Amount A.

7. Amount A It would reallocate 25% of in-scope multinationals' super-profits (profits over 10% of its revenues) to the market jurisdictions they operate in, by reference to the revenue the multinational earned from each jurisdiction. For example, if a multinational earned 1% of its revenue from New Zealand, New Zealand would be allocated 0.25% (being 1% of 25%) of the multinational's super-profits.
8. Amount A would therefore allow market jurisdictions to tax the income of foreign multinationals even where there is no physical presence in that jurisdiction. As a market jurisdiction, Amount A would be expected to generate revenue for New Zealand once in place.
9. Amount A is only intended to reallocate profits — it is not an additional tax on those profits. This means that a multinational will be provided tax relief for the amount it reallocates to market jurisdictions under Amount A. This tax relief will be provided by those countries in which the multinational reports its super-profits under the current rules, such as investment hubs. We do not expect that New Zealand would be required to provide tax relief under this approach.
10. Amount A is an alternative to the DST. Therefore, countries which adopt Amount A must agree not to impose a DST (or similar unilateral measures).

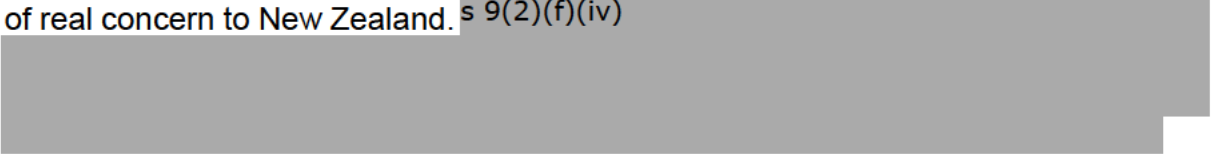
Progress and implementation of Amount A


11. The intention is to implement Amount A through a multilateral convention (MLC) which would override existing double tax agreements between parties to the MLC.
12. There has now been substantial agreement on most of the key elements of Amount A, as reflected in an Outcome Statement endorsed by 138 Inclusive Framework countries (including New Zealand). However, The OECD was not able to secure approval of the Amount A MLC at its July Inclusive Framework meeting as originally intended. Three countries (Brazil, Colombia and India) did not agree with some of the substantive provisions and there were two technical issues on which agreement could not be reached in time. Meetings have been scheduled in September to continue the work on those outstanding issues.
13. The Inclusive Framework aims to resolve the remaining issues and finalise the MLC text so that the MLC is ready for signature by year end. Officials will provide advice on whether to sign the Amount A MLC closer to the time.
14. However, even once the MLC text is finalised and opens for signature, a “critical mass” of countries will need to sign up and ratify the MLC for it to enter into force. In particular, this critical mass must include the United States (US), as around half of the multinationals that would be affected by Amount A are headquartered in the US.
s 6(a), s 9(2)(g)(i)

15. s 9(2)(g)(i)




Amount B

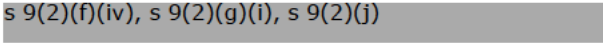
16. Amount B is intended to simplify and streamline the transfer pricing rules for certain in-scope marketing and distribution activities. Transfer pricing rules prevent profit-shifting by multinationals by requiring related party transactions to be priced at the “arm’s length” price which would be paid by independent entities.
17. In particular, Amount B is likely to provide standardised returns for baseline marketing and distribution activities.


Progress and implementation of Amount B

18. Disagreement remains on a number of key aspects of Amount B’s design, which are of real concern to New Zealand. ^{s 9(2)(f)(iv)}

19. In July 2023, the OECD published a consultation document seeking submissions by 1 September 2023 from multinationals and tax practitioners on the scope and design of Amount B. New Zealand has been and remains highly engaged with the development process for Amount B.

20. ^{s 6(a), s 9(2)(f)(iv), s 9(2)(g)(i)}


  We will advise Ministers further on Amount B once its final design has been developed.

^{s 9(2)(f)(iv), s 9(2)(g)(i), s 9(2)(j)}


22. ^{s 9(2)(f)(iv), s 9(2)(g)(i), s 9(2)(j)}


Pillar Two

23. Pillar Two, endorsed by the Inclusive Framework in 2021, is designed to ensure large multinationals pay a minimum level of tax (15% effective tax rate) on the income arising in each jurisdiction where they operate.

GloBE

24. The Global Anti-Base Erosion (GloBE) rules aim to limit the 'race to the bottom' for large multinationals, where countries compete to attract mobile income (for example, interest, dividends, and royalties) through offering low tax rates and tax incentives.
25. The rules are designed so that multinationals with annual revenues above 750 million euros pay a minimum of 15% effective tax rate on their mobile income in every country where that income is earned.
26. The GloBE rules are currently going through the legislative process as part of the Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Bill. The Bill was introduced on 18 May 2023 and passed its first reading on the same day.
27. The Bill is currently being considered by the Finance and Expenditure Committee. Submissions on the bill closed on 14 July 2023 and oral submissions will be heard in late November or early December 2023. The Finance and Expenditure Committee is due to report back to the House in late February or early March next year.

STTR

28. The STTR is the second component of Pillar Two, designed to support a global minimum tax rate. It is an important part of the Two-Pillar solution for developing countries. It modifies existing treaties so that developing countries can tax certain categories of outward payments to a related party if the recipient is taxed at less than 9% on those payments in its home jurisdiction. This is to address risks posed by certain outbound intragroup payments that could be used to artificially shift profits out of source states.
29. s 9(2)(f)(iv)



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Proposed Revenue Initiative

Portfolios **Finance / Revenue**

On 14 August 2023, Cabinet:

Background

- 1 **noted** that the 2020 Labour Party election manifesto and Budget 2023 include commitments to:
 - 1.1 work with the Organisation for Economic Co-operation and Development (OECD) to find a workable solution that ensures multinational enterprises pay their fair share of tax;
 - 1.2 implement a Digital Services Tax (DST) if a multinational agreement is not possible;

Introducing a DST Bill

- 2 **approved in principle** the Digital Services Tax Bill [IRD 25649] for introduction before the 2023 general election, subject to final discussions between Budget Ministers;
- 3 **agreed** that the Bill's commencement date be 1 January 2025, with the ability to defer this date for a maximum of five years by an Order in Council;
- 4 **noted** that the DST Bill will not proceed beyond introduction before the 2023 general election;
- 5 **noted** that the earliest practicable effective date for the DST Bill is 1 January 2025;
- 6 **agreed** that the DST should:
 - 6.1 apply to entities that carry on taxable digital services where:
 - 6.1.1 the global group digital services revenue is 750 million euros per annum or more;
 - 6.1.2 the total taxable digital services revenue connected to New Zealand is \$3.5 million or more;
 - 6.2 be charged at a 3 percent rate to taxable digital services revenue connected to New Zealand;

6.3 be assessed by an annual self-assessment return filed the following year;

6.4 be paid by the due date in the following year;

7 **noted** that the core provisions of the DST Bill and associated Bill commentary are consistent with the features of the DST outlined in paragraph 6 above;

8 **noted** that the DST Bill will amend the Tax Administration Act 1994;

9 **authorised** the Minister of Finance and the Minister of Revenue to make minor and technical changes to the draft DST Bill;

Financial implications

10 **noted** that a DST, once implemented, is expected to raise approximately \$86 million per annum in additional revenue rising each year in line with growth in GDP and the digital economy (assuming the DST applies from 1 January 2025);

11 **noted**, if the preferred effective date is agreed to, the following changes as a result of the decisions in paragraphs 3 to 6 above, with a corresponding impact on the operating balance and/or net debt:

Vote Revenue Minister of Revenue	\$ m – increase / (decrease)			
	2023/24	2024/25	2025/26	2026/27 and outyears
Crown Revenue and Receipts: Tax Revenue	-	-	129.000	93.000
Total Operating	-	-	(129.000)	(93.000)

12 **noted** that if the preferred effective date is agreed to, the additional tax revenue indicated above will be reflected in the Pre-Election Economic Update;

13 **authorised** Budget Ministers to make decisions on managing the changes in tax revenue indicated in paragraph 10 above, from the following two options:

13.1 the changes in tax revenue are managed against the Budget 2024 operating allowance; or

13.2 the changes in tax revenue are allowed to flow through to OBEGAL;

14 **noted** that the administrative capital and operating cost of implementing the DST is estimated at \$2.4 million and will be self-funded by Inland Revenue;

15 s 6(a)

International reaction

16 **noted** the potential for adverse international reaction s 6(a), s 9(2)(g)(i) to the introduction of a DST Bill, s 6(a), s 9(2)(g)(i)

17 **noted** that the Ministry of Foreign Affairs and Trade, supported by Inland Revenue and the Treasury, will communicate the decision to introduce a DST to key partners, s 9(2)(g)(i)

- 18 **noted** that alternative options to progress a DST without introducing a Bill now include:
- 18.1 a public statement that the government is concerned about OECD progress and has developed a draft DST Bill so it could act quickly should the OECD process stall. The government would not commit to adopting a DST at this time;
 - 18.2 a public statement that the government remains interested in pursuing a DST without mentioning any further work;
- 19 **noted** that under either of the alternative options outlined in paragraph 18 above, the Minister of Finance and the Minister of Revenue would seek further Cabinet approval at an appropriate time for the DST Bill to be introduced.

Rachel Hayward
Secretary of the Cabinet