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Dear Keith

Tax administration in a digital world

CPA Australia is Australia's leading professional accounting body and one of the largest in the world. We represent the diverse interests of more than 170,000 members in over 100 countries and regions, including over 2,700 members in New Zealand. We make this submission on behalf of our members and in the broader public interest.

The Inland Revenue Department's (IRD) Issues paper on **Tax administration in a digital world** (the Issues Paper) provides an insight into the future of tax and raises fundamental questions around the automation of tax, the role of external parties, the sharing of data and the regulatory framework.

We support digital transformation initiatives and the use of technology to improve productivity and reduce costs. We also support changes that enable the IRD to reduce or remove duplication, manual intervention or double handling of information, and that create an environment where the taxpayer is in control of their data and the IRD can facilitate its use.

We believe that the regulatory environment requires more detailed review, particularly given the expected expansion of external parties who may interact with the IRD and/or the tax system in the future.

The Australian Government and Australian Taxation Office (ATO) are progressively implementing similar changes with differing experiences for taxpayers and tax agents depending on their demographic and the measure being implemented. Therefore, consideration of these different groups is required, and implementation may take longer than anticipated.

Our responses to the questions for submitters in the Issues Paper are contained in the Attachment.

If you have any queries about this submission, contact Rick Jones, Country Head, New Zealand on +64 21 190 1039 or rick.jones@cpaaustralia.com.au or Elinor Kasapidis, Senior Manager Tax Policy on +61 466 675 194 or elinor.kasapidis@cpaaustralia.com.au.

Yours sincerely,

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Mr Rick Jones
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Chapter 3 – Scene setting – the shift to digital

Does our emphasis on the shift to digital channels and processes resonate with your experience?

The IRD's recent investments in its digital transformation and ongoing efforts to enhance its digital service and data analytics capabilities have resulted in changes to the taxpayer and agent experience. We recognise the need to shift to digital and support continued efforts to improve services, particularly for agents.

Globally, government administration is moving to digital for a range of reasons, including public expectations, lower costs, productivity efficiencies and improved data analytics capabilities. In Australia, the Australian Taxation Office (ATO) has been shifting to digital channels to reduce compliance costs and improve data integrity and reporting¹. Programs such as Modernising Business Registers, Taxable Payments Reporting System, Single Touch Payroll and JobKeeper are recent examples.

However, our Australian members, in particular small businesses and tax agents, are finding the pace, breadth and cost of digital transformation to be challenging. CPA Australia's [Asia-Pacific Small Business Survey 2021-22](#) found that Australian small business continues to lag in technology investment, with New Zealand faring only slightly better. This lack of willingness to invest in digital for business improvement, let alone government compliance, combined with low levels of digital capability means that a staged and flexible approach is needed. Depending on the extent of changes and whether alternatives are available, government grants, no- or low-cost software and IRD assistance will be required to educate stakeholders and promote uptake.

Are there other economic or social trends that we are not giving sufficient weight to in terms of influences on tax and social policy administration?

When it comes to data and digital services, privacy and the government's use of information continues to be a topic of debate. While the benefits to be gained from a digitised and highly data-driven administration are clear, the issue remains as to how much privacy citizens and taxpayers are willing to give up in return. Concerns tend to centre on concepts such as a "surveillance state" or the use of data and analytics against citizens rather than to improve delivery of services to them. Given the volume and breadth of taxpayer and third-party information held by the IRD, data-gathering and data-sharing activities should be limited to that which is necessary for tax and social policy administration. Ongoing dialogue should be held with the public to ensure the IRD's collection, use and dissemination of data is transparent, well-governed and appropriate.

Cyber-security is also an issue, with experts and agencies often concerned that businesses are not properly managing their risks particularly with the recent increases in cyber-attacks. It is essential that the IRD protects taxpayers, businesses and agents from cyber security threats when they interact with the IRD. The IRD can also play an important role in educating taxpayers and their agents about cyber-security and to provide guidance on ways to securely use and store taxpayer information.

Are there other ways we should think about those who are digitally excluded or who might not see themselves in a digital story?

Options such as paper, phone and in-person should remain available to those who are digitally excluded, and digital services should be made as accessible as possible.

Consideration could also be given as to how trusted advisers and personal connections can support them to interact digitally with the IRD. Ideas might include vouchers to visit an agent or different authorisation types for caregivers or family members so they can assist an individual.

¹ Hirschhorn, J 2021, [Digital transformation - Australia as a world leader](#), Australian Taxation Office, 1 September 2021, retrieved on 3 March 2022

Chapter 4 – External parties

Are there roles that external parties play, or could play, in the tax and transfer system that have not been recognised?

Due to the increasing reach of the tax system and the IRD's growing digital service capabilities, new service providers will seek to engage with the digital tax ecosystem. As technologies and programs evolve, it is difficult to predict the types of external parties who might engage. Therefore, the definition and regulation of external parties should be flexible and adaptable.

In Australia, tax services are regulated by the Tax Practitioners Board (TPB). The TPB provides **conditional registrations** to certain parties, including conveyancers, strata managers and quantity surveyors. The conditions limit the scope of the tax services the practitioner is able to provide and they generally do not have access to ATO online services for agents. Using this as a potential example, the IRD will likely need to be given the discretion to define different classes of external parties and to determine their registration requirements and levels of access to IRD systems.

Do you agree that the regulatory framework for external parties, as currently set out in the Tax Administration Act, should change?

The Issues Paper suggests a new regulatory model that enables a broad range of agents and representatives to interact with the IRD on a taxpayer's behalf, subject to obligations and with access determined by the services provided.

While we agree that the regulatory framework should change, our concerns arise from the current framework rather than being driven by digital transformation. We believe that consumers of tax services should have confidence that their agent or representative is appropriately qualified and experienced, and that the IRD sets and enforces standards. We also are concerned that the "10 or more other persons" requirement may exclude part-time workers, many of whom are women, from becoming tax agents or representatives².

We therefore recommend that a standalone review of the regulatory framework for external parties is undertaken to determine whether it remains fit for purpose, supports voluntary compliance and protects consumers. Its suitability for a digital world can be incorporated in the terms of reference.

Is the distinction between a tax advisor (who provides advice to a taxpayer about tax liabilities) and another intermediary involved in the tax system useful when considering the regulation of external parties?

When considering the inclusion of advisors in the regulatory framework, the question arises as to who the IRD should regulate.

If the IRD seeks to develop and maintain a register of active intermediaries in the tax system, then an effective register will require distinctions to be made between the various classes and types of intermediaries. For example, advisors will be less likely to engage directly with the IRD or utilise digital services, but may have a greater impact on final tax liabilities than the tax agent. Therefore, the IRD may not necessarily provide tailored digital service offerings for this group but may wish to collect their details on certain forms or queries for intelligence purposes.

A general obligation to "uphold the integrity of the tax system" is likely to require further specificity given the open interpretation of its meaning. Tax agents and advisors generally have a more comprehensive and influential role in a taxpayer's tax affairs than other intermediaries, including tax digital service providers, bookkeepers, financial advisors, and payroll or superannuation service providers. Therefore, it is not unreasonable that the IRD considers differentiated requirements according to the role played by the external party.

What changes does Inland Revenue need to make to enable external parties to contribute to the tax and payments system?

The IRD's regulatory framework needs to be sufficiently flexible to accommodate a variety of external parties while remaining robust enough to protect consumers and government revenues. This may require further investment in the registration, standard-setting, monitoring and regulation of external parties, depending on the scope and nature

² In Australia, there is no requirement for a certain number of returns to be lodged before registration is permitted. Instead, tax agent registration is required when tax services are provided for a fee.

of their interactions. It may also introduce a consumer protection element into the IRD's responsibilities as the custodian of taxpayer data and the gateway.

Should the Government consider subsidies for products that assist social payment recipients?

No comment.

Chapter 5 – Data

How do you view the concept of sharing sensitive revenue information, subject to taxpayers' consent?

Ultimately, data related to an entity belongs to that entity and they should be able to control how they wish to manage their information. Options that enable their data to be transmitted between parties with their consent reduces administrative burden and barriers to accessing products and services.

At a practical level, the ability for the IRD to disclose taxpayer information to third parties with consent will reduce the need to retrieve, collate and send information that could be more easily and efficiently accessed through a digital gateway. For example, a business currently seeking a loan from a bank will usually be required to provide a copy of their most recent tax return as part of their application. If the bank can obtain this information from the IRD directly it eliminates a process step and provides an authenticated record immediately.

The IRD could also consider providing modified forms of information disclosure to third parties. For example, in Australia, an ATO-issued **Statement of tax record** is required for businesses tendering for Commonwealth Government procurements. The document is requested by the taxpayer and confirms compliance with registration, lodgment and payment obligations without disclosing more sensitive information.

However, caution should be taken to ensure that taxpayers clearly understand the information that is being shared, and an option to select the specific data that is disclosed to third parties should be provided.

The IRD has demonstrated its ability to securely collect, store and transmit data, as well as to manage digital gateways through its existing record of performance. With an increasing number of users and functions, the IRD needs to ensure it receives appropriate funding to invest in its information technology infrastructure and security to scale up its services.

Do you have other examples of how data sharing could be applied beyond the tax system?

Employees who have multiple jobs or sources of income can often be negatively affected by pay-as-you-earn (PAYE) rates where amounts may be over- or under-withheld due to variable earnings throughout the year. The ability to disclose taxpayers' year-to-date income to employers could enable PAYE amounts to be adjusted in near- or real-time to better match the end-of-year tax liability.

Disclosures to regional councils and territorial authorities may also be of benefit, for example, to access support, business grants or prove income levels.

If progressed, a process to identify where tax information is or could be used by taxpayers to their benefit should be undertaken to assess the pool of potential third-party recipients and to design the framework accordingly.

What do you consider are important elements in a consent framework for data sharing?

A consent framework for data sharing should be clear in limiting the purpose and use in which the agreed data is to be shared as nominated by the taxpayer. Security and privacy requirements are essential to ensure:

- The taxpayer can be authenticated
- Each disclosure is authorised by the taxpayer
- The taxpayer is notified each time a disclosure is made
- The taxpayer has the opportunity to stop the disclosure, or to report that they did not authorise the disclosure
- The third-party recipient has the necessary security and technology controls in place
- The third-party recipient treats the information lawfully and appropriately
- There are mechanisms to report identity fraud, unlawful disclosure, inappropriate use and security breaches
- There are consequences if laws or regulations are breached.

We highlight that the Consumer Data Right experience has been difficult for accountants in Australia. When introduced in 2018, the accreditation rules and processes had the potential to significantly obstruct their business

and disrupt clients. Please see CPA Australia's 2022 report on the [Implications of the Consumer Data Right framework for trusted advisers](#) for details.

Do you agree making tax debt data more available, with controls, will have a significant positive benefit for the wider business community?

In Australia, the [disclosure of business tax debt](#) measure was passed by Parliament in 2019. However, commencement has been delayed due to COVID-19 impacts. In our [submissions](#) at the time, we were concerned about the potentially punitive nature of the proposal and noted that careful administration would be required to ensure that businesses are not unduly or unfairly impacted by the policy. However, we also acknowledge the benefits to creditors, business partners, clients, employees and the economy generally of having a more comprehensive picture of a business's debt, particularly given the revenue authority is often the largest creditor.

Factors that we recommend the IRD considers include:

- The extent to which tax debts are an issue for New Zealand businesses and those with whom they interact
- The anticipated improvement in on-time payments to the IRD, and the accessibility of payment arrangements³
- The expected reduction in defaults and insolvencies, or any improvements in insolvency and bankruptcy processes as a result.

Do you agree with the proposal to make more statistical (not individual) income and administrative information to wider groups, such as iwi or social groups?

Yes. De-identified datasets are a powerful research tool and the IRD holds data on much of the New Zealand population. In addition to considering making statistical information available to particular groups, there could also be benefit in making such data openly available, so as not to limit the potential research that could be undertaken.

Chapter 6 – Simplification

What factors do you think are important for the automation of tax calculations?

Accuracy is the most important factor for the automation of tax calculations. This will be required both for the data that is entered into the automated software as well as the calculations themselves. Many parts of the tax reporting process are already automated such as payroll and tax return pre-fill, and other jurisdictions such as the United Kingdom automatically assess tax for many taxpayers.

However, automatic tax reporting and calculation from source data requires software and data collection tools that are accurately and specifically designed for tax purposes. An automated approach to tax would also require a wholly digital accounting and tax environment and high levels of investment in compliance and reporting technologies. This could be problematic for many businesses from both a capability and a cost perspective.

In a 2020 report⁴, KPMG observed, "it is highly unlikely that tax returns will be generated straight from ERP [Enterprise Resource Planning] data, at least for the foreseeable future. This is because of two main factors:

- (1) the way the data in an ERP system is entered will need to be 'sliced and diced' differently from the way it needs to be presented for tax return purposes; and
- (2) because ERP data is not the sole source of information for tax return purposes — other sources and... manual interventions may be needed."

For effective automation, the tax laws will also have to be rules-based and without subjectivity or nuance. The current system, particularly income tax, can be very complex and dependent on facts and circumstances, making it ill-suited to full scale automation.

While problematic for automation, it should be recognised that the tax system is reflective of the complexity of our world. Simplicity can often lead to inequity or distorted outcomes, so there will be a trade-off between the efficiencies achieved through automation and the effectiveness of thoughtfully designed tax policies.

³ In Australia, debts under an ATO payment arrangement are not disclosed to the credit reporting bureaus.

⁴ KPMG 2018, [Transforming the tax function through technology - a practical guide to 2020](#), April 2018, retrieved on 4 March 2022

What consequences should taxpayers face if there is a tax shortfall, but they have relied on the calculation of an external party?

On the basis that the taxpayer has correctly provided the required information for tax calculations to the external party, it would be reasonable that the taxpayer would not be liable for administrative penalties. The tax shortfall amount itself should remain the liability of the taxpayer as it is their legal obligation.

The taxpayer is prima facie liable for both tax and penalties given that it is their responsibility to ensure the return is true and correct. However, many taxpayers engage external parties to assist them with their tax affairs because they don't fully understand the tax laws and/or are not able to independently calculate their liability. They have a reasonable expectation that the calculations provided by the external party are consistent with the law. We therefore recommend that the IRD consider not applying or fully remitting penalties on the taxpayer in these situations.

In Australia, subsection 286-75(1A) of Schedule 1 of the *Taxation Administration Act 1953* provides that taxpayers may not be liable to some administrative penalties if they used a registered tax or BAS agent. A similar provision could be considered by IRD to provide legislative clarity with respect to the treatment of taxpayers in such circumstances.

What consequences should external parties face if there is a tax shortfall because of taxpayers relying on the calculations within the system provided by the external party?

The benefits of enabling external parties to interact with the tax system are well-articulated in the Issues Paper. Given the breadth and complexity of tax law, it can be expected that faults will occur from time to time and that it is in the commercial interests of the external party to minimise such instances as much as possible. Errors can vary from small but very frequent errors to fundamental mistakes in calculations. The IRD response should be informed by the magnitude of the issue and the behaviour of the external party.

The IRD should encourage external parties to voluntarily disclose issues and work together to fix errors. The external party should be given the opportunity to investigate the issue and present their findings to the IRD.

Consequences for the external party could include:

- public notification of the issue and requirement to publish the notice on their website
- identification of all affected taxpayers and remedial action to correct their returns
- demonstrated correction of issues and improvements to controls
- enhanced testing requirements
- imposition of additional terms and conditions for access to IRD gateway services
- restriction or revocation of access to IRD gateway services.

To our knowledge, the IRD's existing management of gateway services is a strong foundation from which to scale and diversify the application programming interfaces (APIs) and web services offered by the IRD. The framework governing external parties should be holistic and focus on prevention of calculation errors as well as be clear about potential consequences for breaches.

The IRD should also consider interactions with the *Consumer Guarantees Act 1993* to determine whether the provisions of this Act are sufficient to protect consumers of tax products and services, or whether additional avenues for compensation or complaint are required.