

Committee Secretariat  
Finance and Expenditure Committee  
Parliament Buildings  
Wellington  
New Zealand

Email: [fe@parliament.govt.nz](mailto:fe@parliament.govt.nz)

9 June 2023

Dear Sir/Madam,

## Submission to the Finance and Expenditure Committee on the *Taxation Principles Reporting Bill 2023*

As one of the largest professional accounting bodies in the world, CPA Australia represents the diverse interests of more than 173,000 members, including over 2,700 members in New Zealand, working in over 100 countries and regions supported by 19 offices around the world. We make this submission on behalf of our members and in the broader public interest.

CPA Australia welcomes the opportunity to make a submission to the Finance and Expenditure Committee on the [Taxation Principles Reporting Bill 2023](#) (the Bill).

### General observations

The Minister of Revenue announced in April 2022 that a Bill was being drafted to enable improvements to the New Zealand tax system. It was anticipated that the process would result in the development of an agreed set of principles against which to assess the New Zealand tax system, with Inland Revenue to report how the tax system measures up against these principles. It was also expected that these principles would be the subject of public consultation with the intention of reaching a collective view, such that they could be used as the basis against which to assess tax policy proposals and evaluate the current and future tax system.

We observe that the resulting Bill is principally concerned with establishing a reporting framework for Inland Revenue but includes in legislation a set of tax principles which have potentially far broader application than reporting purposes. As a result, it is unclear as to the potential impacts resulting from the inclusion of the chosen tax principles in this Bill or what changes might be contemplated if the agreed principles are not reflected in various taxes or the tax system more broadly.

We are supportive of transparent reporting and the publication of relevant and informative tax statistics. We recognise the need to establish a reporting framework against which to design the reporting measures, however the Bill presumes a widespread understanding and acceptance of the chosen tax principles and their descriptions. In requiring the Commissioner of Inland Revenue (the Commissioner) to report regularly against those principles, further consideration should be given to the selection and articulation of the tax principles. This will ensure that the principles are sufficiently clear and neutral for Inland Revenue and users of the data to objectively evaluate the tax system and provide the necessary flexibility to adapt to future changes and events.

We also observe that:

- When considering the tax principles, this Bill does not acknowledge or reinforce the broad base low rate (BBLR) approach that has been the basis of the New Zealand tax system for the past four decades. In our view, this conceptual approach and practical application has served New Zealand well.
- The Bill also does not set out any process by which changes to the tax system should reflect these tax principles.

- The Bill doesn't incorporate specific reference to the generic tax policy process (GTPP) as the mechanism through which tax policy changes are consulted upon.

## **Specific comments on the Bill**

### **Clause 2 Commencement**

The start date of 1 July 2023 would require Inland Revenue to produce its first interim report within six months. There is a lack of clarity about the ability of Inland Revenue to establish the suite of measures, design statistical methodologies, procure and cleanse the data, produce the final outputs then undertake the necessary governance and assurance processes by 31 December 2023. Given the importance and sensitivity of the data, it is critical that Inland Revenue is properly resourced with the necessary technical capabilities to produce high-quality, trusted measures.

It is our recommendation that the start date to be delayed until 1 July 2024 and for the first interim report to be tabled before 31 December 2024. This will provide a more reasonable timeframe to further consider the tax principles and develop the data and calculation for the reporting to be produced under Clause 13 of the measures. Establishing the principles and measures in this manner will enable a consistent approach to measurement and reporting over the coming years without the risk of significant adjustments in future years.

### **Clause 3 Purpose**

Our view is that the expressed purpose of the Bill is too narrow and leaves it open to speculation as to how the reports from the Commissioner may be used and interpreted. It would be desirable to have some more clear statement about the use of the data plus recognition that the tax principles included are not exhaustive of all principles that may be used, and furthermore that the approved taxation principles measurements may need refinement with time.

The clause should also confine the collection and reporting of data for the purpose of reporting on the tax system only. It should explicitly prohibit the use of the provisions for any other purpose, such as reporting on the performance of other government portfolios or on behalf of other agencies.

A positive statement about the intended use of the reported data and its application would be beneficial. Any expectation that this information would be used in the development of and to justify tax policy changes should be made clear.

### **Clause 9 Information and Privacy**

Much of the data will be collected through forms and returns, the challenge is to resist increasing the volume and detail of information being collected by Inland Revenue. The principle of self-assessment should be maintained, and the amount of data being requested by the Commissioner should not increase unreasonably.

Clause 9 permits the Commissioner to request information specifically and solely for the purposes of tax principles reporting. Given the breadth and complexity of the tax system, theoretically the Commissioner could ask for all and any data related to tax liabilities held by taxpayers with no consideration of the compliance burden or costs to the taxpayer. We recommend the inclusion of a 'reasonableness' requirement, for example:

- the requirement for the Commissioner to consider the compliance burden on taxpayers when requesting additional data solely for the purposes of this Bill
- the requirement to undertake a cost-benefit analysis to establish that the benefits of the measurement will exceed the aggregate cumulative costs to taxpayers and Inland Revenue.

Our preference that all data required for the measures is collected and held by Inland Revenue. Where certain data will need to be gathered from other government departments, further clarity on the exchange of information processes or any changes required should be provided.

### **Clauses 11 Duty to report and 12 Presentation and publication**

It would be helpful for the Bill or some associated regulations to provide clear specification of how the data in these reports is to be analysed and set out and the degree to which it contains estimates compared to using actual deidentified taxpayer information (where applicable). The methodology used for each of the published measures should be made publicly available and subject to expert scrutiny.

In Australia, the ATO publishes a large range of performance and tax system measures. Examples include:

- Performance measures (contained in the [ATO Annual Report](#))
- [Tax gap](#)
- [Tax assured](#) including [Top 100](#), [Top 500](#) and [Top 1000](#) findings reports
- [Corporate tax transparency](#)
- [Taxation statistics](#).

For key reporting initiatives, detailed information on methodology, analysis, results and insights is provided by the ATO. Similarly detailed information has been released by Inland Revenue for its [High wealth research project](#). Such high-quality accompanying analysis provides the revenue authority with the ability to provide additional qualitative and practical insights, as well as assist users in understanding the drivers of the results. This enables a proper understanding of the measures and informed discussion with the public. We recommend that a requirement to publish the methodologies including caveats and assumptions is included in this Clause.

We observe the significant ATO commitment of resources and effort to the presentation and publication of Australian tax system measures. The in-house capabilities used to develop and maintain these measures include data analysts, revenue analysts, economists, risk managers, statisticians, experienced auditors and tax experts. Independent experts may also be engaged to ensure that the methodologies are technically valid and to assure results. Inland Revenue should be appropriately funded to ensure that reporting on the New Zealand tax system is accurate, transparent and insightful.

### **Clauses 13 Approved taxation principles measurements and 14 Approval procedure**

The measurements contained in Clause 13 are expressed quite simply, however it is our experience that significant knowledge and judgment is required to develop the most appropriate representation of the measurements.

The measures will complement the [existing statistical releases](#) from Inland Revenue which illustrate the potential challenges. Currently Inland Revenue publishes data on the [taxable income distribution of individuals](#). In Australia, the ATO publishes 27 tables on [individuals](#), 9 tables on [companies](#) and a further 13 on superannuation funds, partnerships and trusts. This is in addition to the [Tax expenditures and insights statement](#) published by the Australian Treasury which estimate the cost of concessions and exemptions to the tax system.

Within these tables are a high number of data points that each require clear definition and proper design. For example, the ATO's [Table 1 for individuals](#) has over 100 line items by count and value for over two decades. Given the potential complexity of the reporting framework, further consideration should be given to the definition of the terms in Clause 13, including:

- Income – potential interpretations of income could include total, assessable, net and taxable income. The concept of income could be further stratified into types of income (e.g., investment, business, salary & wage) or source (e.g., foreign, domestic)
- Income tax paid – could be calculated to include or exclude offsets, rebates and credits
- Exemptions – there are a significant number of exemptions which might be considered. Examples include tax-exempt salary and wages, temporary tax exemption, resident withholding tax exemption, tax exempt employee allowances and exempt income
- Lower rates of taxation – as this is a relative term, a baseline rate needs to be defined and measures need to enable comparison between taxpayer groups. Would ratios such as effective tax rates (i.e., tax paid on profits) be considered under this measurement?
- Perceptions of integrity – the concept of integrity needs to be defined and a qualitative survey is more likely appropriate for measurement of perceptions. The design of survey questions and selection of the sample will be important to avoid biased results
- Compliance with the law – a broad range of potential measures is available for consideration. Examples include ruling requests, voluntary disclosures, adjustments, audit strike rates, tax gap estimates, random audit programs and levels of engagement with Inland Revenue.

We recommend that public consultation is undertaken to develop the most informative and appropriate measures using existing data, and that any proposed increases or changes to the data collected by Inland Revenue also be consulted on. The Commissioner should also consider engaging external experts to provide oversight and assurance to the Government and the public that the data is being properly collected and calculated.

## Schedule 1 Taxation principles

The taxation principles are at the core of this Bill. These principles and their explanation should therefore be set out in the main body of the Bill. Their location in a schedule demotes the critical importance of the tax principles.

Our view is that these principles should not be seen as the only set of principles that should be adopted. For example, the list provided does not include all the principles identified and used in prior tax reviews and tax policy.

We observe the absence of, for example, the principles of coherence and of simplicity. Coherence is a core component of tax law design in Australia and was part of the 2019 Tax Working Group's principles for analysing the New Zealand tax system. Simplicity is often an accompaniment to certainty and its absence from Schedule 1 is disappointing.

Similarly, the tax principles set out originally by Adam Smith in *The Wealth of Nations* (i.e., proportionate, certain, timely and efficient) continue to form the foundation of tax policy design in many jurisdictions. In Australia, the 2009 [Future Tax System Review](#) used the principles of equity, efficiency, simplicity and sustainability.

While these established principles are arguably implicitly referenced in Schedule 1, the conceptual adaptations and modifications should have clear justifications and the principles framework should be subject to public consultation.

Furthermore, the descriptions used are not stated in a manner that would accord with how these principles are always interpreted and applied. The description of horizontal equity, for example, extends beyond what it is usually seen as embracing, and the inclusion of societal outcomes suggests a possible confusion or conflation of tax with social policy. There should be clear distinctions between tax policy outcomes and those arising from government expenditures.

There is considerable use of and reference to economic income. This is not a clearly defined or well-established term, and it has no meaning in the context of tax. This is a major move away from existing measures of income being based on that included with statute and interpreted in case law. This term should be replaced with established concepts that are used in law, accounting and tax.

The discussion on certainty and predictability is very narrow – this should extend beyond tax obligations to include measurement of income, what amounts to tax avoidance, etc. Currently taxpayers are provided with minimal certainty in New Zealand, with the courts making it clear that it is the role of Parliament to provide certainty and not them. This Bill provides Parliament with such an opportunity to provide greater certainty.

The taxation principles should reflect an objective and balanced approach to tax system design. It is well-recognised that the principles may often come into conflict with each other and that there are trade-offs between the principles for any given policy. While we support the notion of tax principles, we hold concerns about the choice of tax principles to be included in Schedule 1 and their descriptions.

Such an important Bill with significant future impact should be subject to further consultation to ensure a coherent and unbiased set of tax principles that has the support of the New Zealand public.

CPA Australia would like to acknowledge the members of our New Zealand Taxation Committee their input and guidance in shaping this submission.

If you have any queries, contact Bill Leung, Tax Technical Adviser, on +61 468 564 433 or [bill.leung@cpaaustralia.com.au](mailto:bill.leung@cpaaustralia.com.au).

Yours sincerely,

Elinor Kasapidis  
Head of Policy and Advocacy

Rick Jones  
Country Head



