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19 May 2025

Mr Peter Frawley
Policy Lead
Inland Revenue Department
55 Featherston Street
PO Box 2198
Wellington, 6140
New Zealand

Email: policy.webmaster@ird.govt.nz
hannah.simmonds@ird.govt.nz

Dear Peter,

Taxation of amounts paid to households selling excess electricity – consultation on potential changes

Thank you for the opportunity to comment on the targeted consultation on **Taxation of amounts paid to households selling excess electricity – consultation on potential changes**.

CPA Australia represents the diverse interests of more than 175,000 members, including over 3,300 members in New Zealand, working in over a 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.

We make the following comments for your consideration:

- We agree with the proposed scope based on whether the compliance costs outweigh the potential tax revenue.
- We support the proposed scope of introducing a targeted income tax exemption for income derived from the sale of excess electricity when the amount of income is below a $1,000 threshold.
- We submit the existing tax treatment complicates and unnecessarily burdens taxpayers and discourages rather than encouraging them to take up solar power.
- Inland Revenue and the Government should consider and adopt the Australian income tax treatment. That is, a private residence installing a solar system is private or domestic in nature for tax purposes and any payments/credits received from the electricity retailer should not be treated as assessable income, as there is no realistic opportunity for the taxpayer to profit from the arrangement.

Please refer to the Appendix for our response to the questions raised in the consultation paper. If you have any queries about this submission, please contact me on jenny.wong@cpaaustralia.com.au or Bill Leung, Tax Technical Advisor on bill.leung@cpaaustralia.com.au.

Yours sincerely,

Jenny Wong Tax Policy Lead Policy and Advocacy	Mr Rick Jones Regional Head New Zealand

Acknowledgements

CPA Australia would like to acknowledge the following Tax Committee members for their input and guidance in shaping this submission:

- Mr Angus Ogilvie FCPA (Aust.), Chair of Tax Committee – New Zealand
- Mr Jeffrey Owens FCPA (Aust.), Tax Committee – New Zealand
- Mr Darshana Elwela – Tax Committee – New Zealand
- Mr Richard Ashby CPA (Aust.), Tax Committee – New Zealand
- Mr Jamil Eldar, CPA (Aust.), Tax Committee – New Zealand
- Professor Adrian Sawyer, FCPA (Aust.), Tax Committee – New Zealand
- Mr Peter Loerscher, CPA (Aust.), Tax Committee – New Zealand

Appendix

Detailed discussion

Response to discussion questions

1. **Do you agree with the proposed scope based on whether the compliance costs outweigh the potential tax revenue? If not, why?**

We agree with the proposed scope based on whether the compliance costs outweigh the potential tax revenue for residential households selling excess electricity. We also support the proposed scope of introducing a targeted income tax exemption for income derived from the sale of excess electricity when the amount of income is below a set threshold.

We submit the existing tax treatment disincentivises residential household solar uptake and is contrary to climate and infrastructure goals. In Australia, such payments residential households receive from the electricity retailer are part of an arrangement that is private or domestic in nature for tax purposes and is not assessable income. We submit the Australian tax treatment is preferred for residential household solar system consumption.

The importance of encouraging solar power adoption for environmental and resilience reasons means the Inland Revenue and the Government should do everything it can to promote solar power rather than discourage its use.

Specifically, we recommend Inland Revenue to:

- proceed with the proposed $1,000 exemption, and
- consider excluding household-scale electricity sales from income tax altogether, where no meaningful profit motive exists.

Distributed renewable energy should be encouraged. Households making sustainable investments in energy infrastructure should not be penalised with burdensome compliance for negligible revenue. We further submit the $1,000 exemption needs to be indexed over time to account for inflation, i.e. included in regulations as opposed to legislation.

2. **Should a person with a business or who carries on a profit-making undertaking or scheme (a person likely already filing a tax return) be included within the scope of any potential solution?**

A person with a business or who carries on a profit-making undertaking or scheme (a person likely already filing a tax return) should not be excluded from being within the scope of any potential solution. Their use of solar system and whether they are profiting from the electricity retailer payment/credit arrangement is independent of whether the person:

- is already filing a tax return, or
- is with a business, or
- carries on a profit-making undertaking or scheme.

3. **Are there any other situations when a person is selling excess electricity and it could be justified to introduce targeted rules to mitigate compliance costs?**

No comments.

4. **Do you agree with the proposed solution? Is there another option to mitigate compliance costs for households selling excess electricity that you would prefer?**

Based on the existing tax treatment, we agree with the proposed solution. However, we submit the Australian tax treatment is the more correct and preferred approach. That is, a private residence installing a solar system is private or domestic in nature for tax purposes and any payments/credits received from the electricity retailer should not be treated as assessable income, as there is no realistic opportunity for the taxpayer to profit from the arrangement.

The question of whether any payments/credits received for electricity generated from solar and sold to the electricity grid are assessable income should be based on:

- the size of the solar system
- the terms of the arrangement with the electricity retailer and, in particular, whether the solar system:
  - is configured into the electricity system of the home - the solar system first supplies electricity to the home to satisfy household electricity consumption before exporting excess electricity to the grid (referred to as a 'net' scheme), or
  - exports all electricity to the grid (referred to as a 'gross' scheme).
- the feed-in tariff payments and whether they are considered to represent a return on the taxpayer's investment in the solar system
- whether there is a realistic opportunity for the taxpayer to profit from the arrangement
- the regularity of payments / credits received from the feed-in tariffs such that they can be relied upon.

Therefore, if there is a realistic opportunity for a taxpayer to profit from the arrangement, i.e., there is an increase in the size or scale of the activity in which a taxpayer is engaged, or an increase in the payments/credits received or the regularity of the payments, this might indicate the payments were ordinary income and therefore assessable.

Factual Example from our member:

1. Background

- Our member's home has a large, solar - optimised roof of over 200 m².
- In 2023, the member installed a medium-to-large solar panel system comprising 22 panels, supported by battery storage.

2. Financial Data and Export Income

- Using 20 months of real usage data
- Total system cost (including battery): $40,000
- Annual export income from electricity sold to the grid: ~$347/year

3. Observations

- Our member's system, which is among the better-performing setups available to households, earns less than $400/year from electricity sales.
- This income does not cover interest costs, let alone capital repayment or maintenance.
- Introducing complex apportionment or tax obligations on such modest earnings would create disproportionate compliance burdens.

Addendum

From: Bill Leung <bill.leung@cpaaustralia.com.au>
Sent: Monday, 26 May 2025 3:04 pm
To: XXX at New Zealand Inland Revenue

Hi XXX at IRD,

Thank you for your email.

The ATO has a settled tax position, confirmed in quite a number of private binding rulings (please see here, here and here for examples) and also on the public ATO record that, in the opinion of the ATO, payments received in typical situations by homeowners (taking into account the amount of equipment used to generate the electricity, the current pricing structure, and the fact the homeowner produces the electricity for a domestic purpose only) would generally not be classed as income according to ordinary concepts, as it is private or domestic in nature.

Therefore, the payments received from the electricity retailer for the power generated by the solar panels and exported to the grid are not included in assessable income.

Note, however, that if the characteristics of the activity change (including the motivation for undertaking that activity, how the activity is undertaken and whether there is a real prospect of profit from the activity), the receipts or credits from the activity may become (or cease to be) income according to ordinary concepts as a result of those changes, see here for an example.

Kind regards,

Bill

Bill Leung | Tax Technical Advisor | Policy & Advocacy | CPA Australia

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