

13 February 2018

To the Finance and Expenditure Committee

**Submission: Taxation (Neutralising Base Erosion and Profit Shifting) Bill**

This submission is from the Financial Services Council of New Zealand Incorporated (FSC) on one particular issue in regard to the Taxation (Neutralising Base Erosion and Profit Shifting) Bill.

We do not wish to appear before the committee to discuss this submission.

The FSC represents New Zealand's financial services industry having 32 members at 31 January 2018. Companies represented in the FSC include the major insurers in life, disability, income, and trauma insurance, and some fund managers and KiwiSaver providers plus law firms, audit firms, and other providers to the financial services sector.

Our submission has been developed through consultation with our members, and represents the views of our members and our industry. We acknowledge the time and input of all our members in contributing to this submission.

The FSC contact in the first instance on this submission is Matthew Hanley who can be contacted on 0274 899 279 or by email: [matthew.hanley@nz.ey.com](mailto:matthew.hanley@nz.ey.com).

Yours sincerely

Richard Klipin

Chief Executive Officer

021 0233 5414

[Richard.klipin@fsc.org.nz](mailto:Richard.klipin@fsc.org.nz)

## **Submission - Life Reinsurance**

### *Background*

The Bill proposes an amendment to section DR 3 of the Income Tax Act 2007, to apply to income years starting on or after 1 July 2018, to ensure that no deductions for the reinsurance of life insurance policies are available if the reinsurance premium income is not taxable in New Zealand. The practical effect of this will apply to life reinsurance premiums paid to Canadian, Russian, Swiss and Singaporean reinsurers.

### *Submission*

The FSC submits a unilateral change to the New Zealand domestic tax legislation in relation to this issue is unfair to the impacted New Zealand life insurers and their policyholders. The appropriate response is to amend the relevant Double Tax Agreements.

Should the proposed change proceed, the FSC submits this proposal should apply to new life reinsurance contracts entered into on or after 1 July 2018 meaning life reinsurance contracts entered into prior to 1 July 2018 are grandfathered. Further this grandfathering should also apply if a life reinsurer changes its tax residence during the term of an existing reinsurance contract to Canada, Russia, Switzerland or Singapore or new contracts where New Zealand life insurers could not be reasonably expected to have knowledge of the tax residence of the life reinsurers.

The proposed amendment, if enacted in its current form, would deny an income tax deduction to New Zealand life insurers for reinsurance premiums paid to Canadian, Russian, Swiss and Singaporean reinsurers under existing life reinsurance contracts. The cost of this measure would therefore fall unfairly on New Zealand life insurers and potentially their policyholders if passed on through premium pricing given the likely inability to renegotiate these contracts for this change in tax law.

Double Tax Agreements are intended to overcome instances of double taxation. The proposed change in denying New Zealand life insurers a deduction for certain reinsurance premiums would give rise to double taxation with no ability to relying on the relevant Double Tax Agreements. Further, the proposed amendment may give rise to operational difficulties for New Zealand life insurers. For these reasons, the appropriate response is to amend the relevant Double Tax Agreements.

If this amendment in its current form is required, it should only apply to new life reinsurance contracts entered into on or 1 July 2018 so New Zealand life insurers can have regard to the impact of this when negotiating such contracts. Further this grandfathering should also apply if a life reinsurer changes its tax residence during the term of an existing reinsurance contract to Canada, Russia, Switzerland or Singapore or new contracts where New Zealand life insurers could not be reasonably expected to have knowledge of the tax residence of the life reinsurers.

---