

13 August 2018

Committee Secretariat
Finance and Expenditure Committee
Parliament Buildings
Wellington
New Zealand

To the Finance and Expenditure Committee

**Submission on Taxation (Annual Rates for 2018-19, Modernising Tax
Administration, and Remedial Matters) Bill**

This submission is from the Financial Services Council of New Zealand Incorporated (**FSC**) on the Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill.

Through its 35 members and associate members, the FSC is the voice of the financial services industry, covering over 95% of the major insurers in life, disability, income, and trauma insurance market in New Zealand and more than \$47.5bn funds under management through fund managers and KiwiSaver providers. Law firms, audit firms, and other providers to the financial services sector are represented among its membership.

Our comments on the Bill have been developed through consultation, and represent the views of our members and our industry.

The FSC guiding vision is to be the voice of New Zealand's financial services industry and we strongly support initiatives that are designed to deliver:

1. Strong and sustainable consumer outcomes;
2. Sustainability of the financial services sector; and
3. Increasing professionalism and trust of the industry.

I can be contacted on 021 0233 5414 or richard.klipin@fsc.org.nz to discuss any element of our submission, or alternatively, our tax committee co-chairs - Richard Cox (Richard.j.cox@westpac.co.nz) or Matthew Hanley (Matthew.hanley@nz.ey.com).

Yours sincerely

Richard Klipin
Chief Executive Officer, Financial Services Council

1. KiwiSaver Enhancements

Clauses 216 and 229 – 237 propose some enhancements to KiwiSaver, specifically:

- introducing additional KiwiSaver contribution rates of 6% and 10%;
- reducing the maximum contributions holiday period from five years to one year;
- changing the name of the “contributions holiday” to “savings suspension”;
- allowing over 65 year olds to opt-in to KiwiSaver; and
- removing the lock-in period (which currently affects members who join KiwiSaver between the ages of 60 and 65).

Submission

While the FSC supports these enhancements, the FSC submits more fundamental changes to KiwiSaver are required to provide better outcomes for KiwiSaver members over time and to increase the financial wellbeing of New Zealanders. Significant research completed by the FSC on the attitudes of New Zealanders to retirement and KiwiSaver has informed a report on further recommended changes to KiwiSaver. The FSC will be releasing this recommendations report on 6 September 2018 which it will share with the Committee and Officials. We welcome an opportunity to discuss the recommendations in our report with Officials.

2. Modernising Tax Administration for Individual’s Income Tax

The Bill includes significant changes to the way in which the tax system will interact and impact on individual taxpayers which the FSC acknowledges are intended to be positive pro-active changes.

Submission

While the FSC acknowledges these changes are intended to be positive pro-active changes, the FSC submits it is essential Inland Revenue clearly communicates the practical implications of the changes for individual taxpayers to ensure the best transition.

3. Use of unsuitable RWT Rates (proposed new Section 25A)

Clause 30 provides for Inland Revenue to contact an individual regarding their use of an unsuitable tax rate for their investment income and will include a suggested new rate. If the individual accepts the suggested rate or no response is received within 20 working days, Inland Revenue will instruct the investment income payer to update the rate. This replaces a similar provision which was section 26B as a consequence of the [Taxation \(Annual Rates for 2017–18, Employment and Investment Income, and Remedial Matters\) Act 2018](#).

While the FSC is supportive of the rationale for Inland Revenue taking pro-active action to ensure that an individual is on a suitable resident withholding tax (RWT) rate, the FSC is concerned this measure will increase the compliance burden on its members, particularly when combined with the broader investment income information and broader regulatory reforms affecting the industry.

Submission

The FSC submits that the proposed new section 25A incorporate what was previously section 25A(3) for the new RWT rate to be used from when is reasonably practicable for the payer to do so. Further, the FSC submits that Inland Revenue needs to issue guidance on how often

it expects these RWT change instructions to be issued and that it needs to consult with payers of RWT on the practicalities in preparing this guidance to reduce the compliance burden on RWT payers.

The FSC further submits that Inland Revenue should also be required to provide fund managers with updated prescribed investor rate (PIR) rates for default KiwiSaver members where it has income information that indicates their PIR should be a lower rate, say by 31 July each year. As PIE tax is a final tax, Inland Revenue being proactive in ensuring default members, who based on our members' experience, are very difficult to engage with, would ensure these KiwiSaver members are not unduly disadvantaged through their KiwiSaver savings being overtaxed. This measure would be a specific extension of section HM 60(5) which allows Inland Revenue to amend an investor's PIR if Inland Revenue considers it to be incorrect. Based on our members' experience, this section is rarely used.

4. Pre-populated accounts: Inclusion of PIE income that has been undertaxed be treated in an individual's pre-populated account

Clause 21 makes provision for Inland Revenue to provide pre-populated account information to individual taxpayers. It is unclear from the commentary and the Bill whether the end of year tax computations that Inland Revenue prepares for individuals will include the shortfall in PIE tax where individuals have elected a PIR that is lower than their correct PIR.

Submission

The FSC submits that proposed Schedule 8, Table 1 relating to 'Reporting of income information by individuals' include specific reference to PIE taxable income where that PIE income has been taxed at a PIR that is too low with the commentary issued by Inland Revenue providing clear guidance on the inclusion of PIE income.

5. Commissioner of Inland Revenue's care and management role

Clause 9 gives the Commissioner greater flexibility in respect of their care and management duty.

Submission

The FSC supports an extended approach that would give the Commissioner (or an appropriate delegated officer) greater flexibility under revised care and management provisions, provided sufficient safeguards are in place regarding the Commissioner's use of such discretion.

The FSC further submits the law be clear this can apply to income years prior to enactment.

6. PIE and Unit Trust Remedials

Clauses 167, 213(18), 214 and 217 include a number of remedial changes as follows:

- Allowing listed PIEs being wound up to extend the time period they can remain PIEs as part of the wind up process;
- A change regarding how the notional single person rule is applied to public unit trusts;
- Extension of the PIE maximum investor interest exemption to the Northland Regional Council.

Submission

The FSC supports these changes.

The FSC further submits that given the inclusion of the Northland Regional Council on schedule 29 for the PIE maximum investor interest exemption, there are other local and regional councils investing for the benefit of their ratepayers that should be included also.

7. New regulation-making power for datasets

Clause 15 includes a proposed new section 17L which would insert a new regulation-making power into the Tax Administration Act 1994. This would enable regulations to be made by Order in Council, authorising the collection, on a regular basis, of bulk data, where that collection is necessary or relevant for revenue purposes. A regulation would specify:

- the type of information to be collected;
- the person, or class of persons from whom it would be collected;
- the frequency of collection; and
- the form and specifications for the collection of the information.

The FSC notes that such data requests impose compliance costs on those groups of taxpayers and others to whom they are made which should be considered when the statutory review is undertaken. Providing the required information could place an unreasonable burden on information holders. The cost or effort involved in the regular provision of information on a large scale should also be considered.

Submission

FSC submits the required consultation that occurs in the setting of such regulations should also extend to relevant industry bodies such as the FSC and impacted taxpayers to ensure the requested datasets can practically be provided and is appropriate.

The FSC also submits that Inland Revenue must be required to publicly disclose a description of those datasets which it intends to collect on a regular basis so the affected third parties whose data is being requested are aware. The FSC notes the Australian Tax Office already takes this approach.
