Tax Alert

June 2024

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Tax threshold changes – now the work really starts to deliver tax cuts

By Robyn Walker

It's been so long since tax thresholds have been adjusted in New Zealand that many people have either forgotten about or don't know about the 'consequential' impact on employers and software providers in having to adjust calculation methodologies to actually deliver the tax reductions promised by the Government into the back pockets of employees.

It was of no surprise that we saw an adjustment in tax thresholds as part of Budget 2024, but what was surprising was that they were the same as what the National Party had campaigned on, except for one element – the application date.

Old thresholds	Tax rate	New thresholds
$0 – $14,000	10.5%	$0 - $15,600
$14,001 – $48,000	17.5%	$15,601 - $53,500
$48,001 – $70,000	30%	$53,501 - $78,100
$70,001 – $180,000	33%	$78,101 - $180,000
$180,001+	39%	$180,001+

The majority of changes announced in Budget 2024 will now apply from **31 July 2024**. This application date was pushed back from 1 July 2024 to allow more time for payroll providers to update and test systems before the go-live date. However, the choice of 31 July, rather than 1 August leaves us mathematically considering the formulas of 121/365 and 244/365 (dates at old and new thresholds respectively) rather than the conceptually simpler 1/3 and 2/3.

The key issue to be aware of is that for payroll purposes, thresholds should adjust from 31 July, but the 2024/25 tax year will be considered a "composite" year, and that means that tax reductions will effectively be averaged across the year when it comes to working out end-of-year tax obligations. The consequence will be if someone earned proportionately more income in the last 244 days of the tax year, they may have been undertaxed and have a tax liability, and vice versa.

When factoring in the threshold changes and the application date, for the 2024/25 tax year there will be eight tax bands which need to be applied to work out total tax obligation:

Threshold	Tax rate
$0 – $14,000	10.5%
$14,001 – $15,600	12.82%
$15,601 – $48,000	17.5%
$48,001 – $53,500	21.64%
$53,501 – $70,000	30%
$70,001 – $78,100	30.99%
$78,101 – $180,000	33%
$180,001+	39%

If employers and payroll providers are unable to be ready for the 31 July start date, there is the option to put through a payroll correction to correct any errors.

Consequential changes

Tax threshold changes don't impact only on payroll, tax code selection, and personal tax calculations, they also have flow-on implications for other tax types. Given the short lead time, the Government has taken a variety of approaches to when these different taxes will change:

Extra Pays and Tax Codes

The decision was made to not disrupt the approach to extra pays and tax codes in the 2024/25 tax year, so instead thresholds for determining which extra pay rate to use and which tax code to apply will only change from 1 April 2025.

Fringe Benefit Tax (FBT)

For employers undertaking FBT attribution calculations, the tax thresholds for FBT will not change until 1 April 2025, however, in order to stop tax reductions effectively being clawed back through the formula for calculating FBT, the decision has been made to adjust how FBT is calculated with effect from 1 April 2024. We'll cover this in more detail in a future edition of Tax Alert. The key message is that anyone still doing FBT calculations using complicated formulas in excel will need to do some rework when it comes to the 2025 and 2026 FBT attributions.

From 1 April 2025 the FBT thresholds will become:

Range of all-inclusive pay	Tax rate
$0 – $13,962	11.73%
$13,963 – $45,230	21.21%
$45,231 – $62,450	42.86%
$62,451 – $130,723	49.25%
$130,724+	63.93%

Employer Superannuation Contribution Tax (ESCT)

ESCT rates are generally set by looking backwards to the amount of income earned in the previous year, and include a 20% "buffer" to prevent taxpayers jumping into the next tax band. To simplify matters it was decided that ESCT thresholds will only change from 1 April 2025. This may technically result in some workers having a higher level of ESCT applied than if the rates were adjusted immediately, however, it will save employers some compliance costs. The following thresholds will apply from 1 April 2025:

ESCT threshold amount	Tax rate
$0 – $18,720	10.5%
$18,721 – $64,200	17.5%
$64,201 – $93,720	30%
$93,721 – $216,000	33%
$216,001+	39%

Retirement Superannuation Contribution Tax (RSCT)

Employers who opt to pay RSCT will need to apply new thresholds (which align with the personal tax thresholds) from 1 April 2025.

Prescribed Investor Rates (PIR)

Investors into KiwiSaver and other Portfolio Investment Entities (PIEs) will be used to confirming their correct Prescribed Investor Rate (PIR) each year. To simplify compliance, it has been determined that PIRs should only be adjusted with effect from 1 April 2025, with the thresholds for applying a 10.5% or 17.5% PIR aligning with the new personal tax thresholds from that date. The top PIE remains 28%.

Resident Withholding Tax (RWT)

Taxpayers who find themselves having moved down a threshold (from 17.5% to 10.5%, from 30% to 17.5% or from 33% to 30%) as a consequence of the band changes will have the option to elect a lower RWT rate by notifying their interest payer.

Independent earner tax credit (IETC)
Despite tax codes not changing until 1 April 2025, from 31 July there is a change to eligibility for the IETC. The IETC currently provides up to $10 per week to individuals earning between $24,000 and $48,000 (with the benefit currently abating once someone earns $44,000). The upper threshold for this credit has been extended to $70,000 (with abatement beginning at $66,000) meaning an anticipated extra 420,000 taxpayers will be eligible. Given the part-year implementation, there are apportionment calculations to be made to ensure that the credit is only made available for 244/365 days for those who are only eligible due to the Budget changes. These changes should effectively be built within PAYE table calculations and therefore shouldn't require further work from employers.

FamilyBoost
Not technically a tax change, but administered by Inland Revenue, is "FamilyBoost". FamilyBoost was announced in March and will allow parents to claim back up to 25% of weekly early childcare costs, but to a maximum of $75 per week. FamilyBoost will be available from 1 July 2024, with parents required to upload invoices to Inland Revenue on a quarterly basis. Only households with total income below $180,000 will be eligible (with abatement applying from $140,000), and this will be assessed by Inland Revenue using real-time pay data. Employers are not responsible for FamilyBoost, but may field questions if employees don't understand how this "tax relief" will be delivered.

In-Work Tax Credit (IWTC) and Minimum Family Tax Credit (MFTC)
The IWTC exists to support low- to middle-income family members to remain in work. The IWTC base rate is increasing from $3,770 to $5,070 per year (a $25 per week increase).

The MFTC is one of the Working for Families tax credits and "tops up" incomes for working families to ensure they are better off than receiving a benefit. The MFTC threshold is increasing from $35,204 to $35,316 per year after tax from 31 July 2024.

Conclusion

It is important that employers take steps now to familiarise themselves with the new requirements to ensure that employees can benefit from tax relief as soon as possible. We understand that payroll providers were made aware of the impending changes ahead of the Budget, and as such have had a head start to get software updated. We recommend that employers touch base with their payroll provider (if this is outsourced) to find out the timelines for software updates and testing. Employers who prepare their own payroll may wish to consider whether now is a good time to move to an outsource model... or otherwise should keep an eye on the Inland Revenue website for key updates to PAYE deduction tables.

If errors are made, then consideration can be given to making a correction in a subsequent pay period, or else, given amounts in question may be low (in comparison to the work required to make corrections), it may be left to be squared up as part of the end of year process for individuals. We expect Inland Revenue to release more practical details in this regard as 31 July 2024 approaches.

For more information please contact your usual Deloitte advisor.

Household income	Maximum weekly rebate	Amount refunded, paid three-monthly
Up to $140,000	$75	$975
$150,000	$56.25	$731.25
$160,000	$37.50	$487.50
$170,000	$18.75	$243.75

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2024 Mileage reimbursement rates – what you need to know

By Amy Sexton and Andrea Scatchard

Every year the Commissioner of the Inland Revenue sets the motor vehicle kilometre expense rates for businesses. This year you may have missed the publication of the 2024 income year rates as it was published amid the Minister of Finance delivering the Budget on 30 May 2024.

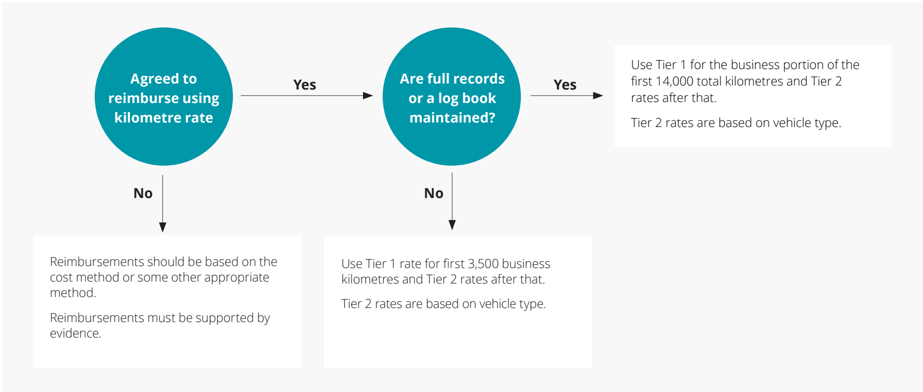
For the 2024 income year, both the Tier One and Tier Two rates have increased from 2023, reflecting an overall increase in vehicle running costs largely due to fuel costs, insurance, and interest rates:

2024		
Vehicle Type	**Tier One Rate**	**Tier Two Rate**
Petrol or Diesel	$1.04	$0.35
Petrol Hybrid	$1.04	$0.21
Electric	$1.04	$0.12

2023		
Vehicle Type	**Tier One Rate**	**Tier Two Rate**
Petrol or Diesel	$0.95	$0.34
Petrol Hybrid	$0.95	$0.20
Electric	$0.95	$0.11

What does Tier One and Tier Two mean?

The Tier One rates reflect the fixed and variable costs of running a vehicle and can be used for the first 3,500km of business travel, or the business portion of the first 14,000km of total travel in the vehicle. After these limits, the lower Tier Two rates apply (which only reflect variable costs). How to decide on which rate to use is summarised in the flow chart to the right:



What do I need to remember?

The Commissioner of Inland Revenue is required to regularly set kilometre rates so that these can be used by self-employed business owners or close companies to determine available tax deductions for business use of a vehicle (if they choose to use that method). In practice, the same rates are often also used by businesses that reimburse employees for the use of personal vehicles for work purposes. Provided reimbursements are made at or below the specified rates, they can be paid "tax-free" without the employer doing further analysis.

Use of these rates is not compulsory. Business owners can instead claim deductions for actual costs incurred, and likewise, employers can reimburse employees at higher rates, but records would need to be kept substantiating that the rate of reimbursement is a reasonable approximation of actual costs.

Self-employed and close companies

If you are a sole trader or qualifying close company and use the kilometre rate method to claim business vehicle costs, this new rate applies for the 2024 year, that is, 1 April 2023 - 31 March 2024 (if you have a standard balance date).

The increase in the rate will increase the amount of vehicle costs you can claim when you file your 2024 tax return. If you have already filed your 2024 income tax return relying on the 2023 kilometre rates, you may be able to self-correct the difference in your 2025 income return, depending on the amount of the difference between the two amounts claimed. If the difference between what was originally claimed, and what can now be claimed is material, you can file a Notice of Proposed Adjustment (this is only available within four months after the filing of an income tax return).

Employers

If you are an employer and are reimbursing employees for work-related travel, the increased rates apply to reimbursements made from the date that the new rates were issued – 30 May 2024. If your reimbursement policy states that you will reimburse employees at the Inland Revenue rate, you will need to update the rate you pay as soon as practically possible. When rates are increased, a lag in updating rates paid to employees, while potentially disadvantageous to employees, does not cause a PAYE problem.

The increase in the Tier Two rates as between 2023 and 2024 may have some scratching their heads, as rates have only increased by 1c across the board, whereas electric vehicles (EVs) are now subject to road user charges of 7.6c per kilometre. This is because the predominant purpose of these rules is to be backward looking for use by the self-employed and close companies. We anticipate the Tier Two rate for EVs will increase next year.

If your reimbursement policy states a set rate at which you will reimburse work-related mileage, and this is lower than the new rate, you do not need to do anything as the amount you pay will be tax-free, but you may get pressure from employees to increase the reimbursement rate.

For more information about applying the new kilometre rates or mileage reimbursement options please contact your usual Deloitte advisor.

Square metre rate for the dual use of premises – 2024 Income Year $53.10

Also out on 30 May 2024 was the square metre rate for the dual use of premises for the 2024 income year. Set at $53.10, the amount reflects the June 2019 Household Economic Survey utility costs (adjusted for inflation) and the 4% annual movement of the Consumers Price Index for the year to March 2024.

The square metre rate is available to be used by taxpayers to calculate deductions when using their residential premises for both private and business purposes rather than keeping detailed records of actual costs.

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Unlocking the tax impact of UK pension transfers

By Kirsty Hallett, Ian Fay, Eleanor Meredith and Rachel McEleney

Most people who have lived and worked in the UK will have a UK pension plan. Therefore it is not uncommon for someone returning to, or looking to migrate to, New Zealand to consider transferring their UK pension entitlement into a New Zealand scheme. Luckily there are tax rules that make this a particularly attractive option to consider within your first four years of residing or returning to New Zealand. These tax rules mean the funds can be transferred into certain pension schemes recognised by the UK tax authority as 'tax-free'. Once transferred into a New Zealand scheme, the funds can be withdrawn tax-free in New Zealand at the relevant retirement age.

However, care needs to be taken as it is not as simple as it sounds. There are some fishhooks to look out for.

1. Transfers are not always tax-free in New Zealand. The amount that is taxable in New Zealand depends on how long the individual has been present in New Zealand at the time of withdrawal or transfer, with the added bonus that new migrants (or returning residents who accrued their rights in the foreign scheme whilst a non-resident) are generally able to utilise a four-year window and move their pension plans into New Zealand tax-free within that initial period. There are some criteria that need to be met to be able to utilise this exemption, with the most critical one being that the foreign scheme must have been acquired while you were non-resident for New Zealand tax purposes. In addition, the four-year exemption period will end earlier if the person ceases to be a tax resident during the initial four-year period.

2. Seek financial advice. Tax is only one aspect to be taken into account in the decision-making process. How the funds will be invested once transferred, your expected returns, the exposure to various asset classes/currencies, and your future needs are examples of other matters that should be factored into the decision-making process. A financial advisor is best placed to guide you on these aspects.

3. The transfer is not 'tax-free'. While you may be able to transfer your pension into a New Zealand scheme tax-free if you are within the four-year exemption period, once the funds are invested in the New Zealand scheme, any investment returns will be taxed at the fund level, impacting your returns within the fund. It may be preferable to retain the funds offshore where they may be accumulating tax-free, even when there may be a tax impost on withdrawal.

4. New Zealand tax is only half the story. You also need to be mindful of the potential UK tax implications that can arise. If a transfer is made from a UK-registered pension scheme (i.e. one that is tax approved) an unauthorised payment charge and surcharge at a combined tax rate of 55% is likely to apply, unless the receiving scheme is a Qualifying Recognised Overseas Pension Scheme (QROPS), even if the pension trustees can be persuaded to allow it (usually they will not as it would incur a sanction charge for the scheme). In addition, further transfer charges can apply if certain conditions are not met, or if funds are transferred or used inappropriately thereafter.

QROPS are non-UK pension schemes that meet specific conditions in countries where they are established and have advised the UK tax authority (His Majesty's Revenue and Customs or "HMRC") that they meet those conditions and that they will notify HMRC of certain events (pension benefits being taken, for example). Additional tax charges can apply on subsequent events such as the pension benefits being drawn, if they are not drawn in an appropriate way, and you have not been non-resident in the UK for tax purposes for a period encompassing at least the current and the previous ten UK tax years. If you are aged at least 55, your pension pot derives from a defined contribution pension scheme, and you are drawing the pension as a lump sum and/or an annuity you will usually be able to withdraw the pension savings without adverse UK tax consequences. Recent reforms announced changing the way in which the UK taxes its residents are not expected to alter any of the above, although tax law is ever-changing and must be kept under review.

There are also transfer charges which can apply if the transfer is made to a QROPS that is not in the country in which you are a tax resident (there are other possible carve-outs, but none that are likely to apply to anyone retiring in New Zealand). These can apply in addition to further transfers within the next five UK tax years. Where it applies the charge is at 25% of the fund. There is no minimum period over which funds have to be left in the QROPS for anyone aged at least 55, but there will be reporting requirements for the fund administrators if a distribution is taken during the "look back period", and taxpayers must also have established that they are resident and treaty resident in New Zealand before benefits are drawn if they wish to take advantage of the double tax treaty.

UK tax charges can also apply if the pension scheme invests the pension savings in an inappropriate way, most commonly in residential properties.

The UK also has a temporary non-residence regime, which can result in pension income that was initially paid free of UK tax being taxed in the year the individual returns to the UK. This rule applies if they have been a non-UK resident for 5 years or less.

The position is complex and care and expert advice are needed to navigate the UK tax rules without triggering unexpected UK tax consequences.

5. It is a time-consuming process. Start planning early and expect the process to take several months from when you initially begin investigating making a transfer to the transfer taking effect. Not only is it necessary to do appropriate due diligence including seeking financial advice and tax advice regarding the transfer, there is a process that needs to be diligently followed to effect the transfer. It is important to engage with someone skilled in UK pension transfers with a good understanding of the administrative process and requirements from a UK perspective. Do your homework.

6. Forward planning is essential. Individuals are only taxed in New Zealand on a withdrawal from their foreign pension plan, including a transfer into a New Zealand Scheme. Keep this in mind if you are only planning to be in New Zealand temporarily. It may be preferable to retain your UK pension and keep it out of the New Zealand tax base, however, this may have some different tax impacts down the track. It may not be the right decision in all cases to immediately transfer your funds even if you are trying to take advantage of the tax-free window.

7. Cash flow – Where the transfer does trigger a New Zealand tax liability, consideration needs to be given to how the liability will be settled as of course your funds are locked into the scheme. While early withdrawals are permitted under New Zealand tax legislation for the purposes of settling the liability arising on the transfer to the New Zealand scheme, as the rules currently stand, this could trigger some adverse UK tax implications. In most cases, the liability would need to be settled from funds sourced elsewhere.

If you are considering transferring a UK pension entitlement or withdrawing your entitlements we recommend you contact your usual Deloitte advisor to discuss further.

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Australian Federal Budget: Non-resident CGT changes

By Amy Sexton, Robyn Walker and David Watkins

On 14 May 2024, Australian Treasurer Jim Chalmers delivered the [2024-25 Federal Budget]. The Budget focuses on five priority areas identified by the Australian Government:

- Easing cost-of-living pressures
- Building more homes for Australians
- Investing in a Future Made in Australia
- Strengthening Medicare and the care economy
- Broadening opportunity and advancing equality.

This can be contrasted against the budget priorities identified by the New Zealand Government in its March 2024 [Budget Policy Statement]:

- Delivering meaningful tax reductions to provide cost of living relief to New Zealanders
- Identifying enduring savings across government departments and agencies
- Improving public services by shifting spending to higher-value areas and focusing on results
- Keeping tight control of government spending while funding a limited number of high-priority Government policy commitments and urgent cost pressures that cannot be funded through reprioritisation
- Developing a long-term, sustainable pipeline of infrastructure investments.

Expansion of non-resident capital gains tax (CGT)

One of the tax changes announced in the Australian Federal Budget that may affect New Zealanders is the expansion of the Australian non-resident CGT regime (Division 855 of the Income Tax Assessment Act 1997).

The budget announcement stated that the changes would "clarify and broaden the types of assets that foreign residents are subject to CGT on" and ensure that Australia can "tax foreign residents on direct and indirect sales of assets with a close economic connection to Australian land, more in line with the tax treatment that already applies to Australian residents".

What are the current rules?

Generally, a capital gain made by a non-resident is disregarded for tax when the asset is not "taxable Australian property" (TAP). The two most relevant categories of TAP are:

- Taxable Australian real property, which currently includes:
  - Real property (including leases if the land is in Australia)
  - Mining, quarrying and prospecting rights (if the minerals etc. are situated in Australia)
- Indirect Australian real property interests being, broadly, non-portfolio membership interests (i.e., shares/units) if, broadly, more than half of the underlying asset value at the time of disposal relates to taxable Australian real property (referred to as the Principal Asset Test).

What are the changes?

The changes announced in the budget will apply to CGT events commencing on or after 1 July 2025 and will be designed to:

- Clarify and broaden the types of assets that non-residents are subject to CGT
- Amend the point-in-time Principal Asset Test to a 365-day look-back test period
- Require non-residents disposing of shares and other membership interests exceeding AUD20 million in value to notify the ATO before the transactions are executed.

The changes are designed to ensure that Australia can tax non-residents on direct and indirect sales of assets with a close economic connection to Australian land, more in line with the tax treatment that already applies to Australian residents.

The reforms are said to also improve certainty for non-resident investors by aligning Australia's tax law for non-resident capital gains more closely with OECD standards and international best practices.

At this stage our understanding is based on the details in the Australian Budget documents. More details about the changes are expected to be released in the exposure draft legislation as part of consultation before the legislative changes are implemented. Any New Zealand owners of assets in Australian should follow these developments if they intend selling assets after 1 June 2025.

Please get in touch with your local Deloitte advisor if you would like any further information on these changes.

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DST … to be, or not to be?

By Viola Trnski and Robyn Walker

On its very last sitting day (31 August 2023), the 53rd Parliament introduced the Digital Services Tax Bill (the DST Bill). The controversial Bill proposes applying a 3% tax on digital services revenue earned from New Zealand customers by large digital services companies. We have details of the Bill in our earlier article.

Digital Services Taxes (DSTs) are controversial, as they level a tax on revenue rather than the profit of a business. The intended targets of DSTs are often United States (US) based technology companies, and consequently, the US itself has not responded favourably to such taxes, instead, they have threatened trade retaliations against countries with a DST. Trade retaliation from the United States remains a real risk if New Zealand goes ahead with a DST. When advising on the DST Bill the Ministry of Foreign Affairs and Trade (MFAT) strongly recommended continuing to wait for a multilateral solution.

With the Bill having been tabled before the election, the anticipated revenue of $129 million in 2026 and $93 million in 2027 was "banked" in the Pre-Election Economic and Fiscal Update (PREFU), and it has been sitting in the Government books since as a looming issue to deal with. Budget 2024 seemed like it was the right time to make a decision.

When the current Coalition Government was formed, Bills that had lapsed as a consequence of the election were reinstated. This has meant that the DST Bill has been hovering on the Parliamentary order paper, not progressing, but not going away either. Prior to Budget 2024, the Minister of Revenue was quoted indicating the future of the Bill is still up in the air:

'A multilateral solution remains our preferred approach. While we have reinstated the Digital Services Tax Bill, we have made no decisions about whether it should progress at this time.'

Budget 2024 confirmed the cautious approach to wait and see:

"The current Government is still to decide whether or how to progress the DST. The forecasts currently assume a 1 January 2025 implementation and include revenue of $320 million over the forecast period in relation to the DST with an additional $98 million per annum expected beyond the forecast period. The OECD solution might be agreed and adopted (or otherwise make satisfactory progress towards implementation) instead of the proposed DST, which would generate different revenue than a DST."

What this means is that the Government will still need to decide whether to forge ahead with a DST, as revenue raised from the proposal remains booked into the accounts with effect from 1 January 2025. This is optimistic given the number of steps still required to legislate and implement a new tax within the next seven months.

Introducing a DST may seem straightforward, but there are some nuances to consider, particularly around multilateralism and the risk of trade retaliation from the US.

The OECD has been trying to build consensus around its solution – Amount A of Pillar One – which reallocates taxing rights to where users are based (rather than physical presence) and would replace unilateral DSTs.

As introduced, the Bill is intended to potentially start taxing revenue from 1 January 2025, the day after a moratorium on such taxes expires. While New Zealand agreed to the moratorium in July 2023 (shortly before then introducing the DST Bill), five countries did not sign up, including Canada, who said they "cannot support the extended standstill".

With the Government signalling that a DST remains potentially in play, New Zealand exporters will continue to hold their breath, hoping to not have tariffs imposed on exports to the US.

New Zealand joins a number of countries in proposing a DST (or equivalent). Deloitte maintains a tracker of these taxes, so if they are of interest, please get in touch with your usual Deloitte advisor.

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Taxes – is the juice worth the squeeze?

By Robyn Walker

Tax is something that can be a divisive subject, with everyone seeming to have an opinion about the optimum level of tax collected, the mix of that tax, and who should be paying more or less tax.

There was a clear signal in Budget 2024 that we shouldn't expect any new taxes (the Budget 'revenue strategy' states: "With prudent control of spending, the Government does not see the need to seek major additional sources of revenue"). Despite this, debate still seems to rage on about whether New Zealand needs to have a capital gains tax or a wealth tax. The flames of this debate are fuelled by speculation about deteriorating tax collections, an aging population, the desire for more spending and investment, and of course the views of international organisations such as the IMF and OECD who have both again suggested New Zealand needs a capital gains tax (CGT).

One of the first issues though, is do we actually need more taxes?

After the high-spending COVID years, we're going through a period of major readjustment, with many people concerned at the idea of cutting government spending and what this means for public services.

A key part of Budget 2024 was having tighter control over government spending and focusing on high-priority areas. A lot of emphasis has gone on the fact that tax threshold changes are at least partially funded through spending reductions.

Using OECD data, the amount of tax New Zealand collects is 33.8% of Gross Domestic Product (GDP). The OECD average amount of tax collections is 34%, so despite calls for more tax, it's difficult to say that New Zealanders, as a whole, are currently undertaxed.

That naturally leads to a view that perhaps the mix of tax should be changed so that higher (economic) income earners pay more, and lower earning people pay less.

As it stands however, research suggests to truly understand the imposition of tax on different groups, taxes imposed should also be compared to transfers received (for example Working For Families) in order to understand who is comparatively over or under taxed. It is this thinking that leads to the nomenclature "the squeezed middle", being those middle earners with high taxes on their economic income and limited or no access to any social transfers.

If we want to reduce taxes on the "squeezed middle", then rather than adjusting spending or borrowing, some might suggest we should find another group to be taxed more, which is where the calls for a capital gains tax or wealth tax come in.

The idea of these taxes are gaining popular momentum because of a perception that there is a subset of society not currently paying enough tax. Whether this is true or not, or fair or not is not the point of this article. Fairness, in particular, is in the eye of the beholder. If society wants to tax different things, there needs to be an awareness of the consequences and trade-offs.

Capital Gains Tax

The tyres on this topic were last thoroughly kicked in 2017 by the Cullen Tax Working Group (TWG).

The majority largely took a purist view and recommended a comprehensive CGT, which famously was almost immediately ruled out by the Prime Minister of the time.

The minority of the TWG rejected the idea of a comprehensive CGT and instead favoured focusing attention only on residential property where there was clearer evidence that there was under-taxation. Their view was that a comprehensive CGT could not be implemented in a way that the additional revenue collected increased perceptions of fairness and integrity, and where the benefit would exceed the efficiency, compliance and administrative costs imposed.

Additional arguments the Tax Working Group Minority made against a comprehensive CGT included:

- CGTs can impede innovation and distort investment decisions;
- Taxing gains from business assets, including goodwill, increases the need for roll-over reliefs and exceptions which are intended to reduce the lock-in impact of CGT and compliance costs, but can actually have the opposite effect;
- Taxing both business profits and share gains can cause double taxation;
- Rules applying to KiwiSaver and Portfolio Investment Entities would need to be redesigned;
- The extra revenue forecast was relatively low and when taxing gains, the Government is essentially assuming a portion of private sector risk in relation to losses arising.

In addition to the above, it would be remiss to ignore that many capital gains are already taxed under our income tax rules, with our financial arrangement rules and certain foreign equity rules even taxing unrealised capital gains.

The TWG forecast revenue to originally start at $400million per annum (0.4% of tax revenue) and gradually increase, with the largest forecast source of revenue being residential rental investment and second homes (hence the suggestion of the TWG Minority to focus here); which is consistent with having an extended bright-line test.

This level of revenue is typical, with a 2009 Australian report noting "[most OECD countries have capital gains taxes, but they typically yield less than five per cent of the revenues from the income tax and always less than one per cent of GDP."

While a CGT has the prospect of gradually increasing tax collections and ultimately collecting a "not immaterial" level of tax, the administrative and compliance costs of collecting that tax would be significantly higher than the more efficient taxes that already exist, such that the argument pivots more to fairness rather than just revenue collection.

By way of comparison, it's understood that the Australian CGT legislation is in excess of 890 pages (our GST Act, which collects over $25 billion is less than 300 pages). Australia has a comprehensive CGT regime, albeit with many politically driven exemptions.

The complexities associated with a comprehensive CGT regime generally relate to providing exemptions and concessions, and building complicated rules around them; for example, access to concessional rates (to reflect, and not tax, the inflation component of a gain), exemptions for family homes, roll-over relief when assets are sold and replacements acquired etc.

The counter to this is that we already have a large number of complex rules and considerable time is already spent considering the capital/revenue boundary as a consequence of the lack of a comprehensive CGT. That said, a targeted regime consistent with the TWG Minority view could collect the bulk of the revenue with the lowest compliance and administrative costs.

Wealth Tax

The fact that New Zealand was close to having a wealth tax introduced as part of Budget 2023 is something that has concerned virtually all involved in tax policy.

While there seems some popular appeal to the idea of applying a small tax to the wealth of a small number of people, it's not necessarily as simple or logical as it seems.

The problems with wealth taxes are fairly well documented, but are perhaps best illustrated by the fact that only around 4 countries have one, and of those countries, wealth tax collects very small amounts of revenue (Switzerland – 3.9%; Norway – 1.1%; Spain – 0.5%).

One of the issues with wealth taxes is that it is a tax based on a moment in time. It requires valuations and/or proxy calculations and exemptions (which then distorts decisions). It is based on asset values and therefore does not take into account the ability to pay, which is an issue for people who may be asset-rich, but cash-poor (for example, the elderly). A wealth tax also impacts on entrepreneurs – if a business has taken off and suddenly is highly valued with intellectual property and goodwill, owners actually end up with material tax bills that can't be funded without selling at least part of the business.

Other issues can include the potential for double taxation, liquidity issues, requirements for annual valuations, underreporting of assets, and of course the risk of wealth flight (the simplest way to avoid the tax is to leave).

It is effectively an asset tax, like rates. The wealth aspect is simply to set a threshold from which it applies.

Conclusion

It is not costless to impose taxes. Any tax brings with it compliance and administration costs. It has previously been estimated that there is a cost to society of $120-$130 for every $100 of tax collected. As a whole, many New Zealanders have become accustomed to tax hiding in the background, with PAYE deducted from earnings at source and GST added into prices. These taxes collect the bulk of New Zealand's revenue and do so almost invisibly and incredibly efficiently (although the businesses who act as unpaid tax collectors may view things differently). However, when you move into the territory of other taxes, you enter a minefield of complexities and the cost of calculating and collecting the tax rises exponentially. This raises the question, is the juice worth the squeeze?

While there are many clear reasons not to have a wealth tax, the arguments for and against capital gains taxes of some form are less clear-cut. The current concern is that with 3 political parties having a wealth tax either as a former or current policy, at some point the view of voters may be that they just want certain people squeezed regardless of the juice.

Despite the above, one thing is clear, we shouldn't be seeing a capital gains tax or wealth tax on the table for the next couple of years.

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Snapshot of recent developments

Tax legislation and policy announcements

Info release: Taxation (Annual Rates, Multinational Tax and Remedial Matters) Bill

On 10 May 2024, Inland Revenue published 197 pages of cabinet minutes, advice, reports, and briefing notes on the changes subsequently enacted in the 2023-24 Annual Rates Act.

Info release: Mini Budget 2023

On 10 May 2024, the Treasury released information on the Mini Budget announced in December 2023.

Inland Revenue statements and guidance

BR Prd 24/01: Electricity Ashburton Limited trading as EA Networks

On 22 March 2024, Inland Revenue issued BR PRD 24/01: Electricity Ashburton Limited trading as EA Networks. The product ruling applies to an arrangement where payment of consumer discounts under the Consumer Discount Policy by Electricity Ashburton Limited (EA networks) to electricity supply retailers (retailers) that contract with EA Networks to use its electricity distribution network to supply electricity to consumers (Users) and passing on these Consumer Discounts by Retailers to all eligible Users. A Consumer Discount paid under the Consumer Discount Policy by EA Networks to a User will not amount to a taxable dividend in the hands of the User under s CD 1. This ruling will apply for the period beginning 1 April 2024 and ending on 31 March 2029.

RWT exemption applications

On 22 April 2024, Inland Revenue announced that taxpayers and agents can now apply for an exemption from paying RWT in myIR.

Customers with overdue debt

On 24 April 2024, Inland Revenue announced that over the coming months, they will be visiting businesses with significant outstanding tax debt who have not engaged with Inland Revenue, despite receiving reminders and warning notices.

Inland Revenue strongly encourages taxpayers with overdue tax debt, not under an arrangement, to talk with Inland Revenue as soon as possible.

Tax Information Bulletin Volume 36 No 4 May 2024

On 2 May 2024, Inland Revenue released TIB Vol 36 No 4 May 2024. This TIB covers:

New legislation

- Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024

Determinations

- DET 24/01: Amortisation rates for listed horticultural plants
- FDR 2024/01: A type of attributing interest in a foreign investment fund for which a person may not use the fair dividend rate method (Wellington Management Funds (Ireland) PLC - Wellington Global Impact Bond Fund NZD Class)
- DEP111: Tax Depreciation Rate for horticulture LED grow light systems
- CFC 2024/01: Non-attributing active insurance CFC status Tower Limited
- CFC 2024/02: Non-attributing active insurance CFC status Tower Limited
- CFC 2024/03: Non-attributing active insurance CFC status Tower Limited
- CFC 2024/04: Non-attributing active insurance CFC status Tower Limited
- CFC 2024/05: Non-attributing active insurance CFC status Tower Limited
- CFC 2024/06: Non-attributing active insurance CFC status Tower Limited

Interpretation statements

- IS 24/02: GST – Grouping for companies
- IS 24/03: GST – who can group register?

Case summary

- CSUM 24/02: Taxpayer challenge to timeliness of Commissioner's Statement of Position (CSOP) dismissed by TRA

Technical decision summary

- TDS 24/04: Receipt of a one-off payment
- TDS 24/05: Sale of bare land when intended for a subdivision

ED0255: Exemption from electronic filing

On 7 May 2024, Inland Revenue published the draft operational statement ED0255 Exemption from electronic filing. This sets out criteria for a person to be granted an exemption from the requirement to file returns/information electronically in relation to:

- to an employer who is included in the online group of employers;
- a GST-registered person who exceeds the statutory threshold for filing returns electronically; and

- a person who makes a payment of investment income.

The criteria the Commissioner will have regard to, per the legislation, which is discussed in ED0255, are:

- The nature and availability of digital services to the person, including the reliability of those services for the purposes of the person; and
- The capability of the person relating to the use of computers; and
- Whether the costs that would be incurred by the person in complying with the requirement of the legislation would be unreasonable.

The draft statement replaces OS 19/01, the operational position is unchanged but legislative references and the format of the statement have been updated. The deadline for comment is **28 May 2024**.

Technical Decision Summary (Private Ruling) – TDS 24/09: Transfer of property and whether income arises

On 13 May 2024, the Inland Revenue published a private ruling TDS 24/09.

Facts

- Non-resident Applicant is in business and proposed to transfer shares in company A to limited partnership B as a capital contribution (First Transfer).
- At the same time the Applicant will transfer a percentage of its interest in B to two limited partnerships (LPs) equally as a capital contribution (Second Transfer).
- Transfers are to be undertaken due to regulatory requirements of foreign jurisdiction.
- Applicant holds interest in A for long-term investment.

Issues

- Whether the transfer of the interests in A by the Applicant to B gives rise to income.
- Whether the transfer of the interests in B by the Applicant to the LPs gives rise to income.
- Whether the arrangement constitutes tax avoidance.

Decisions

- Transfer of interests in A by the Applicant to B does not give rise to income of the Applicant.
- Transfer of interests in B by the Applicant to the LPs gives rise to income to the Applicant equal to the value of the interests in A on the day of the transfer.
- Applicant is allowed a deduction equal to the value of the interests in A on the day it acquires the interests in B.
- General limitations do not apply to deny the deduction.
- Deduction is allocated to the income year in which the Applicant disposes of the interests in A.
- Transfer of the interests in B by the Applicant to the LPs does not give rise to "net income" or "net loss" of the Applicant in the year of the transfer.
- Section BG 1 does not apply to the arrangement.

2024 Individual income tax assessment (IITA) – end-of-year process

On 13 May 2024, Inland Revenue provided an update on the IITA end-of-year process.

- From end of May – end of July Inland Revenue will issue automatic income tax assessments
- All individual clients of tax agents (except IR3 filers and those with no reportable income) will receive an "Income tax – more information request letter".
  - The information held by Inland Revenue and any additional income or expenses must be finalised:
    - Before 31 March 2025 if your client has an EOT
    - Within 45 days if your client does not have an EOT

Public advice and guidance work programme 2024-25

On 16 May 2024, Inland Revenue announced they are looking for suggestions for the 2024-25 public guidance work programme.

OECD updates

Taxing Wages 2024

On 25 April 2024, the OECD released Taxing Wages 2024. It revealed that a second consecutive year of high inflation pushed up labour taxes across OECD countries. The post-tax income of single workers earning the average wage declined in 21 out of 38 OECD countries.

Tax inspectors Without Budget Releases Annual Report

On 29 April 2024, Tax Inspectors Without Borders, a joint tax initiative managed by the OECD and the United Nations Development Programme (UNDP) released its annual report. The report shows the initiative's work over the past nine years has resulted in the generation of USD 2.30 billion in additional tax collections and USD 6.05 billion in additional tax assessments by developing countries worldwide. These efforts have significantly contributed to advancing the Sustainable Development Goals (SDGs) by increasing domestic resource mobilisation.

Surge in oil and gas revenue drove up tax receipts in Latin America and the Caribbean in 2022

On 7 May 2024, the OECD released Revenue Statistics in Latin America and the Caribbean 2024 which showed that tax revenue rose as a share of GDP on average across Latin America and the Caribbean countries between 2021 and 2022 due partly to a sharp increase in revenue from the oil and gas sector, according to a new report.

The average tax-to-GDP ratio in the LAC region rose by 0.3 percentage points in 2022 to 21.5%.

Note: The items covered here include only those items not covered in other articles in this issue of Tax Alert.

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