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The Chair  
Finance and Expenditure Committee  
Parliament Buildings  
Wellington

Our ref KPMG submission -  
Tax Principles  
Reporting Bill 9  
June 2023.docx

9 June 2023

Dear Madam Chair

## **KPMG submission - Taxation Principles Reporting Bill**

We welcome the opportunity to make a submission on the Taxation Principles Reporting Bill (referred to hereafter as “the Bill”).

### **Summary of our key submission points on the Bill**

While we are supportive of the intent, to increase the public’s understanding of the tax system and to promote informed debate and discussion about its future, we have concerns about the Bill’s rushed introduction and lack of any consultation pre-introduction. We also have concerns with the very limited period for submissions to the Finance and Expenditure Committee. Our submission is not as comprehensive as it might otherwise have been, due to these time constraints.

In summary, we consider that:

- The Bill, as introduced, should be withdrawn and the tax principles reporting proposal subject to full consultation under the Generic Tax Policy Process (“GTPP”).
- If our primary submission above is not accepted, we recommend:
  - The first reporting period be deferred to the period ending 31 December 2024.
  - The inclusion of overall tax system “coherence” as an additional tax principle.
  - That the descriptions in Schedule 1 should be amended to be more neutral in their wording.

### **Principal submission**

KPMG supports the Government’s objective of increasing the public’s understanding of the tax system and promoting informed debate and discussion about its future.

The Bill is intended to provide a framework to underpin future reporting on the performance of the tax system against a set of tax principles. This is not an insignificant development. The Bill has

important implications for future tax policy makers and policy making and, if enacted, will be its own primary legislation.

It will impose on Inland Revenue interim (annual) and full (three yearly) reporting obligations. The actual Inland Revenue reporting framework is unclear, notwithstanding the first report is due by 31 December 2023, and the results will no doubt be the subject of a high degree of interest and scrutiny by policy makers, the media, and the public.

There is the need therefore to ensure that any implementing legislation and the framework is well thought through and clear in its application. The process followed to date does not give us this confidence.

As a starting point, we believe consideration needs to be given to whether the Bill is needed at all, to achieve the Government's wider objectives around promoting informed debate about the tax system. It is not clear to us what the current barrier is to the Government of the day requesting Inland Revenue to report on the performance of the tax system against the proposed tax principles in the Bill. (In our reading of the Regulatory Impact Analysis, there is no analysis of why the same reporting would not be feasible, say, under the Commissioner's current powers conferred under the Tax Administration Act 1994.)

It is disappointing that there has been no pre-consultation on the Bill (including any discussion about the need for the Bill). We would have thought that the proposed introduction of a new reporting regime focussed on tax principles would have been what the Generic Tax Policy Process ("GTPP") was intended for. While the Minister of Revenue has previously publicly stated his support for such a reporting framework, there has been a lack of clarity on what this would look like (including its scope and timing). The departure from the GTPP is, in our view, a key omission. The truncated Select Committee process is not a suitable substitute for the full GTPP.

As an example, due to the lack of any pre-consultation, it is not clear what additional information (if any) Inland Revenue will require to compile the required reports. We are concerned that, in the absence of detail about the underlying reporting framework (which would have been raised if proper consultation had been undertaken prior to introduction), there is a risk that Inland Revenue could impose additional compliance costs on particular groups of taxpayers to comply with its reporting obligations under the Bill. There should be full transparency about the information that will need to be collated for reporting, the format of the report and the detailed reporting measures so that submitters are able to make informed submissions.

Given our concerns above, we recommend that the Bill, as introduced, be withdrawn and the proposal be subject to full consideration under the GTPP.

## **Secondary submissions**

If our primary submission above is not accepted, we make the following recommendations:

The first report required under the Bill should be delayed to the period ending 31 December 2024 at the earliest. This would allow more time to fully understand and provide input into Inland

Revenue's proposed reporting framework under the Bill, including any additional information collection requirements.

We believe that an important tax principle – “coherence” – has been omitted from the Bill. (We note that the Regulatory Impact Analysis refers to “coherence” as a core tax principle.) The reason for its omission is not explicitly clear, although we understand that challenges over measurement may be a factor. However, we note that a number of proposed tax principles, such as certainty and predictability or flexibility and adaptability (based on their descriptions in the Bill) will be equally, if not more, challenging to measure. We believe that it is critical, when evaluating the tax system, to understand how well (or poorly) the constituent parts of the system are operating and if they have conflicting objectives. The latter may suggest lack of overall system coherence.

We also have concerns with the description used for the proposed tax principles in Schedule 1 of the Bill and their status at law. In some instances, the descriptions appear to contain judgements and or terms that could be interpreted subjectively. This could impact the neutrality and overall longevity of the framework. For example:

- The description of “horizontal equity” includes the following statement: *The tax system should generally recognise the economic effect of income, not its name, while acknowledging there are important areas where exemptions to taxing economic income are justified in the pursuit of wider societal outcomes (eg. Not taxing the imputed rent or gains on an owner-occupied home)*. This in our view contains judgements around what should be the appropriate tax base (economic income, which is not what is currently subject to tax) and potentially justified exclusions from it (such as not taxing owner occupied housing).
- The description of “vertical equity” includes the following statement: *In practice, wealthy people should at the very least pay no lower a rate of tax on their economic income than middle income New Zealanders already do*. Again, this in our view contains judgements about the correct tax base (economic income) but also introduces a concept of “wealthy people” which is open to interpretation. Different people will have different views on who is wealthy. This, therefore, requires Inland Revenue to define a term that is inherently subjective. We also note that the description states that *GST is regressive*, which is the subject of current academic debate with Inland Revenue noting that this view could be overtaken by new developments in economic research.
- The description of “compliance and administrative costs” states that: *Compliance and administrative costs for taxpayers and the Government should be reasonable, but this is not justification for substantial unfairness in the tax system*. This appears to us to suggest that “fairness”, as a tax principle, should have precedence over other tax principles, such as unreasonable compliance costs.

Given the above, we believe that the descriptions of the proposed tax principles in Schedule 1 should be more neutral in their wording. In particular, we suggest that the proposed descriptions for “horizontal equity” and “vertical equity” should be limited to the first sentence of each



descriptor, respectively. The proposed description for “compliance and administrative costs” should end after the word *reasonable*.

### **Further information**

We would be happy to discuss our submission with the Committee. Please contact us – Darshana on 09 367 5940 or Rachel on 09 363 3525 – if you require any further information on our submission.

Yours sincerely

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Partner

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