Legislative statement – Taxation (Annual Rates for 2021-22, GST, and Remedial Matters) Bill

This legislative statement supports the third reading of the Taxation (Annual Rates for 2021-22, GST, and Remedial Matters) Bill. The Bill was introduced on 8 September 2021.

The Bill introduces amendments to the following legislation:

- Goods and Services Tax Act 1985;
- Income Tax Act 2007;
- Tax Administration Act 1994;
- Child Support Act 1991;
- KiwiSaver Act 2006;
- Student Loan Scheme Act 2011; and
- Taxation (KiwiSaver Student Loans, and Remedial Matters) Act 2020.
- Unclaimed Money Act 1971
- Child Support Amendment Act 2021

The Bill also revokes the following regulations:

- Co-operative Dairy Companies Income Tax Regulations 1955;
- Cooperative Milk Marketing Companies Income Tax Regulations 1960; and
- Cooperative Pig Marketing Companies Income Tax Regulations 1964.

Details of changes in the Bill

The main items in the Bill are:

- The setting of the annual rates of income tax for the 2021-22 income tax year. The income tax rates for the 2021-22 tax year include a top personal tax rate of 39% on annual income which exceeds $180,000. This top personal tax rate was added by the Taxation (Income Tax Rate and Other Amendments) Act 2020;

- Proposals which exclude crypto-assets from GST and the financial arrangements rules:

  - Cryptoassets are digital assets that use cryptography to secure transactions and verify the transfer of the coins or tokens. However, as the existing tax rules both in New Zealand and overseas were not designed for cryptoassets, the application of tax law to cryptoassets could vary on the facts. This could disincentivise residents from purchasing cryptoassets, produce double taxation and create unnecessary compliance costs for taxpayers

  - Removing cryptoassets from GST and the financial arrangements rules will ensure that barriers do not prevent the development of new products, the raising of capital and investment in cryptoassets.

- A proposal to zero-rate the domestic leg of international transport services supplied as part of the international transport of goods:

  - The transport of goods to and from New Zealand is zero-rated. This is because exported goods are zero-rated and the value of transport services for imported goods are already included in cost of imported goods (which are subject to 15% GST).

  - The transport of goods within New Zealand may also be zero-rated, but only where the service forms part of the international transport of goods and the services are supplied by the same supplier as the international transport (i.e. where they are not sub-contracted).

  - The proposal would expand zero-rating to accommodate sub-contracting arrangements for the transport of goods within New Zealand (where it is part of the international transportation of goods).

- Proposals which improve the GST apportionment rules by:

  - Removing the cap on input tax deductions so that the disposal of mixed-use assets (i.e. one used for both taxable and non-taxable purposes) that have appreciated (e.g. land) are not overtaxed. However, the cap will continue to apply to land disposed of by property developers as an increase in the value of the property which they dispose of is connected to their taxable activity (i.e. property development).

  - reducing compliance costs for smaller GST registered suppliers by allowing them to apply to Inland Revenue to approve an alternative apportionment method. GST registered persons must apportion the amount of taxable or non-taxable value a supply is used for on acquisition. Currently Inland Revenue can approve an alternative apportionment method but only for registered persons with who expect to make supplies of more than $24 million in a 12 month period.

- A proposal to allow a second-hand goods input credit on supplies between associated persons equal to the tax fraction on the original cost of the good at the time it was purchased by the first person in the chain of associated persons:

  - The Bill proposes that a registered person be permitted an input tax credit for second-hand goods acquired from an associated person, who had not acquired the goods as a taxable supply, where the associated person purchased the second-hand goods from:

    - a non-associated person; or

        - an associated person, where an earlier supply with a non-associated person can be identified after 1 October 1986.

- A proposal to limit the deductibility of interest on residential property:
    - The Bill proposes to limit the deductibility of interest expense incurred by residential property investors from 1 October 2021.
    - The interest limitation reform aims to reduce investor demand for residential property. The extent of the limitation would depend on the property.
    - The key proposals include:
        - Disallowing interest deductions on Disallowed Residential Property ("DRP"). This includes property commonly and foreseeably used to provide residential accommodation on a long-term basis and is (or could be) used as an owner-occupied residence.
        - From 1 October 2021, deductions would be denied for interest incurred in deriving income from DRP incurred on or after 27 March 2021. For DRP acquired before this date, deductions for such interest would be progressively denied over the period between 1 October 2021 and 31 March 2025.
        - Exempting land businesses, property development and new build from the interest limitation rules.
        - Permitting interest deductions on the taxable sale of DRP.
- The Bill proposes changes to the bright-line rules for the sale of residential land. These proposals include:
    - Making owners of new builds subject to a 5-year bright-line period (rather than the current 10-year period).
    - Limited extensions to rollover relief from the bright-line test for some common ownership change scenarios where economic ownership has not changed or is materially the same as it was before.

The Bill also contains items that:

- Seek to improve the integrity of local government taxation:
    - Current tax law allows local authorities to transfer the benefit of their tax-exempt status to their taxable council-controlled organisations (CCOs). This means that local authorities are effectively able to shelter their CCOs from tax.
    - This undermines the integrity of the tax system by allowing local authorities to effectively extract profits from their CCOs tax-free. This reduces the government's tax revenues from CCOs. The Bill proposes a

series of measures to improve the integrity of local government taxation. These measures include:

- Treating dividends derived by a local authority from wholly- and partly-owned CCOs as exempt income;
- Treating dividends derived by a holding company CCO (wholly-owned by a local authority) from CCOs with 100% public ownership as exempt income;
- Preventing local authorities from receiving a deduction for donations to donee organisations;

- Propose a series of technical amendments which clarify the fair dividend rate foreign currency hedges rules and reduce compliance costs for taxpayers;
- Would allow the use of tax pooling to satisfy a tax obligation where there is no existing tax assessment, or where the tax obligation has not been quantified;
- Would remove the time limit from the COVID-19 information sharing provisions, thereby allowing it to remain in effect without the need for repeated extension through Order-in-Council;
- Would introduce penalties on the sale and acquisition of sale suppression software, in order to safeguard the integrity of New Zealand's tax base; and
- Would grant 11 New Zealand charities with overseas charitable purposes overseas donee status. It would also extend an existing, time limited, donee status to 31 March 2025;
- Make other minor technical and remedial changes to the tax legislation. These include changes to the 10-year bright line rules amongst other income tax changes as well as GST, tax administration, social policy and other changes.