

**Submission to Finance and Expenditure Committee
Taxation (Tax Administration and Remedial Matters) Bill (257–1)**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 51 nationally organised societies. NCWNZ has 23 branches throughout the country attended by representatives of those societies and some 150 other societies. The Council's function is to serve women, families and the community through research, study, discussion and action.

This submission is based on NCWNZ policy, research and previous submissions. The Taxation (Tax Administration and Remedial Matters) Bill seeks to address the inefficiencies of the tax system that have arisen in recent years, by taking advantage of new technologies and streamlining processes. However some clauses in this Bill are of concern, in that they seem to place cost cutting and efficiency over accuracy, fairness and individual rights. There are two clauses in particular that are of concern to NCWNZ.

Clause 59: New Section 81BA inserted

1. NCWNZ members have an ongoing concern about preserving individual privacy, as expressed by our policy, our commitment to upholding Article 12 of the United Nations Declaration of Human Rights, and recent submissions¹. Although the intention of streamlining Inland Revenue processes, and those of other Government departments, is laudable, there are potentially dangerous assumptions made about the 'very accurate' information held by Inland Revenue which underpin this information sharing.

2. Inland Revenue has been known to hold incorrect information. Their processes are subject to human error, as are any other organisations. Prior to sharing a taxpayer's information with another department, the taxpayer should be informed, verify the accuracy of information intended to be shared, and provide consent before the sharing takes place.

3. Therefore we would ask that another paragraph be added to Section 81BA (1), stating that before the Commissioner may share information concerning an individual taxpayer, Inland Revenue be required to inform the individual concerned, establish the accuracy of the information and gain the individual's consent.

Clause 110: Estate and Gift Duties Act 1968

4. The Regulatory Impact Statement (RIS) issued by Inland Revenue² points out the minimal amount of gift duty currently collected, and the high cost of compliance for taxpayers as reasons for abolishing gift duty. However it dismisses the residual effects of gift duty compliance, including a paper trail of fund transfers into trusts which will cease to exist when the duty is abolished.

5. This paper trail continues to be useful for investigations of assets by the Ministry of Social Development and other Government departments, to determine an individual's eligibility for

¹ NCWNZ submission 10.21 to IRD: "Making tax easier", 22 July 2010; NCWNZ submission 10.31 to Government Administration Committee: Identity Confirmation Bill (187–1), 1 December 2010.

² <http://taxpolicy.ird.govt.nz/publications/2010-ris-tarm-bill/overview>

various benefits and social programmes. Without gift duty and its paper trail, the number of trusts could grow unchecked, with even greater difficulty and higher cost accessing financial information. Investigations will be more intensive, requiring specialist training of public servants and further encroachments on individual privacy.

6. Trusts are currently poorly documented, not well understood by the general public and with no register similar to companies and incorporated societies. Although it is understood that new regulations regarding trusts are being considered, it seems precipitate to remove the only brake on the movement of funds into trusts before this better regulation is in place.

7. The removal of gift duty could see a flood of wholesale funds transfers. The RIS indicates that while affected departments see the various risks as low or very low, there will be follow-up assessments of the actual impact of the repeal, suggesting that in fact, they are not sure what the outcomes will be. With gift duty compliance removed, fund and assets can change hands rapidly multiple times, making the reliance on bank records problematical. Costs shed by Inland Revenue by this repeal may very well double in other departments, with no collection of gift duty revenue to mitigate them.

8. It was pointed out during the first reading of the Bill in Parliament³, that the high expenditure on compliance with the existing gift duty legislation is a clear indication of a continuing economic advantage available, to the wealthiest citizens, of moving assets into trusts. As the wealthiest in New Zealand have already been afforded the major share of tax cuts, a further move to relieve them of cost seems markedly unfair.

9. Of most concern to NCWNZ is that in cases of marriage breakdown and divorce, the wholesale removal of assets into trusts will most likely disadvantage women. Relationship property legislation is not effective in the face of family trusts, with 'intention to defeat the interests' of a spouse or partner difficult and expensive to prove. The increasing use of trusts to sequester assets, removing property from the pool of marital assets to be divided, has increasingly added to the complication of dividing property fairly.⁴

10. NCWNZ asks that the repeal of gift duty be removed from this Bill, and not considered again until other legislation regulating trusts and strengthening relationship property rights be established.

Conclusion

11. NCWNZ asks for:

- The inclusion in Clause 59 of a further paragraph (d) under Section 81BA subsection 1 that requires the Commissioner to inform any named individual whose information is intended to be shared, verify the accuracy of the information and gain the individual's consent to share it;
- The removal of Clause 110, which effectively repeals gift duty after 1 October 2011.

NCWNZ welcomes the opportunity to comment on this Bill.



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³ Hansard (debates) 7 December 2010 <http://www.parliament.nz/en-NZ/PB/Debates>

⁴ "Gift duty repeal will affect divorce", NZ Herald, 12 November 2010, A11, Deborah Hollings and Suzanne Robertson.