



New PAYE and tax framework proposals – an initial reaction

Snapshot

The Government has released the first two detailed consultation documents for Inland Revenue's "Business Transformation" journey. They cover the [tax administration framework](#) and the future operation of [PAYE and GST](#).

The key tax administration proposals are:

- Giving Inland Revenue greater administrative flexibility to get the "right result".
- Narrowing Inland Revenue's secrecy obligations and clarifying its information collection and disclosure powers.
- Putting positive obligations on taxpayers to confirm pre-populated tax returns.

The PAYE proposals aim to integrate PAYE processes with an employer's business processes. Employee information would be submitted electronically when the process is run (e.g. an employee is hired, leaves or is paid). A similar business process based reporting approach is proposed for business's GST information.

Submissions on the proposals are requested by 12 February next year.

Today's documents raise "building block" questions as a foundation for New Zealand's 21st century tax system

The result will be process and system changes which affect all businesses and taxpayers

Business and the community must engage to ensure that we get a tax administration that is fit for purpose

Contact us

Paul Dunne
Partner
T: +64 9 367 5991
E: pfduenne@kpmg.co.nz

John Cantin
Partner
T: +64 4 816 4518
E: jfcantin@kpmg.co.nz

Darshana Elwela
National Tax Director
T: +64 9 367 5940
E: delwela@kpmg.co.nz

What is the Government proposing?

A new tax administration framework

The current tax administration rules are considered not fit for purpose. The proposals to fix this are:

Role of the Commissioner – the proposals include:

- Allowing Inland Revenue greater administrative flexibility to:
 - Deal pragmatically with minor legislative anomalies and apply policy-based solutions to fill small gaps in the tax legislation (e.g. if the policy intention is clear but the legislation does not achieve this).
 - Address cases of financial hardship, and inequity, at the margins.
 - Deal with situations where the relevant statutory rule is difficult to apply.
- Applying the Commissioner’s “care and management” powers to non-tax functions.
- Continuing the Commissioner of Inland Revenue’s dual role as tax administrator (with specific powers and responsibilities) and chief executive.

Information collection and tax secrecy – the proposals are:

- Clarifying Inland Revenue’s powers to access third-party and remotely stored information (e.g. in the “Cloud”), similar to digital and physical information held by taxpayers on premises.
- Limiting taxpayer secrecy to information that identifies or could identify a taxpayer.
- Consideration of taxpayer consent to release their information and how taxpayer information is shared with other Government agencies.

Role of taxpayers – the proposal is to impose a positive obligation on taxpayers to respond or to confirm a new pre-populated tax return is complete (or request further information, if not). Confirmation would be their self-assessment.

Future issues – the Government has indicated issues such as the binding/non-binding rulings process, disputes procedures, penalties, record keeping and the time bar will be considered once the key features of the modernised tax administration are implemented.

PAYE (and GST) obligations linked to business processes

The proposals will require PAYE and GST information to be submitted electronically when a business runs its employment-related process (e.g. when an employee is hired, leaves or is paid) or accounting process (i.e. uses accounting software to calculate GST). This would replace employer monthly schedules and GST returns.

PAYE

The Government considers that “real time” exchange of information with employers’ systems will help simplify KiwiSaver enrolment procedures and modernise procedures for tax (and non-tax) deductions and amending PAYE information.

The electronic PAYE proposal will apply to employers with annual PAYE of \$50,000 or more. This compares to the current \$100,000 threshold for electronic filing of employer monthly schedules.

The discussion document outlines three options for real time PAYE information exchange:

Contact us

Paul Dunne

Partner
T: +64 9 367 5991
E: pfdunne@kpmg.co.nz

John Cantin

Partner
T: +64 4 816 4518
E: jfcantin@kpmg.co.nz

Darshana Elwela

National Tax Director
T: +64 9 367 5940
E: delwela@kpmg.co.nz

- A “voluntary first” approach. This would allow businesses to opt to provide PAYE information when their payroll process is run. They would no longer have to file an employer monthly schedule. A review, to determine whether it should be mandatory, would occur when new payroll systems and PAYE services become available and there is significant voluntary uptake.
- A “legislated” approach. This would provide an initial voluntary period for employers. At a specified future date, the real time process would become mandatory.
- A “review” approach. This would work like the voluntary option but with a review time-tabled (e.g. within 12 to 36 months) from the outset.

Employers without electronic payroll systems would be able to use a web-based filing option, or a paper based filing option if they are unable to access digital services. Those that are exempt from electronic filing requirements may need to file earlier than currently however (i.e. by the 5th of the following month, not the 20th). This includes IR 56 taxpayers (i.e. employees who are responsible for their own PAYE).

Feedback is also requested for the following:

- Whether PAYE and other employee deductions should be paid to Inland Revenue at the same time as employees are paid.
- Modifying or clarifying the PAYE rules for calculating tax on extra pay (e.g. bonuses and redundancy payments) and holiday pay. The trade-off is between simpler and more accurate withholding rules.

GST

For GST, it is proposed that real time reporting using accounting software, if implemented, will be voluntary for the foreseeable future. There are also proposals to limit GST refunds to direct credits into bank accounts.

[Feedback on previous consultation](#)

Feedback received on the March 2015 Green Paper on tax administration and *Better Digital Services* consultation documents has also been summarised and [released](#). (Read KPMG’s [taxmail](#) and submissions on the [Green Paper](#) and [Better Digital Services](#).)

Submissions were generally supportive of the direction of reform. However:

- Some, including KPMG, raised concerns about costs being shifted from Government to business, employers and individuals. Concerns were also raised around the storage and sharing of information sourced from employers and business’ systems.
- Other submissions suggested fundamental changes to the tax system (e.g. abolishing income tax and increasing GST) and shifting IRD’s non-tax obligations (e.g. *Working for Families* and *KiwiSaver*) to other Government agencies. The Government has confirmed that “key tax bases will remain substantially in place and NZ will continue with its broad-based, low-rate approach” and that “non-tax functions currently administered by IRD will continue to be a key part of its portfolio of work”.

Our view

The release of the tax administration and PAYE and GST consultation documents is an important next step. It fleshes out some of the detail of the Government’s business transformation strategy for Inland Revenue.

The March consultation documents were the entrées. We are set for a series of main courses over the next 12 to 18 months.

Contact us

Paul Dunne

Partner

T: +64 9 367 5991

E: pfduenne@kpmg.co.nz

John Cantin

Partner

T: +64 4 816 4518

E: jfcantin@kpmg.co.nz

Darshana Elwela

National Tax Director

T: +64 9 367 5940

E: delwela@kpmg.co.nz

Getting the tax administration framework right is critical

Often, the tax administration framework tends to be forgotten. However, this is key to establishing the rights and obligations of Inland Revenue, taxpayers and the various intermediaries. The proposals for the role of the Commissioner, Inland Revenue's secrecy and information collection powers, and the return obligations on taxpayers therefore warrant close attention.

Care and management

The proposal to allow Inland Revenue to fill minor legislative gaps is worth a second look. Allowing Inland Revenue to achieve the "right result" is sensible but providing flexibility has difficulties. It needs to be balanced against the potential for corruption, inconsistency of approach, and usurping Parliament's role in making the law. Our initial view is that the proposed safeguards appear to achieve that balance.

Ironically, the proposals align the position with what many think Sir Ivor Richardson sought to achieve when the Commissioner's care and management power was first introduced.

Consistency

How often in sporting commentary do you hear, "I don't mind if the referee is wrong as long as he is consistent"? This is implicit in the Commissioner's obligation to maintain the integrity of the tax system. However, we think a requirement for the Commissioner to act as a "model litigant" throughout the exercise of her powers would be useful. This would prevent, for example, Inland Revenue arguing, as it has done, that the date of acquisition of land is different depending on whether a gain or loss is made. It would provide taxpayers with some certainty of interpretation.

Secrecy

Secrecy of taxpayer information is another area where Inland Revenue could currently do more. The proposals will allow it expressly to go further than it currently does. Where this affects information in a broad sense, when individual taxpayers are not identified, this should simplify information and access to it by stakeholders.

However, care needs to be taken when specific information is exchanged. For example, the PAYE proposals will exchange information confirming an employee's details. Although this information is required for an employer to comply with withholding and other obligations, it is also personal information that may not have been disclosed to the employer. The boundary for disclosure needs careful thought.

More tax returns

The proposals also signal a return to filing for individuals, in the form of pre-populated tax returns, thereby coming full circle on the non-filing experiment of the 1990s. Importantly, taxpayers will need to complete or confirm that the return is correct, to self-assess. Failure to do so will result in penalties.

PAYE (and GST) in "real time"

The PAYE and GST proposals were flagged earlier in the year. The latest consultation document outlines how the rules for real time information could work in practice.

This includes Inland Revenue remotely confirming employees' details (such as IRD numbers, tax codes, and KiwiSaver, student loan and child support status) to employers when an employee is hired. This is so the employee is correctly set up to reduce the risk of errors and the need for amendments. This is supported but needs to be balanced with the secrecy and integrity of taxpayer information.

Business should pay particular attention to the proposals. As we noted at the time of the Green Paper in March, there will be transition costs and risks for business. The consultation document asks whether the rules for calculating PAYE on extra pays, for example, should focus on greater simplicity or accuracy. There is a clear trade-off that employers and employees will need to work through.

Contact us

Paul Dunne

Partner
T: +64 9 367 5991
E: pfdunne@kpmg.co.nz

John Cantin

Partner
T: +64 4 816 4518
E: jfcantin@kpmg.co.nz

Darshana Elwela

National Tax Director
T: +64 9 367 5940
E: delwela@kpmg.co.nz

It is pleasing that Government recognises that a 'big bang' reform approach is not feasible. Business, both SMEs currently operating without electronic systems and large businesses with bespoke systems, will need time to transition. The proposals make some allowance for this. Small employers need to be aware that their PAYE reporting obligations are likely to be brought forward under the proposals.

Unsurprisingly, the Government is also keen to look at aligning the payment of PAYE with when employees are paid. The consultation document suggests a number of "improvements" from such an approach, such as lower risk of PAYE default by employers. However, collecting PAYE on a pay day basis provides Government with a cash flow benefit at a cost to business. This trade-off, when further costs are being imposed on business, should not be ignored.

Business should take time to work through the proposals

There is a lot for business to think about and submit on by the February 2016 submission date. There is some time to consider the detail.

These are "building block" issues that will determine how Inland Revenue, businesses and taxpayers interact and communicate in the future tax system.

The proposals released today confirm rights and obligations and the operation of two core taxes. Their impact on your business should not be ignored. We strongly encourage business to engage.

For further information

Paul Dunne

Partner, Tax
Auckland
Phone: +64 9 367 5991
Email: pfdunne@kpmg.co.nz

John Cantin

Partner, Tax
Wellington
Phone: +64 4 816 4518
Email: jfcantin@kpmg.co.nz

Darshana Elwela

National Tax Director
Auckland
Phone: +64 9 367 5940
Email: delwela@kpmg.co.nz

kpmg.com/nz
twitter.com/KPMGNZ

© 2015 KPMG, a New Zealand partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in New Zealand.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International