Departmental Disclosure Statement

Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Inland Revenue.

The Inland Revenue Department certifies, that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

27 July 2016.

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Part One: General Policy Statement

This taxation omnibus Bill introduces amendments to the:

- *Income Tax Act 2007:*
- *Tax Administration Act 1994:*
- *Student Loan Scheme Act 2011:*

There are 3 main policy proposals in the Bill. These are:

- Changes to business taxation to make tax simpler:
- Implementing the G20/OECD standard for *Automatic Exchange of Financial Account Information in Tax Matters:*
- Changes to implement the disclosure requirements for foreign trusts recommended by the *Government Inquiry into Foreign Trust Disclosure Rules* .

The Bill contains 3 measures to support the deployment of stage 1 of Inland Revenue's new computer system, START, including its co-existence with the existing FIRST system over the staged implementation of Inland Revenue's business transformation programme.

There is also a remedial amendment to the PAYE rules for employee income for share benefits to ensure the rules work as intended. The Bill also contains a remedial amendment to the *Student Loan Scheme Act 2011* to correct a terminology reference.

The following is a brief summary of the policy measures contained in this Bill. A comprehensive explanation of all the policy items will be included in a Commentary on the Bill. The Commentary will be available shortly after this Bill is introduced, at http://taxpolicy.ird.govt.nz

Changes to business taxation to make tax simpler

The Bill proposes 16 discrete measures to make tax simpler for businesses. The 16 measures reflect 6 key themes

- Changes to provisional tax to increase certainty:
- More accurate and timely payment of provisional tax:
- Self-management and integrity:
- Making the system fairer:
- Improving the operation of markets through greater tax transparency:
- Making the system simpler.

Changes to provisional tax to increase certainty

Increasing the current $50,000 residual income tax limit for interest to $60,000 (for individuals and non-individuals)

The Bill proposes to increase the current "safe-harbour" threshold from use-of-money interest. Currently, when businesses who have less than $50,000 of residual income tax pay provisional tax using the standard "uplift" method, they are not subject to use-of-money-interest. The Bill proposes to increase this limit to $60,000 and extend it so that it applies to non-individuals as well as individuals. This will reduce the impact of use-of-money interest for these businesses and therefore provide greater certainty.

Removing use of money interest for the first 2 provisional tax payments for all taxpayers who use the uplift method

The Bill proposes amendments so that for taxpayers using the standard uplift method and who fall outside of the $60,000 "safe-harbour", use of money interest only applies from the final instalment date. As the final instalment date of provisional tax occurs after the end of the income year, these taxpayers will have reasonable certainty as to how much income they have earned before they make their final payment become liable for use of money interest.

Additional rules are proposed to prevent taxpayers from taking inappropriate advantage of the new rules by switching income between related parties or by switching between provisional tax payment methods.

More accurate and timely payment of provisional tax

The Accounting Income Method

The Bill proposes to allow businesses to use the Accounting Income Method (AIM) to pay their provisional tax based on a calculation prepared by accounting software.

AIM is available for businesses where either:

- They have turnover of less than $5 million a year
- They have previously used AIM, have a good track record with taking reasonable care, and are continuing to use the same approved software package
- They are using an accounting system that the Commissioner has approved as being suitable for persons with turnover greater than $5 million

For these businesses, AIM enables provisional tax to be calculated within their accounting software packages. Calculation of provisional tax in arrears means payments made under AIM will more closely match the accounting income of the business and be integrated into business practices.

For taxpayers using AIM, provisional tax payments will be made monthly for those on monthly GST filing and 2 monthly for those on 2 or 6 monthly GST filing. For businesses who aren't GST registered they will make payments in line with the GST dates that fit with their balance dates. If the taxpayer makes these required payments, then no use of money interest will apply should a shortfall arrive at year end.

Approval criteria

The Bill proposes the Commissioner must approve a software provider before they can become an approved AIM provider. To become an approved AIM provider, the provider must make a statutory declaration that it has an accounting system:

- that can make generate and keep comprehensive financial accounts, complete required tax adjustments, filing and payment requirements and can produce the required reports; and
- the accounting system is fully documented and that there is supported for end-users; and
- the product is updated regularly to reflect changes in tax law or Commissioner requirements.

If the Commissioner receives a statutory declaration of this and considers that approving the provider would not negatively affect the integrity of the tax system, the

Commissioner may approve the provider as an approved AIM provider. The Commissioner may revoke this approval on the request of the provider or if the Commissioner considers that anything in their statutory declaration is not true, the providers accounting system provides a materially inaccurate tax calculation, or that revoking the approval would positively affect the integrity of the tax system.

The Bill provides that the Commissioner may make determinations setting out the required tax adjustments required by the software provider.

Provisional tax attribution for shareholder-employees

The Bill proposes to allow a company to make tax payments on behalf of shareholder-employees. This proposal is intended to enable companies to reduce compliance costs for their shareholder employees by paying tax on their behalf and therefore potentially removing the shareholder-employee from the provisional tax rules.

This method would be optional and apply if a company and its shareholder-employees elect to use it by the company's first provisional tax payment date.

Once elected a company would add to its own provisional tax payments amounts equal to any provisional tax the shareholder-employee would have had in relation to their salaries, if they had not elected into provisional tax attribution. At the end of the income year the company can allocate some of the provisional tax paid to its shareholder-employees which is treated as a tax credit for the shareholder-employee. If the tax credit is equal to or greater than the shareholder-employees' total tax liability they will have no further tax to pay.

Self-management and integrity

Electing own withholding rate

Amendments are proposed to allow contractors subject to the schedular payment rules to elect their own withholding rate. This will enable contractors to more easily match their withholding rates to their final tax liability without the need to make an application to Inland Revenue.

There are integrity measures proposed to minimise the risk of contractors picking low rates to defer or avoid paying their tax. This includes a minimum rate of withholding of 10% for residents and 15% for non-residents and contractors who are on temporary work visas. In addition the Commissioner has the power to prescribe a rate of withholding for contractors who are non-compliant with their tax obligations.

There is a "standard rate" of withholding for contractors that do not pick a withholding rate. In addition, if a contractor has previously changed their withholding rate twice in the year, they will require the consent of the payer to any further changes in their withholding rate. This is to reduce compliance costs for payers who may have contractors repeatedly changing their withholding rate.

These amendments do not apply to non-resident entertainers. This is to enable non-resident entertainers to retain their current treatment which allows them to be treated as non-filing taxpayers.

Labour-hire firms

Amendments are proposed to extend the current schedular payment rules to cover all contractors operating through labour-hire firms. This means that labour-hire firms will be required to withhold from any payment they make to their contractors, including those operating through a company. Certificates of exemption from withholding will not be available for contractors working through labour-hire firms.

This is a first step in modernising the coverage of the current schedular payment rules and is expected to reduce compliance costs for these contractors as well as address non-compliance issues identified by Inland Revenue

Voluntary withholding

An amendment is proposed to enable contractors that are not subject to the schedular payment rules to opt in to the withholding rules through voluntary withholding agreements. These will be available where a contractor has the mutual consent of their payer to have withholding apply. This enables greater flexibility for contractors to elect into withholding and therefore a more pay-as-you go method of paying their tax.

Making the system fairer

Changes to late payment penalties

The Bill proposes to reform the late payment penalty by no longer imposing the 1% monthly incremental late payment penalty from new GST, income tax and *Working for Families* tax credit overpayment debt.

This is intended to reduce the penalties imposed on businesses who may end up paying late so to allow businesses a chance to trade their way out of debt, without having onerous financial penalties being continually imposed.

This measure is proposed to apply to GST for GST periods ending 31 March 2017. The measure applies for provisional tax, income tax and *Working for Families* tax credit debt from the 2017-18 income year.

Improving the operation of markets through greater tax transparency

Sharing tax information for significant debts with credit reporting agencies

The Bill proposes an amendment to the tax secrecy rules to allow Inland Revenue to disclose information about taxpayer's tax debts to approved credit reporting agencies. The will enable businesses contemplating providing credit to make more informed commercial decisions, as they will have a more comprehensive picture of a businesses' total debt position.

It is proposed that the criteria for initial disclosure of tax debt includes:

- The debt is significant:
- The debt is not disputed:
- Reasonable efforts have been made to collect the debt:
- The debt is not subject to an existing instalment arrangement:
- The taxpayer has not applied for relief or remissions:
- The taxpayer has been served notice of the Commissioner's intention to disclose tax debt information to credit reporting agencies, and has been given 30 days to repay the debt or to arrange for repayment. The notice to a company will be served on the company's directors.

A significant tax debt would be a debt relating to unpaid income tax, GST or an employer's unpaid PAYE, child support, student loan or KiwiSaver employee deductions where the debt is:

- overdue by a period of 12 months and greater than 30% of a taxpayer's gross income; or
- new debt of more than $150,000.

The Bill proposes a regulation making power to be able to adjust the $150,000 threshold for “significant tax debt”.

The Bill also proposes that the Commissioner has the ability to approve an organisation as an approved credit reporting agency when they carry on a business of credit reporting and approval would positively affect the integrity of the tax system.

An additional rule is proposed to enable Inland Revenue to disclose information to credit reporters when a taxpayer repeatedly avoids having their information disclosed through avoiding the thresholds for what is significant tax debt.

The Bill proposes that Inland Revenue will be required to report annually on its use of this amendment including the number of taxpayers whose information has been disclosed to approved credit reporting agencies.

Information sharing with the Registrar of Companies

The Bill proposes to enable Inland Revenue to share information about certain serious offences under the *Companies Act 1993* with the Registrar of Companies. This will enable the Registrar of Companies to more easily investigate and prosecute company directors who are operating outside of the law and reduce the harm that these directors cause.

The Bill proposes that Inland Revenue is permitted to share information with the Registrar of Companies when:

- there is reasonable suspicion that a serious offence has been, is being, or will be committed; and
- Inland Revenue considers the information will prevent, detect, aid in the investigation of, or provide evidence of, a serious offence that has been, is being, or will be committed; and
- Inland Revenue is satisfied that the information is readily available, it is reasonable and practicable to communicate it, and communication is in the public interest.

Making the system simpler

Motor vehicle expenditure of close companies

The Bill proposes to extend the rules for motor vehicle expenditure for sole traders and partnerships to close companies. Currently close companies that provide their shareholder-employees with a motor vehicle for private use are required to register and pay FBT on that benefit. This can result in an increase in compliance cost for these companies as they are required to register and pay FBT solely due to the provision of 1 or 2 motor vehicles to shareholder-employees.

This amendment will mean that companies will have the option to instead apportion expenditure incurred in relation to that vehicle between business and private use. This will mean that companies that are currently registered for FBT solely due to the provision of a motor vehicle to shareholder-employees will no longer have to file and pay FBT.

Increasing the threshold for annual FBT returns

Currently businesses are entitled to calculate and return FBT on an annual basis (instead of the standard quarterly basis) if they have combined PAYE and employer superannuation contribution tax obligations of not more than $500,000 per year. The Bill proposes an amendment to increase this $500,000 threshold to $1 million.

Increasing the threshold for self-correction of minor errors

Currently, taxpayers who make a minor error in a return which results in a tax discrepancy of $500 or less are allowed to correct the error in a subsequent return. The Bill proposes an amendment to increase this $500 threshold to $1,000.

Simplified calculation of deductions for dual use vehicles and premises

The Bill proposes to simplify the calculation of deductions for dual use vehicles and premises.

Currently, small business owners often use their personal vehicles and homes for both business and private purposes. Because there are numerous expenses for these items, allocating them between business and personal use can create a large compliance obligation compared to the amount of tax at stake.

The Bill proposes to simplify the calculation for vehicles by modifying and extending the current per kilometre options for calculating business use of vehicles so it is available regardless of kilometres travelled. The current rules only allow the method to be used if the business use is less than 5,000km per year.

The Bill proposes to simplify the calculation of deductions for business use of home premises by allowing taxpayers to simply multiply the number of square metres used primarily for business purposes by a single rate. This rate would be set by Inland Revenue.

This calculation would not cover mortgage interest, rates, or rental costs. Instead these would be deducted based on actual costs due to these costs being too variable to include in a single representative rate.

Removing the requirement to renew resident withholding tax exemption certificates annually

Some taxpayers who hold a certificate of exemption from resident withholding tax must renew their certificate annually. Taxpayers have indicated that this is creating compliance costs for relatively little value. To address this, the Bill proposes to legislatively require most RWT exemption certificates to be issued for an unlimited period.

Modifying the 63 day rule on employee remuneration

Currently, there is a special deduction and timing rule for the deferred payment of employee remuneration. This is intended to prevent taxpayers from claiming deductions for amounts of employee remuneration that have been accrued but not paid. This rule can create an additional compliance burden for taxpayers because they need to track payments accrued at year end and paid within 63 days of the end of the income year.

The Bill proposes to alter this rule to make the deduction for payments made within 63 days of the income year optional for taxpayers. For those taxpayers that do not wish to undertake the exercise, it would not be required and the deduction for those payments paid after the end of the income year can be claimed in the following year.

Automatic exchange of information

The Bill proposes amendments to implement the G20/OECD standard for *Automatic Exchange of Financial Account Information in Tax Matters* (in short, Automatic Exchange of Information, or AEOI) in New Zealand.

AEOI is an international initiative that responds to concerns that individuals and entities can, with relative ease, evade their home country tax obligations by concealing their wealth in "off-shore" financial accounts.

In broad terms, AEOI implementation involves enacting legislation that requires financial institutions to:

- undertake due diligence to identify off-shore accounts and
- to report information on those accounts to the local tax authority; and

Then, tax authorities exchange the reported information with applicable jurisdictions, under tax treaties.

In return for New Zealand providing information on off-shore accounts to other jurisdictions, Inland Revenue will receive reciprocal information from other jurisdictions on the off-shore accounts of New Zealand tax residents.

The information will be used to detect and prevent off-shore tax evasion.

Exchange of information

New Zealand has a wide network of tax treaties that currently extends to 90 jurisdictions. These treaties all contain exchange of information provisions that oblige the parties to assist each other in tax compliance matters.

This assistance primarily involves responding to specific requests for information. However, the majority of tax treaties also provide for other forms of assistance, including the ability to enter into automatic exchange programmes with treaty partners.

Automatic exchange programmes are typically specific to certain categories of information. AEOI is an automatic exchange programme for financial account information.

Inland Revenue has significant experience in automatic exchange programmes, but only has 1 existing precedent for the automatic exchange of financial account information. This is with the USA, and is referred to as the FATCA initiative (the term "FATCA" derives from the name of the USA enabling legislation, the *Foreign Account Tax Compliance Act*).

The Common Reporting Standard

The Bill proposes incorporating the *Common Reporting Standard* (CRS) into New Zealand law. The CRS is an element of the AEOI standard developed by the OECD that sets out the due diligence and reporting obligations to be imposed on financial institutions.

The other elements of the AEOI standard relate primarily to exchange of information with other jurisdictions, and generally do not require additional legislation.

Due diligence

The CRS due diligence procedures are complex and highly prescriptive.

The rules set out criteria for identifying the financial institutions that must conduct due diligence and reporting and the financial accounts that the financial institutions must conduct due diligence and reporting on. Additional rules apply to exclude certain financial institutions and accounts from these obligations.

The principal due diligence requirement for the relevant financial institutions is to identify and determine the tax residence of account holders.

Different due diligence procedures are prescribed for different types of accounts. For example, for new accounts, financial institutions must generally determine tax residence based on self-certifications from customers. However, for pre-existing accounts, financial institutions can generally rely on information on hand (including information collected pursuant to anti-money laundering/countering the financing of terrorism laws).

In addition, when an account holder is a passive non-financial entity (as defined in the CRS), it must be looked through to identify and determine the tax residence of the natural persons that are its ultimate controlling persons

Reporting

The CRS provides that information on relevant accounts must be reported to Inland Revenue. The information to be reported includes identity information (including tax residence) and financial account information (such as account balances and interest earned).

If a financial institution is unable to determine the status of a pre-existing account it generally must report it as an "undocumented account".

The information must be reported to Inland Revenue on an annual basis. For this purpose, the reporting period will be the New Zealand tax year (that is, the period ending 31 March), and the deadline for reporting will be 30 June.

Timing

The proposed due diligence obligations will apply in New Zealand from 1 July 2017. This means that the due diligence procedures for new accounts will apply to all new accounts opened from that date. The due diligence procedures for pre-existing accounts will apply to accounts already open on 1 July 2017.

For pre-existing accounts that are held by an individual and that have a balance that exceeds US $1 million, the Bill proposes that due diligence and reporting must be completed by 30 June 2018

For any other pre-existing account, the Bill proposes that due diligence and reporting must be completed by 30 June 2019.

Options

Although international consistency is a key requirement, the OECD has included certain options in the CRS that implementing jurisdictions can take to reduce some compliance costs.

The circumstances of each reporting financial institution can differ markedly, meaning that financial institutions may have different preferences as to whether these options should be adopted. Accordingly, the general approach proposed in this Bill is to permit each reporting financial institution to make its own decision on whether or not to adopt any particular CRS option.

In a small number of cases, a particular option will be mandated for all reporting financial institutions. For example, the New Zealand reporting period will be mandated, rather than allowing each financial institution to adopt its own preferred period.

The wider approach

New Zealand's list of tax treaty partners with which it will exchange AEOI information will increase over time. Absent specific rules, each addition of a new jurisdiction would trigger a new round of due diligence reviews for financial institutions to search for

residents of that jurisdiction. This would impose significant compliance costs on financial institutions.

In recognition of this problem, a key option offered in the CRS is for implementing jurisdictions to allow financial institutions the option of identifying all non-residents rather than just residents of specific jurisdictions. This is referred to as the "wider approach".

This Bill proposes that New Zealand adopt the wider approach, and that this be mandatory for all financial institutions.

This Bill also proposes that financial institutions be permitted the option of reporting all of the non-residents that they have identified irrespective of whether they are residents of jurisdictions that New Zealand will exchange with. This will be optional rather than mandatory, as some reporting financial institutions may prefer to conduct the sorting and filtering of the data themselves. However, when financial institutions opt to report all non-residents, the task of sorting and filtering the data will fall to Inland Revenue.

Enforcement

The CRS requires implementing jurisdictions to have rules and procedures in place to ensure compliance and address non-compliance. This includes appropriate anti-avoidance rules, document retention requirements, auditing programmes, and sanctions to deal with identified non-compliance.

To ensure New Zealand's full compliance with these requirements, this Bill proposes a comprehensive suite of enforcement rules and penalties.

The proposed approach recognises that New Zealand's rules will be subject to international peer review, and that any deficiency identified in that peer review could adversely affect New Zealand's international reputation. Accordingly, strong sanctions are proposed for serious failure by a financial institution to comply or for failure to comply through lack of reasonable care.

The Bill proposes that the following penalties will apply to financial institutions:

- A general (civil) penalty of $300, to be imposed on a financial institution for any failure to comply with its CRS due diligence and reporting requirements:
- A specific (civil) penalty of $300, to be imposed on a financial institution for each new account where there is a failure to obtain a self-certification on account opening when required by the CRS:
- The above provisions will be subject to a transitional period (until 31 March 2019) in which penalties will not be imposed if the financial institution is able to demonstrate it has made reasonable efforts to comply with its CRS due diligence and reporting obligations:
- A specific (civil) penalty of $20,000 for a first offence and $40,000 for any subsequent offence, to be imposed in circumstances where a financial institution fails to take reasonable care in complying with, its CRS due diligence and reporting requirements:
- Knowledge based offences by financial institutions will be subject to the application of existing legislative provisions.

The Bill proposes that the penalties to be imposed on financial institutions will be backed up with specific obligations and penalties to be imposed directly on account

holders, controlling persons or persons that otherwise hold accounts for the benefit of others (including trusts and intermediaries):

- A specific (civil) penalty of $1,000, if a person provides a false self-certification or related information, fails to provide a self-certification or related information within a reasonable time after receiving a request, or fails to provide information about a material change of circumstances relating to a self-certification or related information with a reasonable period of time of becoming aware of that change:
- Knowledge based offences by such persons will be generally subject to the application of existing legislative provisions.

However, these penalties are subject to a no fault defence.

Record keeping and anti-avoidance rules

The Bill proposes specific record-keeping requirements for financial institutions. The Bill also proposes an anti-avoidance provision that applies to arrangements and practices entered into or by financial institutions, persons, or intermediaries with "a main purpose" of circumventing CRS due diligence or reporting requirements.

Multilateral Convention

The Multilateral Convention was given effect in New Zealand in 2014 by means of an Order in Council made under section *BH 1 of the Income Tax Act 2007*. The Bill proposes a remedial amendment to section BH 1 to clarify the application of *section BH 1* to multilateral treaties.

FATCA

For consistency, the Bill proposes amendments to the FATCA implementation legislation to:

- align the FATCA anti-avoidance rule with the AEOI anti-avoidance rule; and
- to provide for the imposition of the same obligations and penalties on persons other than financial institutions under FATCA as for AEOI.

Changes to implement the disclosure requirements for foreign trusts recommended by the Government Inquiry into Foreign Trust Disclosure Rules

The Bill proposes amendments to the disclosure requirements for foreign trusts with New Zealand resident trustees. These amendments largely follow the recommendations of the *Government Inquiry into Foreign Trust Disclosure Rules*. The amendments in this Bill are intended to deter offshore parties from using NZ trusts for illicit purposes. This is intended to provide a clear signal about the importance of complying with the disclosure rules.

Registration

The Bill proposes an amendment to require foreign trusts to formally register with Inland Revenue. As part of this registration the trust will be required to declare that:

- the person establishing the foreign trust; and
- the settlor(s); and

- the trustees

have all been advised of, and have agreed to comply with the applicable requirements in the:

- *Tax Administration Act 1994*; and
- *Anti-Money Laundering and Countering Financing of Terrorism Act and Regulations 2009*; and associated regulations; and
- AEOI requirements (as proposed in this Bill).

Disclosure upon registration

The Bill proposes increased disclosure requirements on registration. Specifically, that on registration the name, e-mail address, foreign residential address, country of tax residence, and Tax Identification Number of all of the following be provided to Inland Revenue:

- The settlor(s):
- The protector (if there is any):
- Non-resident trustees:
- Any other natural person who has effective control of the trust:
- Beneficiaries of fixed trusts, including the underlying beneficiary where a named beneficiary is a nominee.

The proposed amendments also require the trust deed of the trust to be filed with the registration form, and that, discretionary trusts are required to describe in the registration any class of beneficiary not listed in the trust deed. This will enable the identity of a beneficiary to be established at the time of a distribution or when vested rights are exercised.

Timing of registration requirements

The registration requirement will apply to all trusts formed after enactment of the enabling legislation. Existing foreign trusts will be required to meet the new information requirements by 30 June 2017.

Annual filing

The proposed amendments require foreign trusts to file annual returns with Inland Revenue. The proposed amendments require the return to include:

- Any changes to the information provided at registration:
- The trust's annual financial statement:
- The amount of any distributions paid or credited and the names, foreign address, Tax Identification Number and country of tax residence of the recipient beneficiaries.

When a foreign trust qualifies to be exempt from New Zealand tax

Foreign trusts are not taxable under current law. The Bill proposes that a foreign trust will lose its exemption from New Zealand tax if it has not registered with Inland Revenue and fulfilled its associated disclosure obligations. This means that a foreign trust that fails to meet these requirements will be taxable in New Zealand on its worldwide income. The proposed amendment is intended to provide a sanction for non-registration.

Qualifying resident foreign trustee safe harbour

Currently, if a trustee of a foreign trust is convicted of an offence of not providing information requested by Inland Revenue then the foreign trust loses its exemption from New Zealand tax and is subject to New Zealand tax on its worldwide income.

However, legislation currently provides that the tax exemption will still apply, in the case where a trustee is convicted of a knowledge offence if the trustee of the foreign trust is a "qualifying resident foreign trustee". To be a "qualifying resident foreign trustee", the trustee must be a member of a specified professional body.

The Bill proposes an amendment to remove this "qualifying resident foreign trustee" exemption.

Register of foreign trusts shared with law enforcement agencies

The proposed amendments require Inland Revenue to share information contained in the foreign trusts register for law enforcement purposes with the Department of Internal Affairs and the New Zealand Police. This will apply from the date of enactment.

Registration and filing fee

The Bill proposes to require foreign trusts to pay a registration fee of $270 and annual filing fee of $50 to Inland Revenue. The Bill proposes a regulation making power to enable the amount of the fees to be adjusted through an Order in Council.

Other measures

Amendments to the UOMI and transfer rules

The Bill proposes amendments to the use of money interest and transfer rules to prevent taxpayers from artificially obtaining credit use of money interest or reducing debit use of money interest.

Currently taxpayers can transfer amounts of tax to an earlier period and have use of money interest apply from the date of transfer, rather than the applicable date under the UOMI rules. This means they can manipulate the amount of use of money interest payable by moving an overpayment or refund to an earlier period.

The proposed amendments address this by preventing taxpayers from transferring amounts of tax to a prior period that exceed the amount of debt or amount in dispute in that period. The amendments also clarify the difference between a GST refund and a GST overpayment to prevent an overpayment of GST being treated as a GST refund and having an earlier transfer date.

Amending the rules for new and increased assessments by the Commissioner

At present, when the Commissioner makes a new assessment or a re-assessment after the original due date of a taxable period, a new due date is set for the payment of the newly assessed tax that is 30 or more days after the date of the notice of assessment.

When this occurs, UOMI applies from the day after the original due date for the period the assessment or re-assessment applies to, while a late payment penalty applies for amounts unpaid from the day after the new due date. If a taxpayer has excess tax or a credit becomes refundable, for example from a different taxable period or from a different tax type, in the time between the new or increased assessment and the new due date for payment, the excess or credit is generally refunded to the taxpayer rather

than being offset against the amount of tax as a result of the new assessment or re-assessment.

START has the ability to allow time for payment before the imposition of late payment penalties, whereas the current software platform, FIRST, requires a new due date to be set. Building a new due date concept into START would add unnecessary complexity. Setting new due dates increases compliance costs for some taxpayers.

The Bill proposes an amendment to remove the requirement for the Commissioner to set a new due date in these situations. Under the proposed amendment the Commissioner has discretion to set a new due date for a tax type when she considers this necessary because of resource constraints imposed on her during the period of co-existence of 2 Inland Revenue software platforms.

The amendment allows for any refund becoming available to be applied in payment for the new or increased tax liability from the assessment date. The timing of interest and penalty rules will not change. Taxpayers will continue to have at least 30 days after a new assessment or re-assessment before a late payment penalty is applied and before any collection action is taken.

Amendments to the late payment penalty grace period rules

Currently, if a taxpayer does not pay their tax on time and they have previously paid all taxes due in the 2 years prior to the late payment; they have a “grace period” before the late payment penalty is applied to them.

However, as Inland Revenue moves to its new computer system information relating to the taxpayer’s tax compliance history and payment activity will reside in two systems. This means it will be difficult for the Commissioner to look across all applicable tax types to determine whether the taxpayer is entitled to a grace period under the current legislation.

The Bill proposes an amendment to simplify the administration of the grace period during this transitional period. The Bill proposes that in determining whether or not to apply a grace period, the Commissioner has discretion to ignore any failure to pay tax on time if:

- the Commissioner decides it is appropriate to ignore; and
- it is necessary because of resource constraints imposed on the Commissioner during the period of co-existence of 2 Inland Revenue software platforms; and
- it does not impose a greater penalty that would have applied if not for this amendment.

Remedial amendments to the collection of tax on employment income from employee share benefits

The Bill proposes the following remedial amendments to ensure the PAYE rules for employment income from employee share benefits work as intended:

- Provide in the PAYE rules clearer points in time relating to when employment income in the form of a share benefit is derived by the employee for tax purposes, and when the employer declares that income to Inland Revenue.:
- Correct a number of terminology references in the *Income Tax Act 2007* in relation to when large employers (employers with annual PAYE obligations, including Employer Superannuation Contribution Tax, of $500,000 or more) are

required to disclose information about a share benefit received by an employee.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	**YES**
A Commentary on the Bill will be made available shortly after the Bill is introduced. This Commentary will provide a more detailed explanation of the main proposed legislative amendments. A number of proposals in the Bill had public consultation documents that reviewed the relevant areas. **Business taxation** Inland Revenue research reports are available that informed the proposals to amend the late payment penalty and enable Inland Revenue to share information with credit reporting agencies. **AEOI** The AEOI proposals were informed by the G20/OECD *Standard for Automatic Exchange of Financial Account Information in Tax Matters.* **Disclosure rules for foreign trusts** The proposals relating to the disclosure rules for foreign trusts were informed by the *Government Inquiry into the Disclosure Rules for Foreign Trusts.* All of these documents are available at the locations listed in Appendix One.	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	**YES**
AEOI The AEOI proposals utilise the mechanism in Article 6 of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. **Disclosure rules for foreign trusts** The proposals relating to the disclosure rules for foreign trusts will enhance the provision of information under New Zealand's tax treaty obligations.	

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	**YES**
AEOI *Multilateral Convention on Mutual Administrative Assistance in tax Matters, National interest Analysis,* Inland Revenue, August 2012 see http://taxpolicy.ird.govt.nz/tax-treaties/convention-mutual-administrative-assistance-tax-matters **Disclosure rules for foreign trusts** National interest analysis reports for New Zealand's tax treaties and the *Multilateral Convention on Mutual Administrative Assistance in tax Matters* are available at http://taxpolicy.ird.govt.nz	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
A number of regulatory impact statements (RISs) have been prepared by Inland Revenue and are all publicly available at http://taxpolicy.ird.govt.nz. These RISs are listed in Appendix One. The only item in the bill without a regulatory impact statement is a remedial amendment to ensure the collection of tax on employee benefits received under an employee share scheme work as intended. This item is exempt from the regulatory impact analysis requirement, as the proposed change results in little or no change to the status quo legislative position.	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	YES
The Treasury's RIA team provided an independent opinion on the RIS for the proposed changes to business tax. The RIA team considered that the information and analysis in this RIS met the quality assurance criteria. For the remaining items the Treasury's RIA team did not provide an independent opinion on the quality of the RISs, as none of the policy items discussed in the RISs are likely to have a significant impact or risk that requires certification of, or opinion on, the adequacy of the RIA and RIS.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	YES
The Commentary on the Bill which will be available at http://taxpolicy.ird.govt.nz shortly after the Bill is introduced, contains analysis of the proposals included in the Bill. This may supplement existing published analysis.	

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES

2.5.(a) Size of potential costs and benefits

The RISs listed in Appendix One provide analysis on the size of the potential costs and benefits for the policy items included in the Bill that are subject to the RIA requirements.

Where appropriate, the Commentary on the Bill may provide some additional information on the potential costs and benefits of individual policy items.

Business taxation

The Inland Revenue research reports outlined in Appendix One provide analysis on the size of costs and benefits of the proposal to change the late payment penalty.

Disclosure rules for foreign trusts

The Government Inquiry into Foreign Trust Disclosure Rules provides analysis on the size of potential costs and benefits in relation to the amendments to the foreign trust disclosure rules.

2.5 (b) Potential for any group of persons to suffer a substantial unavoidable loss of income or wealth

This omnibus Bill contains amendments to tax legislation which, by its nature and to varying degrees, will have an impact on resident and non-resident individuals, businesses, organisations, entities and the Crown.

Analysis on the potential for any particular group or person to suffer a substantial unavoidable loss of income or wealth may be available in the RISs or where appropriate in the Commentary on the Bill. For the majority of the items in the Bill, there is no analysis available that indicates that any group of persons has the potential to suffer a substantial unavoidable loss of income or wealth because of these policy changes.

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES

The effectiveness of tax legislation is, by its nature, reliant on effective and voluntary compliance. The level of effective compliance or non-compliance with specific applicable obligations or standards, and the nature of the regulator effort, may have an impact on the potential costs or benefits for some policy items to be given effect by the Bill.

For the appropriate policy items, this is discussed in more details in the items listed in Appendix One.

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
Unless it has been specifically identified in the development of the policy that there may be some impact on New Zealand's international obligations, there have been no formal steps to determine whether the policy to be given effect is consistent with New Zealand's international obligations. In identifying whether there are relevant international obligations, analysts may have regard to a variety of materials and may seek input from internal international tax experts. The following items were identified as potentially having an impact on New Zealand's international obligations: • Implementing the G20/OECD *Automatic Exchange of Financial Account Information in Tax Matters* • Changes to implement the disclosure requirements for foreign trusts recommended by the *Government Inquiry into Foreign Trust Disclosure Rules* **AEOI** AEOI incorporates the G20/OECD standard for the Automatic Exchange of Financial Account Information in Tax Matters directly into New Zealand law. In the development of this item, Inland Revenue has worked closely with internal international tax experts, the Ministry of Justice and Anti-Money-Laundering Supervisors to ensure that it complies with New Zealand's international obligations. **Disclosure rules for foreign trusts** The *Government Inquiry into Foreign Trust Disclosure Rules* provides extensive discussion on New Zealand's international obligations. Although New Zealand's current disclosure requirements for foreign trusts are sufficient to meet the existing obligations for exchanging tax information under treaties, the proposals would maintain New Zealand's reputation as a leader in best practice of international exchange of information.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?
No separate formal steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi, as no policy measures in this Bill have been identified, as part of the normal policy process, as having significant impact on Maori. Under the Generic Tax Policy Process there is focus on consultation (both with Maori and non-Maori interested parties) during the development of the relevant policy measures as contained in the Bill directly in line with the "duty to consult" principle of the Treaty of Waitangi. If it has been identified in the policy development that there is impact on Maori, consultation with Maori stakeholders is conducted. As noted above, no consultation with Maori stakeholders was conducted for the purposes of this Bill, as no significant impacts were identified.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES

Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of a Bill. Such advice, or reports will be accessible on the Ministry's website at http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	**YES**
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	**NO**

Changes are proposed to

- Remove the incremental late payment penalty from new GST, income tax and Working for Families Tax Credit overpayment debt
- Introduce civil penalties for financial institutions as well as other persons with obligations under AEOI who fail to meet their AEOI obligations
- Amend the grace period rules for late payment penalties
- Introduce an offence for financial institutions who knowingly fail to meet their AEOI obligations
- Amend the unacceptable tax position penalty so that it does not apply to provisional tax payments made under AIM.

These are detailed further in Part 1.

3.4.1. Was the Ministry of Justice consulted about these provisions?	**YES**

The Ministry of Justice was consulted on the proposed AEOI penalties and are comfortable with the proposed provisions.

No consultation has taken place on the amendment to remove the incremental late payment penalty, the amendment to the grace period rule, and the unacceptable tax position penalty. All of these amendments are taxpayer friendly and aim to either simplify the administration of the penalty scheme or to make technical changes to the rules.

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	**YES**

Changes are proposed to:

- Enable Inland Revenue to share tax information for significant debts with credit reporting agencies (subject to the Credit Reporting Privacy Code)
- Enable Inland Revenue to share information with the Registrar of Companies
- Implement the G20/OECD standard for *Automatic Exchange of Information in Tax Matters*
- Implement the disclosure requirements for foreign trusts recommended by the *Government Inquiry into Foreign Trust Disclosure Rules*
- Enable Inland Revenue to collect IR 10 data through software providers

3.5.1. Was the Privacy Commissioner consulted about these provisions?	**YES**

The Office of the Privacy Commissioner was consulted for all of these provisions except the provision relating to IR 10 information and has no concerns with the proposed amendments. The Office of the Privacy Commissioner was not consulted on the provision to enable Inland Revenue to collect IR 10 data through software providers as this is a subset of an existing information provision that is intended solely to enable the information to be collected more efficiently.

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	**YES**
There has been extensive external consultation on much of the policy to be given effect by this Bill, as per the Generic Tax Policy Process. Please refer to Appendix Two of this statement and the documents listed in Appendix One for further information on the various parties consulted for the policy items. The proposal to implement the disclosure requirements for foreign trusts recommended by the *Government Inquiry into Foreign Trust Disclosure Rules* did not follow the usual Generic Tax Policy Process. However in forming its recommendations the *Government Inquiry into Foreign Trust Disclosure Rules* accepted submissions from the public and considered 23 submissions.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	**YES**
Tax policy is developed using the Generic Tax Policy Process. Therefore the policy details are tested or assessed by the parties that have been consulted in the development of the specific policy item and, where appropriate, by internal experts. As noted above, external parties who provided comment on the proposals, and copies of the publicly released documents seeking comment on the policy proposals, can be found in the appendices. On most occasions, tax policy is jointly developed by Inland Revenue and the Treasury. Where there is no joint policy development, the Treasury is regularly informed or consulted in the development of the policy item. The provisions in the bill affecting Inland Revenue's new computer system START have been tested in the new system to ensure they are workable. Inland Revenue has worked closely with representatives of the software industry and CAANZ to test the AIM proposal and ensure it is workable.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
Given the nature of tax, this Bill does contain provisions that could result in the compulsory acquisition of private property. However, for the purposes of this statement, the answer is “No” as per the scope of this question explained in page 50 of the Disclosure Statements for Government Legislation: Technical Guide for Departments (June 2013).	

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
Given this Bill is amending tax legislation, it does contain provisions that create or amend a power to impose a charge that is a tax. However, for the purposes of this statement, the answer is “No” for the majority of these items as per the scope of this question explained in page 53 of the Disclosure Statements for Government Legislation: Technical Guide for Departments (June 2013). **Implementing the disclosure requirements for foreign trusts recommended by the *Government Inquiry into Foreign Trust Disclosure Rules*** The Bill proposes a registration fee of $270 and an annual filing fee of $50 for foreign trusts, to be paid by the New Zealand resident trustee. These fees will help recover the costs to the Government of administering the proposed foreign trust rules. This amount is similar to registration fees for limited partnerships and return filing fees for companies. The Bill enables an Order in Council to be made to vary the amount of these registration and filing fees if necessary to better reflect the costs to the Crown. The amount of money expected to be collected is unknown as it depends on the numbers of foreign trusts. However, if the numbers of foreign trusts (currently approximately 12,000) do not change the registration fees would result in $3.24m in the first year, and annual fees of $600,000. Charging a fee would recognise that foreign trusts benefit from New Zealand’s regulatory environment and that there are costs involved to the Crown, both in processing registrations and returns and in enforcing the rules relating to foreign trusts. Charging fees would recompense the Crown for these costs.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	YES
The Bill contains a remedial amendment to clarify that Multilateral Tax Treaties have the same effect in New Zealand as Double Tax Agreements. This is retrospective to put beyond doubt this position in relation to New Zealand’s existing Multilateral Tax Treaties.	

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
The bill proposes to create power to make delegated legislation for a number proposals which are outlined in Appendix 3.	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO

Appendix One: Further Information Relating to Part Two

Publicly available inquiry, review or evaluation reports question 2.1

Changes to business taxation to make tax simpler

Making tax simpler – Better business tax, an officials' issues paper, April 2016, see

http://www.taxpolicy.ird.govt.nz/publications/2016-ip-mts-better-business-tax/overview

Exploring alternatives to the late payment penalty scheme, Inland Revenue, April 2014, see:

http://www.ird.govt.nz/aboutir/reports/research/

Identifying sanction thresholds among SME tax debtors: An overview, Inland Revenue April 2016, see

http://www.ird.govt.nz/aboutir/reports/research/

Implementing the G20/OECD standard for Automatic Exchange of Financial Account Information in Tax Matters

Implementing the global standard on automatic exchange of information, an officials' issues paper, February 2016, see

http://taxpolicy.ird.govt.nz/publications/2016-ip-implementing-aeoi/overview

Standard for Automatic Exchange of Financial Account Information in Tax Matters, OECD, 2014, see

https://www.oecd.org/ctp/exchange-of-tax-information/automatic-exchange-financial-account-information-common-reporting-standard.pdf

Changes to implement the disclosure requirements for foreign trusts recommended by the Government Inquiry into Foreign Trust Disclosure Rules

Government Inquiry into Foreign Trust Disclosure Rules, John Shewan, 2016 see

http://www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules

Regulatory impact analysis question 2.3

Changes to business taxation to make tax simpler

Proposed changes to business tax, February 2016 , see

http://taxpolicy.ird.govt.nz/publications/type/ris

Implementing the G20/OECD standard for Automatic Exchange of Financial Account Information in Tax Matters

Implementing New Zealand's commitment to Automatic Exchange of Information, May 2016, see

http://taxpolicy.ird.govt.nz/publications/type/ris

Changes to implement the disclosure requirements for foreign trusts recommended by the Government Inquiry into Foreign Trust Disclosure Rules

Amendments to tax disclosure rules for New Zealand foreign trusts, July 2016 , see

http://taxpolicy.ird.govt.nz/publications/type/ris

Measures to support the deployment of Inland Revenue's new computer system, START

Design of START – legislative issues, May 2016, see

http://taxpolicy.ird.govt.nz/publications/type/ris

Appendix Two: Further Information Relating to Part Three

External consultation – question 3.6

External consultation on numerous items contained in this Bill was undertaken in various forms. Information on the consultation, including the form that consultation took place, what was covered, and the nature and the extent of feedback received is available for viewing in:

- The Commentary on the Bill, which will be made available shortly after the Bill introduced at: http://taxpolicy.ird.govt.nz/publications/type/bill-commentary
- Public consultation documents on the specific measures contained in the Bill, which are available at: http://taxpolicy.ird.govt.nz/publications/type/consultation-document
- Online consultation on the proposed Accounting Income Method, which is available at: http://aim.makingtaxsimpler.ird.govt.nz
- Various RISs outlining consultation that was undertaken on measures in the Bill, which are available at: http://taxpolicy.ird.govt.nz/publications/type/ris
- The *Foreign Trust Inquiry report* which is available at http://www.treasury.govt.nz/publications/reviews-consultation/foreign-trust-disclosure-rules

The following is a list of the main external agencies, representative parties, organisations and groups that have been consulted in the preparation of this Bill.

Government agencies

- Companies Office
- Department of Internal Affairs
- Financial Markets Authority
- Office of the Privacy Commissioner
- Ministry of Business, Innovation and Employment
- Ministry of Justice
- Ministry of Foreign Affairs and Trade
- Reserve Bank
- The Treasury

Representative Organisations

- Business NZ
- Chartered Accountants Australia and New Zealand
- Child Poverty Action Group
- Corporate Taxpayers Group
- Early Childhood Council
- Financial Services Federation
- Insurance Council
- New Zealand Bankers' Association
- New Zealand Law Society
- Small Business Development Group
- Tax Pooling Intermediary Association
- Tax Simplification Panel
- Unicef

Other parties/organisations/entities

- ANZ Bank New Zealand
- ASB Bank Limited
- Australian Taxation Office
- Bank of New Zealand
- Centrix
- Deloitte

- Dun and Bradstreet
- EY
- FNZ Limited
- H2R Consulting
- HSBC Limited
- Kauri Asset Management Limited
- KPMG
- MYOB
- OliverShaw
- Perpetual Guardians
- PwC
- Robert Walters
- Sovereign
- Tax Management New Zealand
- Tax Traders
- Xero
- Veda
- Westpac

Appendix Three: Further Information Relating to Part Four

Powers to make delegated legislation- question 4.8

Sharing tax information for significant debts with credit reporting agencies

The bill proposes that Inland Revenue is only able to share tax information with credit reporting agencies if the reportable unpaid tax is greater than $150,000 or greater than amount prescribed by an Order in Council.

This flexibility is needed to enable this technical criterion to be quickly amended in the case where there is a sudden change in the market that requires Inland Revenue to disclose greater credit information to protect businesses from those with significant debt.

This provision will be subject to the standard safeguards that apply for Orders in Council, including Cabinet scrutiny, drafting by Parliamentary Counsel, the 28 day rule, Disallowance, publication, and potential scrutiny by the Regulations Review Committee.

In addition, this provision only enables the changing of one of the criteria that must be satisfied before information may be disclosed to credit reporting agencies. There are a number of other criteria that must still be satisfied including that the debt is not in dispute, not under a formal arrangement, the Commissioner has taken reasonable effort to collect the debt, and formal notification to the taxpayer 30 days before information is shared.

The Accounting Income Method

The Bill proposes that the Commissioner of Inland Revenue may make determinations setting out the technical detail of the tax adjustments for accounting income and expenditure under the AIM method.

These determinations set out matters of technical detail which are not appropriate for use of Parliamentary time. They also require flexibility to enable change over time to accommodate changes to tax legislation, software developments, and improvements to the AIM method that are discovered through implementation.

The provisions set out that the Commissioner must have reference to the following when issuing determinations:

- the accuracy of assessments that will result from the determination;
- the compliance costs incurred by taxpayers; and
- the resources available to approved AIM providers

In addition, standard administrative law requirements will apply to the Commissioner in making this determination.

Simplified calculation of deductions for dual use vehicles and premises

The Bill proposes that the Commissioner of Inland Revenue be able to make determinations setting out the rate to be used in calculating the deductions for dual use premises under the new calculation option.

This is a technical matter which is not appropriate for use of Parliamentary time and which requires flexibility to enable change over time as the costs of premises change. The Commissioner will be subject to standard administrative law requirements when making the determinations as well as her obligations under section 6A of the Tax Administration Act. The use of this rate is also optional for taxpayers.

Implementing the G20/OECD Automatic Exchange of Financial Account Information in Tax Matters

The bill proposes to set out in Order in Council the countries which Inland Revenue will share information with under the AEOI provisions.

The list of countries would ordinarily be an administrative decision for the Commissioner of Inland Revenue. This regulation making power is intended to ensure that there is government oversight over this this as sensitive information is being provided to these countries.

This provision will be subject to the standard safeguards that apply for Orders in Council, including Cabinet scrutiny, drafting by Parliamentary Counsel, the 28 day rule, Disallowance, publication, and potential scrutiny by the Regulations Review Committee.

Changes to implement the disclosure requirements for foreign trusts recommended by the Government Inquiry into Foreign Trust Disclosure Rules

The Bill enables an Order in Council to be made to vary the amount of the registration and filing fees for foreign trusts.

This is intended to enable flexibility to adjust the fees if necessary to better reflect the costs to the Crown. The amount of money expected to be collected is unknown as it depends on the numbers of foreign trusts. However, if the numbers of foreign trusts (currently approximately 12,000) do not change the registration fees would result in $3.24m in the first year, and annual fees of $600,000.

Charging a fee would recognise that foreign trusts benefit from New Zealand's regulatory environment and that there are costs involved to the Crown, both in processing registrations and returns and in enforcing the rules relating to foreign trusts. Charging fees would recompense the Crown for these costs.

The Order in Council provision will be subject to the standard safeguards that apply for Orders in Council, including Cabinet scrutiny, drafting by Parliamentary Counsel, the 28 day rule, Disallowance, publication, and potential scrutiny by the Regulations Review Committee.