

PLENTY OF PLATTITUDES BUT NO ACTION



<http://www.treasury.govt.nz/budget/2009>

The Budget has announced promised tax cuts will be suspended because of the recession. For the medium term there is a less than enthusiastic concession to United Future's terms for joining the coalition Government. Accepting as "a desirable medium-term goal" personal, trust and company tax rates at a maximum rate of 30%", and support for household income splitting to "First Reading in Parliament".

Platitudes abound about what the tax system should be. But there is virtually nothing about how it will be achieved.

We are told the "tax system should be as fair and efficient as possible". That is not news to taxpayers. Neither is the information that it should respond to "New Zealand's medium-term needs in a planned and coherent way".

In terms of details as to how this is to be achieved, the Budget says:

Tax policy work programme

The tax policy work programme is designed to implement the Government's revenue strategy. It will deliver tax policy:

- *consistent with a broad-base, low-rate tax system that raises revenue in the most efficient manner*

to support the medium-term goal of 30% tax rate alignment

- *appropriate for the current economic situation*
- *that is simple and certain, and*
- *that supports New Zealand as an internationally competitive economy.*

We are in complete agreement this is what the tax policy work programme should be doing. But we see little evidence it is working - "simple and certain" is a destination we seem to be moving away from. We have some ideas on how these ideals might have been achieved, which we discuss.

Though we see technical tax issues that need to be addressed, on the broader economic front the difficulties facing the Government are enormous, and uncertainty is not the least of them. The lack of commitment to detail characterising the Budget makes sense when looking at some of the current economic conditions, and the projections for the future. The forecast annual decrease in residential investment in 2009 and 2010 are respectively 25.2% and 22.7%. Imports are projected to decline in those two years by 3.1% and 14.3%. Unemployment is forecast to rise persistently in coming years.

What we wanted to see

Fix the mess that makes up for no capital gains tax

New Zealanders recoil at the thought of a capital gains tax. They are messy - mainly because the trigger for the tax is not cashflow. So the system has to try and find ways to extract cash when cash exists e.g. when an asset is sold - but, not necessarily when another similar one is bought. However, there are reasons why New Zealand is close to a minority of one among OECD countries with no capital gains tax.

We may not have a "capital gains tax" - but we do tax a lot of capital gains. If you buy anything with the intention of reselling it, any gain is taxable. What do you mean by an "intention of reselling" - the rules are hopelessly vague. That latest scheme to prop up a system that does tell you where you stand is new "associated person" rules. The idea is that if someone

you are close to would be taxed because they have some special status (e.g. being a land developer), you will be taxed the same way. How close? Until now we could tell you - the plan is to change the rules, and from sometime this year you will be taxed on the same basis as people you may not know exist - and they will certainly not be willing to let you look at their tax returns.

Companies can make untaxed capital gains - but the system for getting them to shareholders without being taxed often requires the company to be wound up. It is truly absurd.

Taxpayers have a right to know when they will be taxed, and how much.

Interest and penalties regime

Interest on outstanding tax should not be a penalty, the rates have consistently been set at a level designed to punish. Simple mistakes if not discovered for a time grow out of all proportion.

Typically when something goes wrong we see interest and penalties that double the amount owing. That is not a way to get taxpayers back to having their affairs in order.

Give us tax experts

Most of IRD is now dealing with things only loosely connected with tax - KiwiSaver, working for families, child support ... We would value an IRD that was full of people who really know the tax system they are in charge of.

Try and find a "real person" in IRD to give you an answer to your problem. They exist, and are often outstanding - the organisation seems to make it hard to find these people. But, get the wrong person, and

there is no mechanism to get back to a proper technical understanding.

We would like to see an IRD that wants people to get their tax right. We are not impressed by recent initiatives like refusing to give a letter telling taxpayers whether IRD agree with what they propose to do. The justification being they will give a "binding ruling" - which will cost tens of thousands of dollars, and take a long time.

Tax policy that values certainty

For many years IRD has seemingly given little value to certainty. We think it might be the most important issue when drafting tax legislation. Taxpayers have a right to know where they stand - it is not fair to let them find out years later IRD takes a different view.

We have dealt with cases where IRD has published

how a tax law will be interpreted - then gone all the way through appeal courts to argue what they published was wrong. That is unfair.

Taxpayers are entitled to know where they stand if they do a business deal - they can choose to do it, and take the tax consequences, or do something different.

GST rules that work

For business to business transactions, ever since GST started, IRD have insisted on a system when the seller pays GST to IRD, and IRD gives the money back to the purchaser. It did not take long to find that some sellers would not have the money to pay their GST, and purchasers were still entitled to the money from IRD.

After more than 20 years, IRD are still talking about a system where major transactions are settled by

the two offsetting each other; without money changing hands.

Over the years IRD has continuously on the one hand been upset at paying out money without collecting it; and making it difficult for taxpayers to offset the money, and avoid putting IRD at risk. The Court of Appeal put IRD on notice about the issue, we still have talk and no action.

Dispute resolution

We would very much like to see a system where tax disputes were resolved quickly and efficiently. Instead we have a system where tax disputes take years, a lot of money, and IRD takes appeal after appeal if they do not like the outcome.

A specialist tax Ombusman, and a commitment to making sure IRD's views about the law are clear from

the outset would help taxpayers know where they stand.

There needs to be a focus on speedy resolution which is fair, considering all taxpayers (including those who paid tax in similar circumstances); theoretical purity is not realistic.

Conclusion

New Zealand has done many things well. The foundation of our GST system is world class, perhaps the best, because politicians resisted calls from everyone who was "special" - don't tax books as they are educational - don't tax food we need to eat; and so the (ignored) calls went. We have eliminated tax returns for most employees - admittedly at the cost of them overpaying tax unless they file returns.

But we do have a very complicated tax system for a

small country. We have a penalties and interest regime that is calculated to lead to disaster when mistakes are made. We have a dispute resolution system that is slow, arcane, and unpredictable. We have no capital gains tax, but a whole raft of uncertain taxes to make up for it - like the rules for taxing some land sales - which ones is often not clear.

But the Budget gives the clear message that change will be slow.

If you need advice in regard to the 2009 Budget, please contact us.

