

# Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Bill

11 November 2015

Hon Christopher Finlayson QC, Attorney-General

## Consistency with the New Zealand Bill of Rights Act 1990: Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Bill

1. We have considered whether the Taxation (Residential Land Withholding Tax, GST on Online Services, and Student Loans) Bill is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 ('the Bill of Rights Act').
2. We have not yet received a final version of the Bill. This advice has been prepared with the latest version of the Bill (IRD 19464/10.0) and on the understanding that the Bill may be subject only to minor amendments before it is submitted to Cabinet. We will provide you with further advice if the final version of the Bill includes amendments that affect the conclusions in this advice.
3. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

### *The Bill*

4. The Bill amends the Student Loan Scheme Act 2011, the Income Tax Act 2007, the Goods and Services Tax Act 1985, and the Tax Administration Act 1994. The proposals relate to:
  - amendments to Student Loan Scheme Act 2011;
  - a new tax named residential land withholding tax (RLWT); and
  - goods and services tax (GST) on cross-border services and intangibles.
5. The main policy measure in the Bill is to implement a trans-Tasman information sharing arrangement between the Commissioner of Taxation (Australia) and the Commissioner of Inland Revenue (New Zealand), signed by the Commissioners in March 2015. This would facilitate the sharing of information regarding New Zealand student loan borrowers residing in Australia, and allow Inland Revenue to administer the student loan scheme in respect of these borrowers.
6. In particular, the Bill proposes to allow Inland Revenue to provide the Australian Taxation Office with a student loan borrower's name, date of birth, tax file number, last known address, and contact details. The Australian Taxation Office can then match the borrower details against their database of Australian taxpayers, and provide up-to-date contact details to Inland Revenue under provisions in Australian legislation that authorise the release of information for this purpose.

7. The Bill also proposes to impose the new RLWT when New Zealand land is sold by an offshore vendor. This is proposed to be payable in the same circumstances as bright-line residential income – if the sale of property occurs less than two years after its acquisition. There are exemptions for disposals of inherited property, as well as relief for relationship property.

8. GST is currently not collected on cross-border remote services and intangibles, including internet downloads and online services. The amendments in the Bill address the non-taxation of these goods and services in order to maintain the broad base of New Zealand's GST system and create a level playing field for domestic and offshore suppliers.

### *Conclusion*

9. We have concluded that the Bill appears to be consistent with the rights and freedoms affirmed in the Bill of Rights Act.

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