

Hon Grant Robertson

MP for Wellington Central

Minister of Finance

Minister for Sport and Recreation

Associate Minister for Arts, Culture and Heritage



18 APR 2019

Matthew Hooton
fyi-request-9548-d539bed0@requests.fyi.org.nz

Dear Matthew

Thank you for your Official Information Act request, received on 9 February 2019. You requested:

"NewstalkZB reports you as saying, in the context of whether or not there is time for policy work to be completed and legislation drafted for a Capital Gains Tax (CGT) to be legislated for before the next election, that "We have been talking with the IRD officials and we believe the time is there."

It may surprise the public that the Government has been talking with IRD officials on this topic since the Tax Working Group (TWG) has only just completed its work, its report has not been released publicly and the Government says it has not made even a high-level, in-principle decision on implementing a CGT.

Therefore, under the OIA, I request all official information on the talks you refer to. This includes, but is not limited to, information on the timelines for developing operational procedures for a CGT, finalising policy, drafting legislation and parliamentary processes associated with a CGT. It also includes, but is not limited to, emails, briefing notes etc between you and/or your office and the IRD on such matters, and written notes of verbal conversations involving you, your staff or officials.

I also request any advice you have received from the Cabinet Office, SSC or other relevant authority on whether or not is it appropriate for officials to be doing policy-implementation work of this kind ahead of the Government making a decision-in-principle to proceed with a CGT."

On 12 March 2019 I contacted you to advise that I would be extending the timeframe for responding to your request by 20 working days. I acknowledge that my notification of this extension was outside of the 20 working day period outlined in the Official Information Act.

Information Being Released

Please find enclosed the following documents:

Item	Date	Document Description
1.	14 June 2018	Treasury Report: Government Response to Tax Working Group Recommendations T2018/1438
2.	21 September 2018	Joint Report: Process for responding to the Tax Working Group's findings in their Final Report T2018/2631
3.	14 December 2018	Joint Report: Tax Working Group – Official's Initial advice on Potential Tax Reforms for Budget 2019 T2018/3429
4.	1 February 2019	Joint Report: Tax Working Group Final Report - officials' companion advice T2019/113
5.	8 February 2019	Joint Report: Major Design Issues in the Taxation of Capital Gains T2019/246

I have decided to release the documents listed above, subject to information being withheld as it is outside of the scope of your request.

Please note that Items 3, 4 and 5 are excerpts from reports as the remaining sections of these documents are outside of the scope of your request.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely



Hon Grant Robertson
Minister of Finance

Table of Contents

1.	<u>Treasury Report Government Response to Tax Working Group Recommendations</u>	1
2.	<u>Joint Report Process for Responding to the Tax Working Group's findings in their Final Report</u>	4
3.	<u>Joint Report Tax Working Group - Initial Advice on Potential Tax Reforms for Budget 2019</u>	9
4.	<u>Joint Report Tax Working Group Final Report - Officials' Companion Advice</u>	14
5.	<u>Joint Report Designing Capital Gains Taxation and the Minority Report</u>	18

IN-CONFIDENCE


Treasury Report: Treasury Report: Government Response to Tax Working Group Recommendations

Date:	14 June 2018	Report No:	T2018/1438
		File Number:	SH-13-7

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Discuss this report with officials at the Officials' Meeting on Wednesday 20 June.	4.45pm on Wednesday 20 June.
Minister of Revenue (Hon Stuart Nash)	Discuss this report with officials at the Officials' Meeting on Wednesday 20 June.	4.45pm on Wednesday 20 June.

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Bevan Lye	Principal Adviser - Tax Strategy	s9(2)(k)	N/A (mob) ✓
Paul Kilford	Team Leader - Tax Working Group Secretariat		N/A (mob)

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

Enclosure: No

IN-CONFIDENCE**Treasury Report: Treasury Report: Government Response to Tax Working Group Recommendations****Purpose of Report**

1. This report seeks guidance on your preferred approach for responding to the recommendations of the Tax Working Group.

Analysis***The current timeline is highly constrained***

2. The Group will provide an interim report to the Ministers of Finance and Revenue in September, followed by a final report in February 2019. The current timeline for translating the Group's recommendations into policy is as follows:

Milestone	Date
Final report to Ministers of Finance and Revenue	February 2019
Cabinet policy decisions	April 2019
Public consultation on policy changes	April – August 2019
Bill introduced	September 2019
Legislation enacted	July 2020
Changes take effect	1 April 2021

3. The timeline is highly constrained. It allows little time to finalise policy or consult with the coalition and support parties after the final report is received. The consultation and drafting processes prior to legislation being introduced are also very compressed. There is a high risk of delay if complexities arise.

Earlier discussions with your colleagues could reduce the risk of later delays

4. One option for reducing the risk of delay is to begin earlier discussions with your colleagues – potentially even before the interim report is received.
5. A series of earlier discussions would help to ensure your colleagues have a good grounding in the main issues before the interim report is received. Earlier discussions would also serve to identify areas where your colleagues will require more detailed consultation during consideration of the recommendations.
6. We also suggest scheduling a series of discussions at DEV *after* the interim report is received to test your colleague's reactions. One potential timeline is as follows:

Potential DEV discussion	Potential timing
Discuss the proposals in the Interim Report, and how these proposals fit with the Government's economic strategy. Potentially also seek DEV approval to release the Interim Report.	September
Consider public feedback on the proposals in the Interim Report.	November
Begin detailed discussion on the Group's final recommendations.	February

IN-CONFIDENCE***It would be desirable to allow more time for the consultation processes***

7. The current timeline allows six months for public consultation on policy changes arising from the Group's final report and drafting of the relevant bill. Depending on the scope and complexity of the final policy changes, this timeline could create substantive policy and drafting risks.
8. Past experience indicates that greater public engagement during the policy formulation phase can ease the progress of legislation through the Select Committee. It is also considered best practice for complex tax policy changes to involve two rounds of public consultation – both on the policy changes themselves, and then on the proposed legislation – before the bill is introduced.
9. The timing of policy decisions will also intersect with the timelines for Budget 2019. The urgency of decision-making will depend, at least in part, on the extent to which you wish to include any revenue changes in the Budget 2019 forecasts.
10. Subject to the scope and complexity of the policy changes, you may wish to consider a longer consultation timeline – perhaps with a view to introducing legislation in early 2020 rather than September 2019. This would of course result in a slightly shorter legislative timetable if changes were to be enacted before the 2020 general election.

Next Steps

11. Officials wish to hear your views on the best way to prepare for the Government's response to the Group's recommendations, as well as how officials can best support Ministerial decision-making on the recommendations over the coming months.
12. One option is for officials to begin by providing briefings on specific policy issues under consideration by the Group, perhaps starting with the taxation of capital gains. If you agree, these briefings could also be circulated to your colleagues.
13. We would welcome the opportunity to discuss your preferred approach at the Officials' Meeting on Wednesday 20 June.

Recommended Action

We recommend that you:

- a **discuss** this report with officials at the Officials' Meeting on Wednesday 20 June.

Agree/disagree.

Agree/disagree.

Paul Kilford
Team Leader - Tax Working Group Secretariat

Hon Grant Robertson
Minister of Finance

Hon Stuart Nash
Minister of Revenue

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**Inland Revenue**
Te Tari Taake

POLICY AND STRATEGY

**THE TREASURY**
Kaitohutohu Kaupapa Raua**Tax Policy Report: Joint Report: Process for responding to the Tax Working Group's findings in their Final Report**

Date:	21 September 2018	Report No:	T2018/2631 IR2018/632
		File Number:	SH-13-5

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Discuss the process for responding to the Tax Working Group's final report at Joint Ministers meeting on 26 September	Wednesday 26 September 2018
Minister of Revenue (Hon Stuart Nash)	Discuss the process for responding to the Tax Working Group's final report at Joint Ministers meeting on 26 September	Wednesday 26 September 2018

Contact for Telephone Discussion (if required)

Name	Position	Telephone		1st Contact
Jordan Ward	Senior Analyst, The Treasury	s9(2)(k)	s9(2)(a)	✓
Emma Grigg	Policy Director, Inland Revenue			

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.

Note any feedback on the quality of the report

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Enclosure: No

BUDGET-SENSITIVE**Tax Policy Report: Joint Report: Process for responding to the Tax Working Group's findings in their Final Report**

Purpose

1. The Tax Working Group (TWG) is due to issue its final report to the Government in February 2019. We seek your thoughts on a process for decision making on tax policy changes potentially arising from the TWG's recommendations.
2. This report outlines an indicative process for decision making based on key decisions being made by Cabinet in April 2019, and explains potential impacts on Budget 2019.
3. It also highlights risks and challenges with reaching decisions by April. It outlines an alternative approach which might be thought of as a "Plan B" which could still allow legislation to be enacted by July 2020.

Responding to the Tax Working Group's Final Report

The process for responding to the TWG

4. The Government has indicated that it intends to make decisions about TWG's recommendations in April 2019 [CAB-18-MIN-0458 refers]. We understand this is to ensure sufficient time to prepare, consult on and enact legislation before the next election (by July 2020).
5. We assume this timeline would involve Cabinet making decisions about key tax policy changes, including the high level design of a package, in April 2019. After those decisions, a discussion document for public consultation on the details of the Government's proposal would follow, potentially released on Budget Day in May 2019. Following consultation, final Cabinet decisions would be made in August 2019. A bill would be introduced in November, with legislation passed and enacted by July 2020 with application from 1 April 2021. An indicative timeline, consistent with this approach, is set out in Table 1 of this report.

Challenges and risks to making final decisions in April

6. As we have previously discussed with you, the timeline for translating the Group's recommendations into policy is highly constrained [T2018/1438 refers].
7. In particular, achieving Cabinet agreement by April will be challenging given the complexity of the issues and uncertainty about the extent to which the TWG will be able to come to a clear view about these issues in their final report. With the TWG's final report in February, it would entail the Ministers of Finance and Revenue working through significant detailed design questions about complex tax reform in March and having Cabinet agreement by early April.
8. To illustrate the complexity of potential decisions, key design choices for extending the taxation of capital income, if Ministers' wish to progress that option, would include: which assets are to be in the base, what tax rates would apply, what exemptions or rollover relief is applied, whether losses are ring-fenced, transitional arrangements, treatment of Māori assets, and many more. In addition, an overall package of options will entail a

BUDGET-SENSITIVE

range of other tax policy decisions. Officials plan to report on high-level package options based on the TWG's interim report on 4 October.

9. Preparing a discussion document for public consultation will require detailed decisions by Ministers and there will inevitably be several rounds of working through issues as detailed decisions are made. If a discussion document is to be released on Budget day, this implies there will be a relatively small window between Cabinet policy decisions (mid April) and Cabinet approval of the discussion document (early May). We consider that it is feasible, but is heavily dependent on Ministers making decisions about key design details in March.
10. Incorporating tax policy decisions into Budget 2019 (and hence impacting the fiscal forecasts) could also negatively impact how some stakeholders perceive consultation. Further public consultation and drafting of legislation would likely occur after the Budget. It will be important to communicate that public consultation is genuine and therefore that the policy details may be modified even if this has fiscal impacts. Uncertainty over final design choices, and corresponding fiscal impacts, will also need to be carefully considered in Budget 2019 – for example, assuming additional revenue that might not materialise after final policy design decisions are made.

An alternative approach – deferring decisions until after Budget

11. An alternative option is to consider deferring decisions until after the Budget. This would have the advantage of providing Ministers with a longer period to make decisions. On the other hand, it would mean that a significant fiscal decision occurs shortly after Budget. This would be unusual. It would mean that Budget 2019 becomes out of date soon after it is released, revenue decisions would be taken in isolation to the rest of the Budget – potentially limiting options for TWG response packages – and would also entail a slightly longer period of uncertainty about the Government's response to the Tax Working Group.
12. With either approach, there is a real possibility that other work on the tax policy work programme may need to be delayed to support tax reform related to the Tax Working Group. We will advise you in due course should we identify the need to reprioritise other items on the work programme.

Decisions in April could impact on fiscal forecasts for Budget 2019

13. Government decisions that have a material effect on the fiscal and economic outlook are required to be incorporated into the Treasury's fiscal and economic updates – a key component of the Budget. This means decisions about tax policy made in April 2019 would likely need to be incorporated into Budget 2019.¹
14. Since the final decisions on any tax policy changes are likely to occur after Budget 2019, the nature of any decisions made by Cabinet in April 2019 will be important in determining how these decisions are incorporated into the Budget – for example, whether they are incorporated into the fiscal forecasts, or as unquantified fiscal risks.
15. In general, items are incorporated into the fiscal forecasts when they can be quantified for particular years with reasonable certainty and a decision has been taken (or approval is likely). In these cases 'reasonably probable' is taken to mean that the item is more likely than not (better than 50% chance) to be approved.

¹ Under s26U of the Public Finance Act, Treasury's economic and fiscal updates (which are updated as part of the Budget) must incorporate all Government decisions that may have a material effect on the fiscal and economic outlook. Where fiscal implications can be quantified, they must also be included in the forecast financial statements.

BUDGET-SENSITIVE

16. If tax policy changes take effect from April 2021, they are expected to impact on the last two years of the four-year fiscal forecast period. Policy decisions would also impact on the economic forecasts.

Indicative timeline and process with key decisions in April

17. The table below presents an indicative timeline for TWG processes, formulation of advice, and decision making by Ministers and the Government assuming key decisions are made by Cabinet in April and are incorporated into the Budget process. As noted above, there are significant challenges and risks in achieving this April deadline. There is no scope for slippage in decision making times if decisions are to be made in time for releasing a discussion document on Budget day, and decisions incorporated into the Budget.

Table 1: Indicative timeline and process for responding to the TWG

Date	Milestone / activity
Phase 1: Completion of TWG + package formation (now – March 2019)	
September	Public release of the TWG's interim report
Early October	Initial report to Joint Ministers with list of options and package considerations based on the TWG's interim report
November	End of TWG public consultation period
Early December	Report to Joint Ministers with further advice on package options, informed by TWG progress
Mid December 2018	Budget Policy Statement: States Government's priorities for the Budget – opportunity to signal direction.
February 2019	Final TWG report provided to Ministers and taken to Cabinet
January – March 2019	Regular reports to Joint Ministers working through relatively detailed decisions (meet fortnightly) MOF takes key proposals to Budget Ministers for agreement (every 4 – 6 weeks)
Phase 2: Decisions (April 2019)	
Late March 2019	Budget Ministers make final decision on package. Coalition consultation completed
Early April 2019	MOF and MOR agree on a tax reform package for Budget 2019. Take Cabinet paper and RIS to Cabinet
Mid April 2019	Final Cabinet decisions on Budget
Phase 3: From Budget to implementation (May 2019 – April 2021)	
Late April / early May 2019	Discussion document of proposed tax changes goes to Cabinet
May 2019	Budget 2019. Discussion document released
May – July 2019	Public consultation period (at least 6 weeks in line with GTPP)
August 2019	Final decisions made by Cabinet and drafting instructions issues
November 2019	Bill introduced
July 2020	Legislation passed and enacted
April 2021	Implementation

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Next steps

- 18. Officials would welcome your feedback on this indicative process at the Joint Ministers meeting on 26 September.
- 19. Following this, Officials plan to provide advice on high-level package options based on the TWG's Interim Report. This is scheduled for consideration at your next Joint Ministers meeting on 8 October 2018.

Recommended Action

We recommend that you:

- a **discuss** this report at Joint Ministers meeting on 26 September 2018.

Agree / Disagree

Agree / Disagree



Matt Cowan
Acting Manager
Tax Strategy
The Treasury



Emma Grigg
Policy Director
Policy and Strategy
Inland Revenue

Hon Grant Robertson
Minister of Finance
/ /2018

Hon Stuart Nash
Minister of Revenue
/ /2018

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**Inland Revenue**
Te Tari Taake

POLICY AND STRATEGY

**THE TREASURY**
Kaitohutohu Kaupapa Rawa**Tax Policy Report: Joint Report - Tax Working Group - officials' initial advice on potential tax reforms for Budget 2019**

Date:	14 December 2018	Report No:	T2018/3429 IR2018/800
		File Number:	SH-13-7-8

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Agree to discuss this report with officials at the Joint Ministers' meeting on 17 December	17 December
Minister of Revenue (Hon Stuart Nash)	Agree to discuss this report with officials at the Joint Ministers' meeting on 17 December	17 December

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Michael Sherwood	Analyst, The Treasury	s9(2)(k)	n/a (mob)
Mark Vink	Manager, The Treasury	s9(2)(a)	✓
Matt Bengé	Chief Economist, Inland Revenue		

Actions for the Minister's Office Staff (if required)

Return the signed report to the Treasury

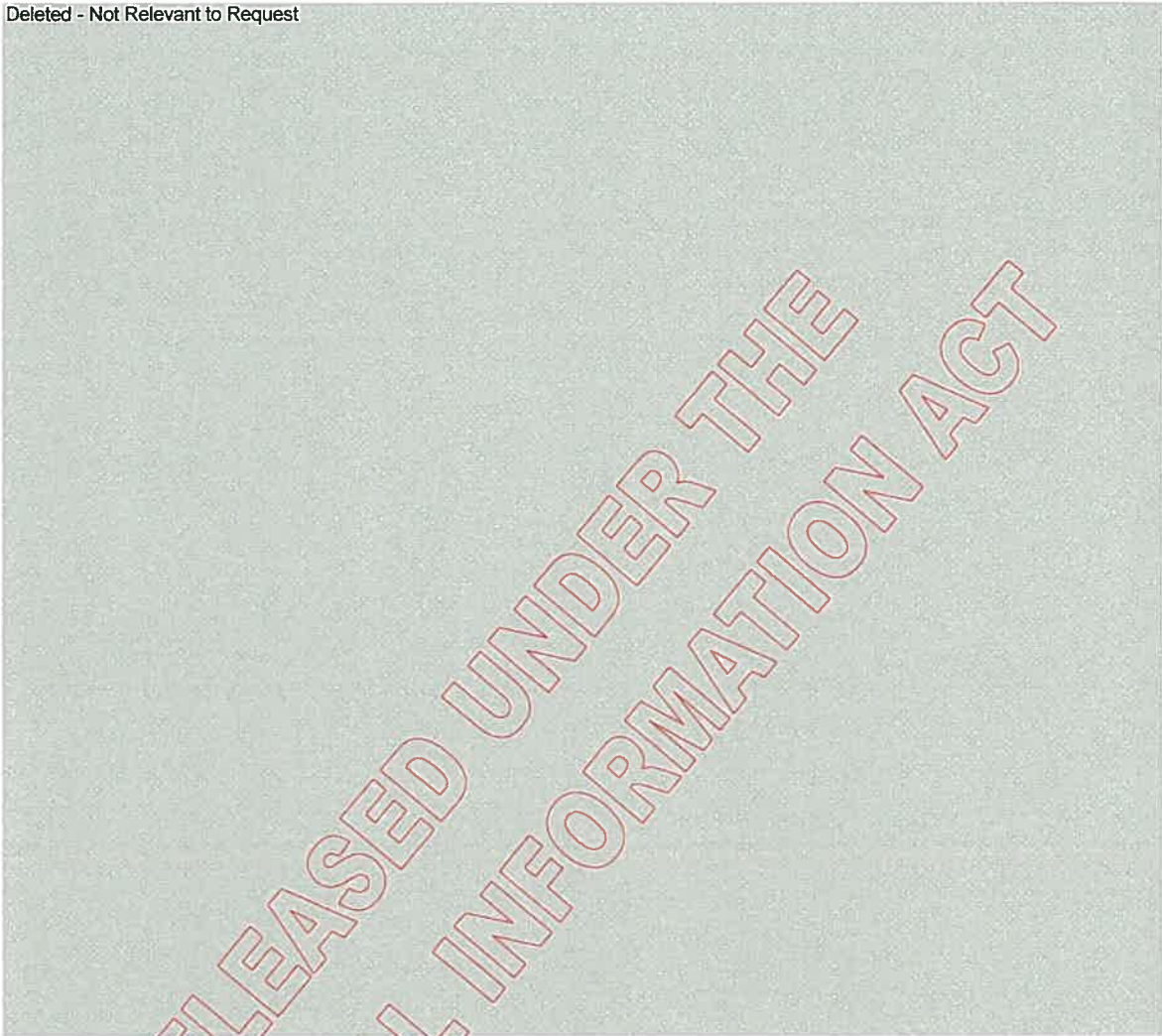
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Pages 2-3 are outside of the scope of the request.

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The timelines for pre-legislative consultation and detailed design will be challenging

To enact legislation by mid-2020, the Government would need to make decisions on key elements of proposed reforms in April, then consult and decide on the details, and then introduce legislation by November 2019. Officials can meet this timeline. However, it requires consultation and decision making on a large number of detailed and interconnected issues in a short space of time. This timeframe would increase the risks of there being a need to make further legislative changes in future, which would impose higher uncertainty and compliance costs on taxpayers.

Because of these risks, officials recommend amending the proposed timeline, to introduce legislation in mid-2020 with effect from 1 April 2022. This would allow additional time for consultation and decision making, which would help ensure legislation is fit for purpose, well-understood, well-tested to ensure it achieves the Government's objectives, and workable.

Under either timeline, there would be significant administrative resource implications for Inland Revenue from developing and implementing comprehensive tax reform at pace.

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Pages 5-28 are outside of the scope of the request.

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Page 4

BUDGET-SENSITIVE

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**Next Steps**

Timeline for Legislation

168. A number of submissions on the Group's interim report noted concern with the publicly available timeframes indicated for the generic tax policy process (GTPP) and legislative process beyond its final report. The Group requested officials' advice on this process.
169. Our advice was that, if Cabinet decides it wants to enact legislation before the 2020 General Election to extend the taxation of capital gains, legislation would need to be introduced by November 2019. Before this, there would need to be a consultation on detailed design decisions, which would need to start around May 2019 with the release of a Government discussion document.
170. We noted that this timeline does not leave much time for detailed design decisions to be made. As noted throughout this report, there are a number of complex design

Joint Report - Tax Working Group - officials' initial advice on potential tax reforms for Budget 2019 FINAL (but still DRAFT) - Thurs

Page 29

BUDGET-SENSITIVE

BUDGET-SENSITIVE

decisions that will need to be made before legislation can be introduced. This report has only touched on the high-level design decisions. There are many other complex issues associated with extending the taxation of capital gains that we have yet to discuss with you.

171. There is a risk that rushing consultation undermines the GTPP. Under GTPP, changes to tax policy are supposed to go through a process of consultation with the general public, including the private sector. One of the main goals of GTPP is to ensure that all policy issues that have a significant impact on the public are considered by officials before legislation is drafted. Consultation on the policy issues before legislation is introduced allows consultation after legislation is introduced to focus on how well the legislation actually implements the Government's policy decisions, rather than on issues with the policy itself.
172. More time being built into this process would ensure that, through adequate consultation, legislation is fit for purpose, well-understood, well-tested to ensure that it achieves the Government's objectives, and workable. This would minimise the need for further legislative change in the future.
173. Legislation that requires substantial amendment post-enactment increases uncertainty and can impose significant compliance costs on taxpayers, who may have to update their processes in response to changes in the way that the tax operates.
174. We have advised the Group that we consider including all legislation in one Bill is preferable to splitting it over multiple Bills, as this provides a better opportunity to achieve a coherent and sustainable change to the tax system. It would also eliminate the need for temporary measures that may be necessary to enforce boundaries that would exist in the short term but not once all relevant asset classes were subject to tax.
175. In saying this, officials can meet the proposed timeline. However, because of the risks involved, our recommendation is that the timeline be amended to allow legislation to be introduced in the middle of 2020 with an effective date of 1 April 2022.
176. Finally, extending the taxation of capital gains would require considerable IT changes within Inland Revenue, and preparation to assist taxpayers with implementation and ongoing compliance (for example, information, education and relevant forms). This means, particularly if the effective date of 1 April 2021 is retained, Inland Revenue will need to incur significant implementation costs through 2019-21.

Process for further advice

177. The Group is expected to send you its final report in late January 2019. Officials will provide you with a report at the same time setting out where we agree and disagree with the Group's final recommendations.
178. In order for the Government's response to the final report to be included in Budget 2019, you will need to make final policy decisions in March, and take papers to Cabinet in April.
179. To help facilitate the making of these decisions, we propose sending you a series of reports seeking your provisional decisions on both the design choices for extending the taxation of capital gains, and on how the revenue raised could be allocated. These reports would be sent to you throughout late January and February. The topics covered in these detailed reports can be based on your feedback on this report.
180. We suggest no final decisions be made until March, once you have had the opportunity to consider these additional reports.

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181. After final decisions are made, we propose preparing a paper for Cabinet to consider, as well as a discussion document on extending the taxation of capital gains that could be released at Budget 2019.
182. We also propose preparing material for a series of workshops with your Ministerial colleagues on the Group's final report. These workshops would be of a similar nature to the workshops carried out prior to the Group's interim report going to Cabinet. Subject to your approval, officials can liaise further with your offices on the timing and content of these workshops.

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**Inland Revenue**
Te Tari Taake

POLICY AND STRATEGY

**THE TREASURY**
Kaitohutohu Kaupapa Rawa**Tax Policy Report: Tax Working Group final report – officials' companion advice**

Date:	1 February 2019	Report No:	T2019/113 IR2019/041
		File Number:	MS-9-1

Action Sought

	Action Sought	Deadline
Minister of Finance (Hon Grant Robertson)	Note the contents of this report.	7 February 2019
Minister of Revenue (Hon Stuart Nash)	Note the contents of this report.	7 February 2019

Contact for Telephone Discussion (if required)

Name	Position	Telephone	1st Contact
Matthew Gan	Tax Specialist, The Treasury	s9(2)(k)	N/A (mob)
Mark Vink	Manager, The Treasury	s9(2)(a)	✓
Emma Grigg	Policy Director, Inland Revenue		

Actions for the Minister's Office Staff (if required)

Return the signed report to the Treasury
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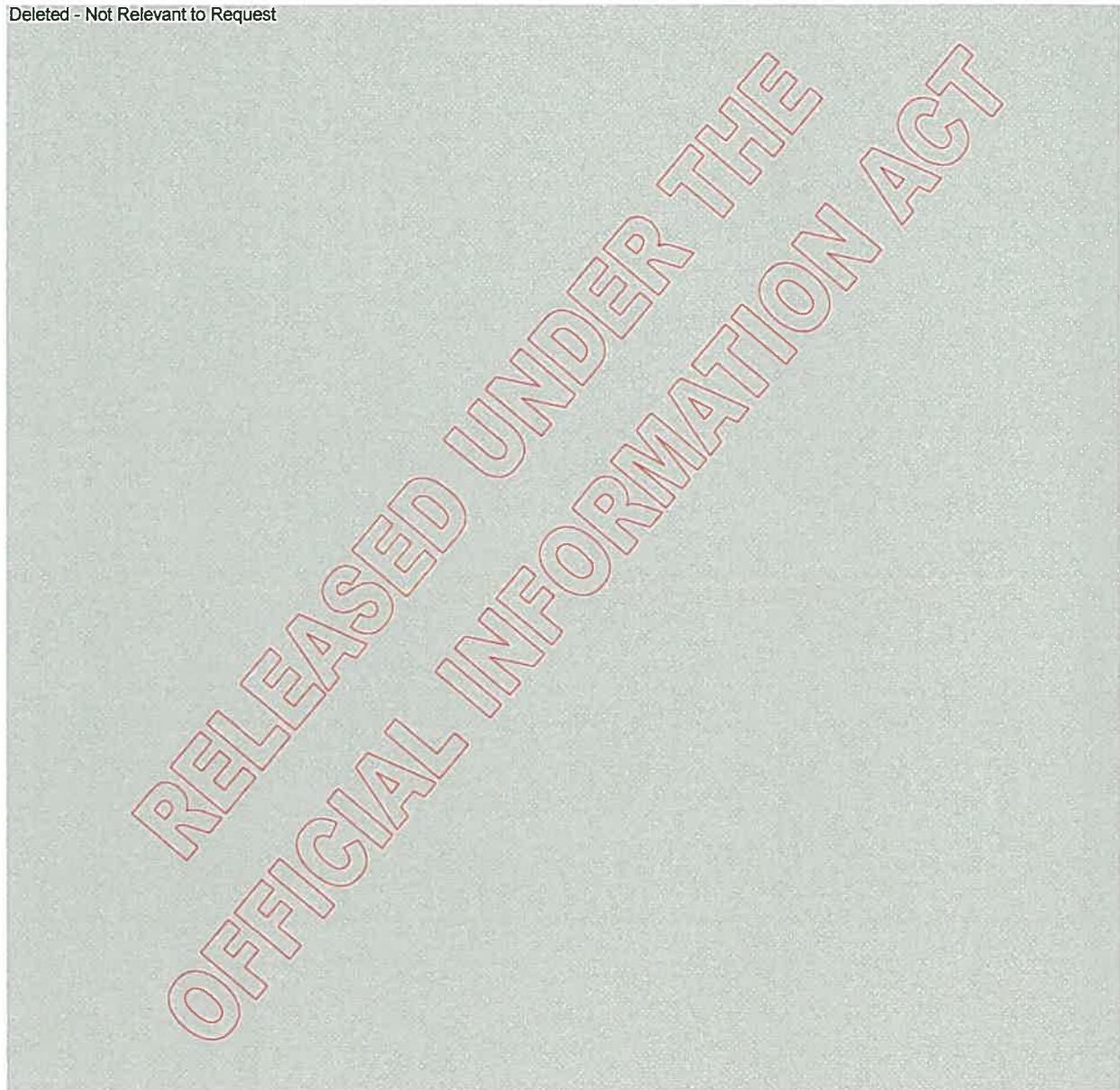
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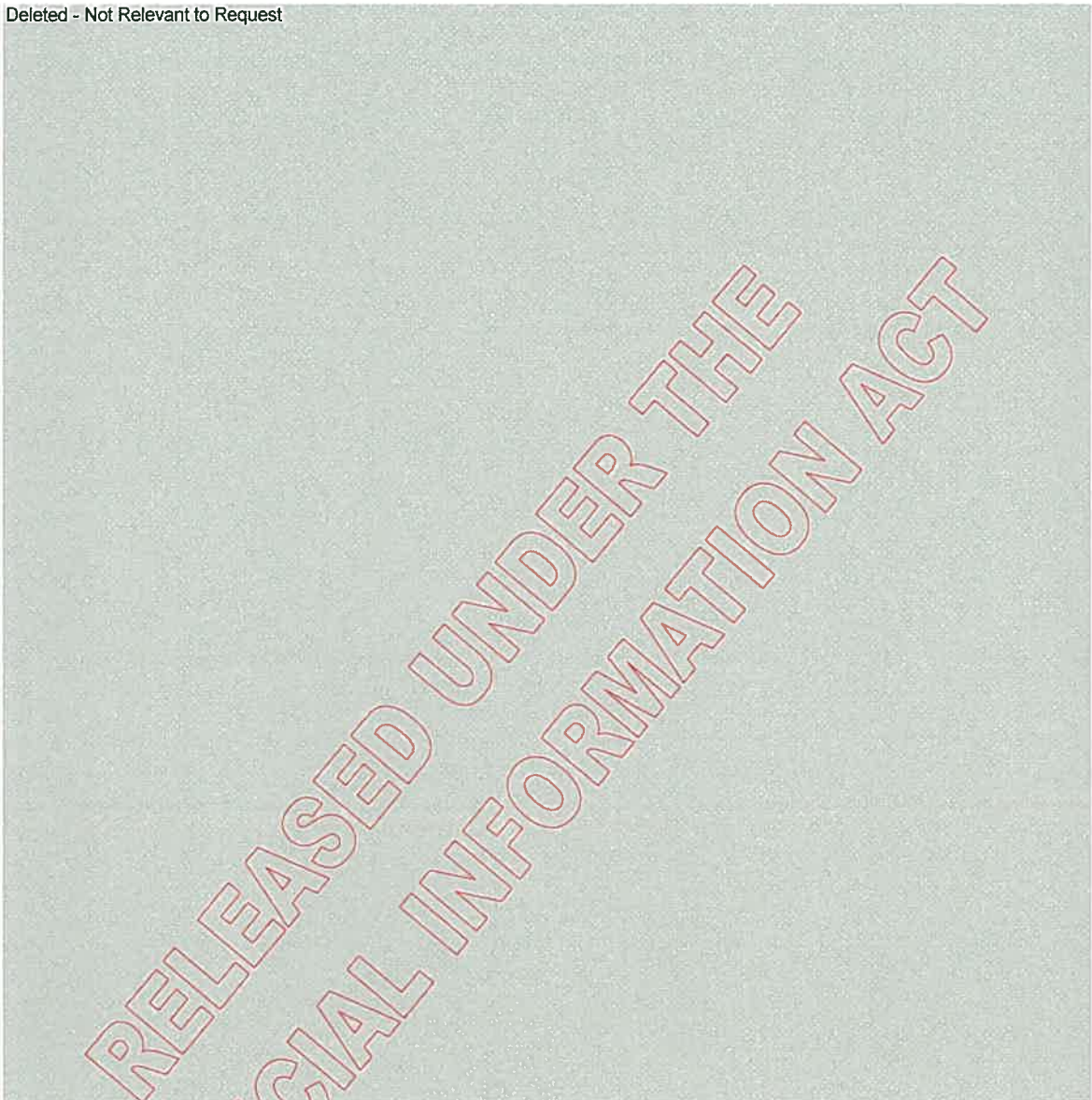
**Tax Policy Report: Tax Working Group final report – officials’
companion advice**

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Delivering a package of potential tax reforms to enact legislation by mid-2020

In order to meet the Government's timeline for enacting any significant tax-reform by mid-2020 (to apply from 1 April 2021), you will need to make final policy decisions on key elements of proposed reforms over the next two months so that Cabinet approval can be sought in April and public consultation can begin through the release of a discussion document around May.

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Pages 4-10 are outside of the scope of the request.

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Timelines

35. If Ministers want to enact legislation for a potential tax reform package before the 2020 General Election, legislation would need to be introduced by November 2019. Before this, there would need to be consultation on detailed design decisions, which would need to start around May with the release of a Government discussion document.

36. An indicative timeline to achieve this is set out below:

February	<ul style="list-style-type: none"> • TWG Final Report published • Discussions with Joint Ministers on: <ul style="list-style-type: none"> ○ Design details for extending the taxation of capital gains ○ Overall package of measures
March	<ul style="list-style-type: none"> • Joint Ministers decisions on: <ul style="list-style-type: none"> ○ Design details for extending the taxation of capital gains ○ Overall package of measures
April	<ul style="list-style-type: none"> • Cabinet decisions on: <ul style="list-style-type: none"> ○ Design details for extending the taxation of capital gains ○ Overall package of measures
May	<ul style="list-style-type: none"> • Government announces overall package of measures • Discussion document released
August	<ul style="list-style-type: none"> • Cabinet decisions on final design details • Legislative drafting instructions issued

37. This timeline requires you to take a series of decisions on a large number of complex issues over the course of February and early March, in time for papers to be prepared to be taken to Cabinet in April. We propose to send you a series of reports throughout February to facilitate these decisions and to discuss this suggested process at the meeting with the Minister of Finance on 7 February.

Question for Ministers

- Are Ministers comfortable with the proposed timeline at paragraph 36?
- How best can officials can best engage with Ministers and Cabinet over the coming months?

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Pages 12-14 are outside of the scope of the request.



POLICY AND STRATEGY


THE TREASURY
 Kaitiaki Takekōwhiri

Tax policy report: Major Design Issues in the Taxation of Capital Gains

Date:	8 February 2019	Priority:	High
Security level:	Sensitive	Report number:	IR2019/061 T2019/246

Action sought

	Action sought	Deadline
Minister of Finance	Note and discuss the contents of this report	12 February 2019
Minister of Revenue	Note and discuss the contents of this report	12 February 2019

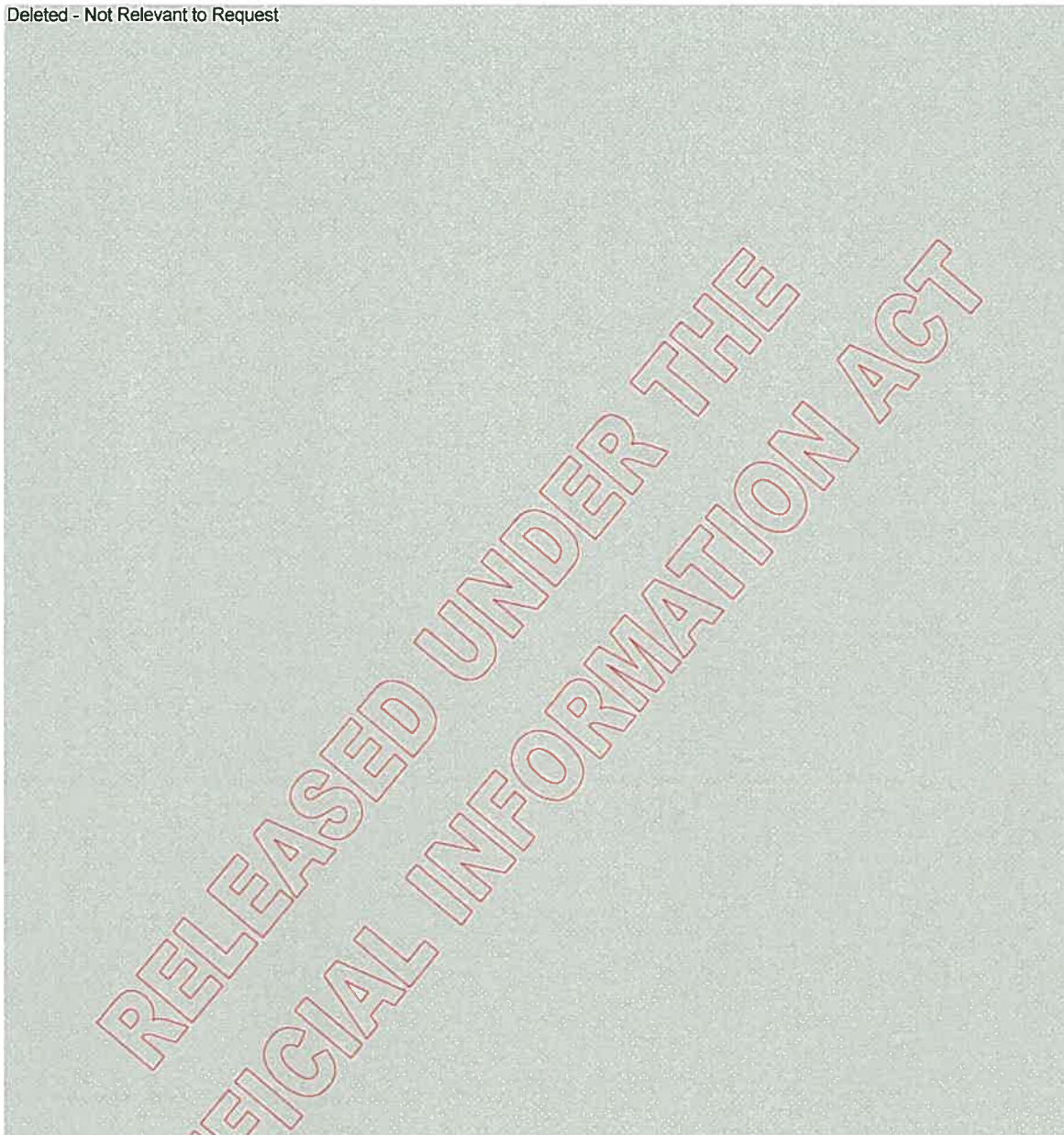
Contact for telephone discussion (if required)

Name	Position	Telephone
Mark Vink	Manager, the Treasury	s9(2)(k) s9(2)(a)
Paul Kilford	Policy Manager, Inland Revenue	s9(2)(k) s9(2)(a)

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**Part D: Timing of legislation and phased-in implementation**

14. Officials have previously advised Ministers on options for the timing of legislation. Legislation for a broad extension of capital gains taxation introduced in Parliament before the 2020 General Election with effect from 1 April 2022 remains our preferred option. Legislation enacted before the 2020 General Election with effect from 1 April 2021 would be possible, but would carry increased risks of technical errors and complaints of inadequate consultation.
15. The Group's Report raised the possibility of a phased-in extension of capital gains taxation to provide additional time for development of the more complex aspects of the system. If a phased-in implementation were desired, the most feasible first phase would be an extension to residential real estate other than the family home,

¹ As outlined in Joint Report – Tax Working Group – officials' initial advice on potential tax reforms for Budget 2019T2018/3429, IR 2018/800 a business package could include restoring depreciation on buildings, expanding black hole expense deductibility, and reducing restrictions on loss carry-forwards when a company is sold.

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with a second phase extending capital gains taxation to all the remaining asset classes.

16. There has been some discussion with Ministers on the issue of timing. It is raised again to confirm views on timing and in case Ministers wish further discussion or information.

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Part D: Timing of legislation and phased-in implementation

Group recommendation

126. The Report did not analyse or make recommendations on a phased-in implementation. The letter from Sir Michael to Ministers indicated that the "Government also has options around how to stage the timing of introduction and whether to phase in the inclusion of asset classes." The TWG report itself also notes that the Government "has options about how to stage the timing of introduction."⁷

Comments

127. Phased-in implementation has been suggested to address concerns about achieving a successful implementation within compressed timelines. As alluded to in our report dated 1 February (T2019/113 / IR2019/041 refers), on the assumption that a comprehensive tax is preferred, officials consider there are three main implementation timing options:
- *Option 1* - Comprehensive tax on the Government's proposed timeline of legislation enacted before the 2020 General Election with effect from 1 April 2021;
 - *Option 2* - Comprehensive tax bill introduced in Parliament before the 2020 General Election with effect from 1 April 2022;
 - *Option 3* - A phased approach, with residential property (other than the family home) enacted before the 2020 General Election with effect from 1 April 2021 and the remaining asset classes introduced before the General Election in 2020 with effect from 1 April 2022. This split between residential property and the rest, rather than any other dividing line, is for the reasons noted in the "what is taxed" section of this report.

Officials' position

128. Officials have previously advised that our preference is for Option 2, which would allow for consultation both on the design detail and possibly some key aspects of legislative drafting before any amendment bill was considered by Select Committee.
129. We have also previously advised that we could meet the timelines for Option 1 if necessary. Both these pieces of advice still stand.
130. In saying this, we reiterate that Option 1 significantly increases the risk of:
- Technical errors in the legislation that will require remedial amendment; and
 - Complaints from stakeholders that any consultation process is inadequate for what will be an important and complex set of legislative amendments.
131. Legislation that requires substantial amendment post-enactment increases uncertainty and can impose significant compliance costs on taxpayers, who may have to update their processes in response to changes in the way that the tax operates. The TWG also noted that this timeline was "challenging".
132. If Ministers are considering a phased approach, officials consider that Option 3 has the following advantages when compared with Option 1:

⁷ Tax Working Group Final Report, Volume I, paragraph 13.

In Confidence

- There is clearly significant stakeholder concern over the details of any proposals. Extra time would allow a more thorough consultation process, improving the overall quality of the bill at introduction and easing these stakeholder concerns. Shorter timeframes also put more pressure on the process to understand impacts for Māori collectively-owned assets and associated decisions by the Government, which is necessary to ensure that the Crown has acted in good faith in relation to its Treaty partner;
- The boundary between residential property and the rest is relatively neat, which would make extending income tax to that class of assets relatively simple and also minimise the need for temporary measures;
- Having a delay of only one year would lessen the pressure on temporary measures anyway because it limits the benefits of taxpayers structuring to avoid the tax;
- Introducing a comprehensive bill to Parliament before the 2020 General Election would, in our view, meet the Government's objective of providing certainty to taxpayers on the design of the tax;
- Although it would generate less revenue in earlier years than Option 1, it would still tax a large asset class in 2021-22 year and therefore generate more revenue than Option 2.

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