July 14th 2023

NZSA response to Finance and Expenditure Committee Consultation *Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Bill*

The NZ Shareholders' Association (NZSA) appreciates the opportunity to present this submission on the proposals contained within the Taxation (Annual Rates for 2023-24, Multinational Tax, and Remedial Matters) Bill. Specifically, the contents of this submission addresses proposals related to the introduction of a new tax rate applicable to Trusts.

NZSA would welcome the opportunity to speak to our submission and any related matters to the Finance and Expenditure Committee

Key Submission Points

Section 1: A further 'nail in the coffin' for representation of individual investors in tax structures and government policies

1. NZSA considers that the introduction of a trust tax rate of 39% would introduce a level of differentiation with the lowest tax option for investors (PIE funds at 28%) that would further disadvantage individual direct investors.
2. NZSA contends that there is already a significant lack of representation within Parliament for the interests of individual investors.
3. Over recent years, the manner of investment opportunities for retail investors have increased dramatically, to include structures such as Portfolio Investment Entities (PIE's), Discretionary Investment Managed Services (DIMS) and Exchange-traded funds (ETF's) in addition to new investment platforms (such as Sharesies).
4. From a tax and regulatory perspective, however, this has created an unconscious bias towards the funds management industry rather than the interests of individual investors.

5. NZSA is supportive of all investment structures that allow a broad demographic to participate in investment opportunities. Ultimately, they are all "retail investors".
6. However, we do not believe that it is appropriate to implicitly favour one form of investment approach over another.
7. The proposed trust tax rate incentivises trustee investors towards fund, thereby incurring costs and fees charged by fund managers for services that trustees may be entirely capable of undertaking themselves.
8. While Parliament seems intent on perpetuating a bias against individual investors, we note that Sharesies has sparked a much-needed resurgence in New Zealander's attitudes to investment, with approximately 600,000 individual investors as clients.
9. We note that the maximum existing prescribed investor rates for PIE's is 28%, regardless of an investor's personal marginal tax rate. The changes are likely to increase participation in PIE's, further reducing direct engagement with New Zealand's capital markets.
10. We do not consider a 'weakened' capital market a good outcome for New Zealand investors.
11. On this basis, NZSA believes that the increase in the trust tax rate will add further impetus to the funds management industry at the expense of individual investors.
12. **NZSA Proposal: We propose a more collaborative approach with investor groups (including NZSA) to support the Finance and Expenditure Committee in pursuing effective representation for individual investors.**

Section 2: Tax Differential will encourage investment decisions to be based on taxation rather than investment fundamentals

1. NZSA notes that top tax-rate investors operating through different structures now faces tax rates between 28% - 39%, with the proposed Trust tax rate at the top of that range.
2. NZSA supports the intent of the Committee to consider law changes that encourage top tax rate investors to pay a fair tax rate.
3. NZSA believes this will further increase tax minimisation activity, which appears to be the very problem that the proposed trust tax rate is attempting to solve.
4. From an investment perspective, investors are therefore likely to base their investment decisions on taxation impacts rather than a sole focus on the fundamental underlying value opportunity of the investment itself.
5. **NZSA Proposal: We consider that a more holistic review of taxation rates is required to address imbalances and biases between different investment approaches and create a level playing field for different investment structures.**

   This should include consideration of simplification of tax structures to encourage fairness and minimise scope for tax minimisation.

Section 3: Encourages a bias towards distribution and expenditure as compared with ongoing productive investment and long-term savings growth

1. We note the uncertain nature of data surrounding the impact assessment of the proposal to increase the trust tax rate.

   Increasing the trustee tax rate to 39% would raise revenue for Budget 2023 and can be designed and implemented by Inland Revenue for the 2024-25 and later income years (beginning 1 April 2024 for most trusts). This approach is expected to raise $350 million per annum. However, this is highly uncertain and largely dependent on the extent of the behavioural response of trustees.
   RIS, Taxation of Trustee Income, Page 1

2. And later in the document:

   Our ability to determine whether the proposals will have a disproportionate impact on certain groups or types of trusts is limited.
   RIS, Taxation of Trustee Income, Page 5

3. NZSA believes that the behavioural reaction of trustees should be a key consideration for the Committee.

4. A behavioural reaction is not limited solely to a choice of investment structure (as discussed in Section 2), but is also likely to encourage distribution of trust income rather than re-investment in further savings/investment growth opportunities.

5. This distribution or allocation to beneficiaries is taxed at the beneficiaries marginal tax rate.

6. Most New Zealanders do not pay tax at the top marginal rate of 39%. Trusts are used many New Zealanders to safeguard savings, as a retirement savings vehicle and as a form of estate planning to ensure welfare for future generations.

7. Therefore, a wider differential between the trust tax rate of 39% and the beneficiary income tax rate is likely to encourage distribution to beneficiaries and negatively impact long-term retention of a trust's investment pool.

8. NZSA believes there is insufficient data to effectively determine the trade-off between targeting marginal tax rate individuals who should pay 39% as against the impact on lower-income New Zealanders who use trusts for a range of purposes.

9. **NZSA Proposal: We believe that further research is required into mechanisms (including taxation) that can improve and incentivise savings and investment behaviour by New Zealanders.**

Endorsements

Note that NZSA supports the commentary contained within the submission prepared by the Securities Industry Association.

Please note that our submission has been reviewed and endorsed by the **Securities Industry Association** and **NZX Limited**.

Bridget MacDonald
Executive Director, Securities Industry Association

Mark Peterson
CEO, NZX Limited

Thank you for the opportunity to present this submission. We would welcome further discussion and engagement on the points raised by NZSA. Please contact me on 021 190-5343 or via ceo@nzshareholders.co.nz should further clarification be required.

Oliver Mander

CEO, NZ Shareholders' Association

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