

5 December 2023

Hon Simon Watts  
Minister of Revenue

By email: [simon.watts@parliament.govt.nz](mailto:simon.watts@parliament.govt.nz)

Tēnā koe Minister

I am writing on behalf of the New Zealand Law Society Te Kāhui Ture o Aotearoa (Law Society), to congratulate you on your appointment as Minister for Revenue.

The Law Society is committed to continuing its active participation in the development and interpretation of taxation law and policy. We take this opportunity to share with you some of our key priorities in this area, and we extend an invitation to discuss this further.

## Background

The Law Society is the professional body for lawyers in New Zealand. We are an independent statutory body constituted under the Lawyers and Conveyancers Act 2006 to regulate and represent the legal profession. We regulate just over 16,000 practising lawyers, and represent over 98% of lawyers.

### **The Law Society's role in law reform and advocacy**

The Law Society has a statutory function to 'assist and promote, for the purpose of upholding the rule of law and facilitating the administration of justice in New Zealand, the reform of the law.' This is a regulatory function carried out in the interests of the public.

The Law Society is consistently called upon to ensure workable legislation by providing reasoned and impartial submissions on law reform proposals. Law Society submissions also represent the public interest on matters such as access to justice, the administration of justice, constitutional protections, and the rule of law. We also act as an impartial intervenor in court cases of general and public importance in the higher courts.

## The Tax Law Committee

To carry out this work,<sup>1</sup> the Law Society has over 170 volunteer lawyers, sitting on 17 committees, who contribute to submissions on bills, policy papers, working groups, and the like. The **Tax Law Committee**<sup>2</sup> is one of the busiest of these committees. It has 15 members, each of whom are experienced tax lawyers. We have an open and productive relationship with Inland Revenue, with various points of engagement we remain committed to.

## Key priorities

### **A return to GTPP as the standard**

The Law Society acknowledges the efforts the Commissioner of Inland Revenue made to ensure the rule of law was upheld when urgent response measures were undertaken during the

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<sup>1</sup> Further information about the breadth of our law reform and advocacy work can be found on our [website](#).

<sup>2</sup> Further information about the Tax Law Committee and its members, can be found [here](#).

pandemic response, particularly in relation to the extended use of the Commissioner's care and management powers. Consultation was undertaken as far as possible in the circumstances. However, New Zealand has now moved well past the COVID-response stage, and during the last government we did not see a return to use of the longstanding Generic Tax Policy Process (GTPP) as the preferred framework for developing tax policy and legislation.

Early, informed consultation helps ensure effective and workable laws, and reduces the need for subsequent remedial reforms. By engaging stakeholders and allowing sufficient time for consideration and meaningful consultation (including providing draft legislation at an early stage), IR can develop practical and sustainable reforms. Legislation such as the Taxation Principles Reporting Act have instead been developed and drafted entirely outside of the GTPP. The Law Society strongly supports a return to the GTPP, perhaps updated to reflect changes considered appropriate with the benefit of 30 years' experience, as the standard process.

### **Consideration of tax bills by Parliament and Select Committee**

As the Minister will be aware, select committees are a central step in the legislative process, contributing to legislative quality and democratic legitimacy. They are an accountability mechanism and accessible form of public participation. Two examples highlight the Law Society's concerns with increased use of urgency, and reduced consultation periods.

In 2020, section 17GB was inserted into the Tax Administration Act 1994 via a bill that – as you know – passed under urgency. This was despite the then Attorney General reporting under section 7 of the New Zealand Bill of Rights Act 1990, that the provision was inconsistent with protected rights. There was no apparent need for the urgent passage of this extraordinarily broad information-gathering power, which remains in force today without appropriate safeguards.

Having not followed the GTPP (or any form of consultative process), the Taxation Principles Reporting Act 2023 then went through a truncated select committee process, allowing only 16 working days for submissions. As a member of the Financial and Expenditure Committee at this time, you will appreciate the significant concerns raised by the Law Society, along with many other submitters throughout this process. With a more fulsome select committee process, it may have been possible to improve the Act and to achieve broader consensus.

The Law Society is also concerned to address the many remedial matters which have arisen as a result of a failure to follow GTPP, and which are constantly consuming significant Revenue and stakeholder resources. We have some suggestions as to how the backlog of remedial matters could be addressed, which we would be pleased to discuss with you.

### **Future engagement**

We would appreciate an initial opportunity to meet with you to discuss matters of mutual interest, and would welcome regular, perhaps annual, meetings. To arrange a meeting at a time convenient to you I invite your officials to please contact [Aimee Bryant](#), Manager Law Reform and Advocacy.

You can contact me via [Bronwyn Jones](#), General Manager Policy, Courts and Government, or [president@lawsociety.org.nz](mailto:president@lawsociety.org.nz).

Nāku noa, nā



Frazer Barton  
**President**