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Property Tax and Assessment News from Around the World

NEW ZEALAND - April 2018

Property Institute warns the Government's moves to 'ring fence' property tax losses will have a 'disastrous impact' on the market and significantly worsen the already existing rental accommodation shortage

The country's facing the prospect of an "exodus" of landlords that will have a "devastating impact" on the rental property market following the Government's moves to 'ring fence' property tax losses, the Property Institute of New Zealand is warning.

"[The moves] will have a disastrous impact on the market and will significantly worsen the shortage of rental accommodation in our largest cities," chief executive Ashley church says.

Church’s comments follow the release of an issues paper outlining a proposal to change the rules around the tax deductibility of losses associated with the ownership of rental properties.

The effect of the changes would be that the costs associated with owning a rental property (interest, rates, insurance, maintenance, etc) could no longer be offset against other income as has been the case for many decades. Instead, these losses would be ‘ring fenced’ and could only be applied to profits made on the property against which the costs were incurred.

The Government is claiming that the moves are “an effort to level the playing field between speculators, investors and home buyers” but Church says this is nonsense and shows a continuing misunderstanding of the difference between ‘speculation’ and ‘property investment’.

"This Government continues to have a blind spot when defining these terms. ‘Speculators’ are people who are in and out of the market very quickly – sometimes within just a few weeks or months – and who seek to make money through renovations or quick capital gain. ‘Investors’ are Landlords – people who are often in the market for decades – and who perform an important social service by providing accommodation over long periods of time.

"Treating the two in the same way demonstrates an unacceptable ignorance of how the property market works."

Ring-fencing tax losses will be the ‘final straw’ for many investors and will largely have the effect of pushing them out of the market – further compounding an already serious rental crisis, he says.

In encouraging feedback on the proposed changes Revenue Minister Stuart Nash has said that the “persistent tax losses” that many property investors declare on their investments indicate that they rely on capital gains to make a profit. But Church believes this is "woolly thinking" and demonstrats a lack of experience by the new Government.

"Yes, most investors make a loss on the day-to-day operation of their property in the early years – but properties do eventually become profitable at which time tax is paid on that profit just like any other business activity. So the ability to claim losses early on is offset by an eventual return to the taxman later on – and without the ability to claim those early losses many investors would abandon the market, or wouldn't enter it in the first place," Church says.

Private Landlords provide the lions share of rental accommodation in New Zealand – and in doing so they have saved the State billions over the past few decades, he says.

"Scaring them out of the market is foolhardy, bloody minded, and will constitute a massive 'own-goal' for the Government.".

Church notes that Nash has said in conjunction with the recently announced extension to the bright-line test, ring-fencing losses from rental properties would make property speculation less attractive and level the playing field between property investors and home buyers.

Church disagrees, saying that the extension of the 'bright-line' test to five years already means that speculators – the group the Government claims to be targeting – will now be paying their fair share of tax.

However, further moves "will punish a group who are performing a public good".

"Given that price competition has now largely disappeared – those who are in a position to buy are already doing so and an exodus of landlords will make little difference to that.

"What's far more likely is that residential rental accommodation will go the way of farm land and our larger companies and will end up in the hands of handful of 'corporate investors' who will own the bulk of our rental property.

"Is that really what we want?"

Māori and the Tax Working Group: how do we make the system more fair?

Business consultant and Treaty commentator Joshua Hitchcock looks at the terms of reference for the new Tax Working Group and asks: how can the tax system create a more equitable outcome for Māori?

Following last year's election win, the Labour government announced the establishment of a tax working group to review the New Zealand tax system. Well, parts of it. It is not a fully comprehensive review, with many components of our tax system – such as the levels of individual taxation and capital gains on the family home – left out of the terms of reference, but it does explore many topical taxation issues and has a mandate to discuss how we can produce a fairer system of tax while maintaining the general overall levels of taxation throughout the economy.

So while the Tax Working Group does not promise radical change to our system of taxation, it does raise some important questions for Māori to engage with. Central to this discussion is the intergenerational fairness of the tax system and how the changing dynamics of the Māori economy over the next 30 years will influence, and by influenced by, the tax system.

The Tax Working Group has posed two main questions for Māori to consider. First, whether there are parts of the current tax system that warrant review from the point of view of te ao Māori, and second, how tikanga Māori might be able to help create a fairer, more future-focused tax system. Noble aims, no doubt, and while Māori perspectives about tax have long been absent from tax policy discussions, these are the wrong questions to be asking. The question should not be how can tikanga Māori help create a fairer, more future-focused tax system; but rather how can the tax system be designed to create a more equitable outcome for Māori?

A particularly striking impact is likely to be experienced by the next several generations of Māori. As Pākehā New Zealand grows older and enters retirement, the youthful Māori population comes of age and enters the workforce. The Tax Working Group have acknowledged this shift in demographics and in its call to action for Māori notes that "we will have an increasingly older Pākehā population that will be dependent on a larger and younger proportion of working age Māori."

How equitable is a tax system that relies on Māori paying for the retirement of Pākehā after providing the land and resources for Pākehā to flourish in New Zealand? How equitable is a tax system that asks Māori to provide more and more of the general taxation to support retirement incomes, when Māori life expectancy is seven years less than the New Zealand average? In order to ensure that these 30 years of Treaty settlements, and the return of a fraction of the assets stolen from Māori is not an exception in the general history of New Zealand, we need a tax system that does not revert to the theft of our resources for the benefit of Pākehā, and a system of government that works to provide equitable opportunities for Māori.

Because the flip side of taxation is the benefits that taxation provide. When Māori are at the negative end of almost every social indicator, when we are more likely to be unemployed, more likely to be suffering poor health, more likely to die earlier, more likely to be in prison, more likely to be on some form of benefit, more likely to be renters on our own land, when Ngāti Whātua Ōrakei step in to provide private health insurance to its members and Ngāi Tūhoe want to assume responsibility for the welfare system within its rohe; it is impossible to argue that the benefits of taxation have flowed equitable towards Māori. The benefit of taxation needs to be explored, alongside models of how better outcomes for Māori can be achieved. In the ideal world, taxation is used to fund the services that Māori require, but these are provided by Māori.

Following on from the general discussion around the fairness of the tax system, the Tax Working Group are engaging with several specific questions around the tax system and the potential implementation of new taxes to broaden the tax base. The highest profile issue is whether a capital gains or land value tax should be implemented in New Zealand. What, then, is the impact of a potential capital gains tax or land value tax on Māori assets and Māori land? Our land and our assets are taonga, and the likelihood of them being sold is small; but either a capital gains tax assessed on an annual basis or a land value tax has the potential to destroy Māori wealth.

If the government can make the political decision to exempt the family home from this discussion, it should also be able to exempt Māori land from it as well. One of the contributing factors to the loss of so much Māori land in the late 19th and early 20th century was the loading of rates onto Māori land, and the subsequent debt that kept accruing because these rates were unable to be paid. To do so again with a capital gains or land value tax would potentially open up a new round of Māori land losses. The Tax Working Group asks if there is a workable model to consider a capital gains or land value tax on Māori land. The simplest, and most equitable, model is that it is exempt entirely.

The Tax Working Group is taking submissions through until 30 April. We have a once in a generation opportunity to discuss and influence tax policy, a once in a generation opportunity to design a tax system that is not only fair and equitable for New Zealand, but one that is also fair and equitable for Māori. And while there is every likelihood that the recommendations from the Tax Working Group will go nowhere, much like the review undertaken by the previous National government, we are now working with a government that is openly talking up its commitment to Māori. Let's make sure our voices are heard.

Land Value Capture

The Minister of Transport Phil Twyford says there is a "great deal of interest" from private capital providers when it comes to investing in New Zealand's transport infrastructure – he is welcoming their interest

Minister of Transport Phil Twyford has sent a clear message to would-be investors in New Zealand's transport infrastructure – "the Government is open for business."

He is sending Associate Transport Minister Shane Jones on a fact-finding mission to Australia tomorrow to investigate the best ways investors can work with the Government on public-private partnerships (PPP).

"The message from our Government is we're open for business," Twyford said after addressing a business and local Government summit on the "changing direction in transport for New Zealand."

Twyford says it is likely projects, such as Auckland's light rail and rapid transit, will be funded in collaboration with the private sector through PPPs.

He says it's too early to put a figure on how much the Government is expecting private capital providers to stump up with but says it's likely to be on "multiple billion-dollar projects."

Twyford says there has been a "great deal of interest" from parties looking at getting involved in a PPP with the Government.

"We're very happy to work with private capital to make these big investments."

The Government has previously indicated it would be looking at PPPs as a way to meet some of its investment expectations but, at the moment, the process for investors is too complex.

This is the reason Jones is heading off to Australia tomorrow.

“We need to configure ourselves better within the state so there is less static when either foreign or domestic investors approach the state to play a role in our infrastructure turbocharging,” Jones says.

But PPPs would require more debt from the Government.

Twyford says there are options when it comes to new revenue streams to help pay for this – for example, through land value capture and infrastructure bonds.

But the projects would be long-term and, according to Twyford, it would be “nuts to try and pay for it out of next year’s road user charges or a petrol tax.”

“We should be spreading that debt over multiple generations who are going to benefit from the infrastructure.”

But taking on more debt would be problematic.

As it stands, some of New Zealand’s council’s – including Auckland’s – are close to their debt limits and the Government has committed to reducing net core Crown debt levels to 20% of GDP by 2021/22.

But Twyford says there is a way the Government could take on more debt to fund the PPPs without abandoning its debt target and pushing councils over its limit.

“We intend to build on some of the work that was done by the previous Government in establishing Crown infrastructure partners as a special purpose vehicle.

“It’s a balance sheet that’s not council or Governments – it’s a public purpose hybrid if you like.”

He says through this, a lot of capital could be borrowed to pay for the infrastructure needs the country is facing.

Hamilton's property revaluations to affect rates increase

Rates figures recently sent to home owners will soon be irrelevant as a scheduled city-wide revaluation of Hamilton properties begins on September 1.

Some ratepayers could be hit with even larger rates bills than indicated in letters they received two weeks ago.

The letters were sent as public consultation for Hamilton's 10-Year Plan is under way, which includes the discussion over the 9.5 per cent rates increase for year one and two of of the plan.

Letters to property owners two weeks ago outline how much their rates would increase or decrease under the council's preferred option, which includes an immediate transition to capital value and the inclusion of a UAGC charge of $500.

However, a city-wide revaluation begins on September 1 and will make the previous letters irrelevant for the second financial year.

The council said new letters will be sent out to home owners in November 2018 with the new valuation which will be applied for that second year.

General Manager Corporate for Hamilton City Council David Bryant said the revaluation process makes no change to the total rates collected by the council.

"There's a belief that if your home increases in value, your rates will rise accordingly. This isn't the case," Mr Bryant said.

"The total rates revenue doesn't change as a result of the revaluation, however the ratio of what each property pays may change depending on if their property increases in value more or less than the average.

"Based on the rates projected in last week's letter, If your property's CV was to increase at a higher percentage than Hamilton's average revaluation increase then your share of rates would go up and if a property's CV increases at a lower percentage than Hamilton's average then your share of rates would go down."

The city council finance team provided further explanation.

"The impact of revaluation is to redistribute who pays how much of the total rates pie based on the new capital valuations. Shifts / larger valuation increases in some parts of Hamilton compared to others mean these home owners will pay a higher percentage of the overall rates total."

In December last year, Mayor Andrew King originally proposed a 15.5 per cent rates increase, but after several projects were added to the 10-Year plan a new calculation was done and a 19.5 per cent rates increase overall was needed to balance the city's books under the new financial measure implemented by council last year.

Hamilton News asked its readers on social media how the potential rates increase would affect them, with the reaction so far being overwhelmingly negative.

Melissa Robinson said that her rates would be $4000, an increase of $2500 from when she bought her house five years ago.

Cary Viljoen replied saying her rates would also go up to $4000.

"Yep ours will go up to $4000 too then continue increasing. I don't know why they bother asking us to have our say as not a single ratepayer will agree to it yet that wont stop them from doing it," Ms Viljoen said.

Northland Regional Council rates in Kaipara valid, rules Court of Appeal

The Court of Appeal has overturned a lower court ruling that invalidated five years worth of the Northland Regional Council rates in Kaipara worth more than $14 million.

In August last year, the High Court in Whangarei ruled in a judicial review proceeding that NRC rates collected in Kaipara between 2011 and 2016 were invalid but did not order a refund.

The application for judicial review was filed by the Mangawhai Ratepayers and Residents' Association, its chairman, Bruce Rogan, and his wife, Heather.

NRC were granted an urgent hearing in the Court of Appeal to challenge the High Court ruling that the Kaipara rates were invalid.

The Rogans challenged how NRC set due dates for the payment of rates and objected to the Kaipara District Council collecting NRC's portion of rates in Kaipara.

The Court of Appeal ruled the NRC's failure in the rates bill to state the due date for payment was a technical irregularity that did not disadvantage ratepayers.

The Court of Appeal ruling means those who refused to pay the NRC rates in Kaipara will have to pay them now.

NRC chairman Bill Shepherd said while the cost of the appeal – estimated to be between $170,000 and $190,000 – was not cheap, the council felt the issues at stake had been too important not to appeal and felt that position had been vindicated by the recent judgment.

"The collection of rates by the district councils in the region on behalf of the regional council provides significant cost savings which benefit the region's ratepayers; the cost of setting up our own, stand-alone rates collection agency would be many times the legal costs incurred in this action."

He said while confirming some technical breaches by NRC, the Court of Appeal decision provided much-needed clarity for ratepayers and councils all over New Zealand.

Bruce Rogan described the Court of Appeal judgment as an "absolute disgrace" to the ratepayers and a huge slap to civil rights.

"Councils will never have to get validating legislation through Parliament because they know courts can use the Judicature Amendment Act 1972 to validate them."

He has ruled out an appeal to the Supreme Court.