

15 March 2006

SSCWT & Salary Sacrifice Project
c/- Deputy Commissioner, Policy
Policy Advice Division
Inland Revenue Department
PO Box 2198
Wellington

Dear Sir

Countering Extreme Salary Sacrifice

The Financial Planners and Insurance Advisers Association (FPIA) make the following submission.

We appreciate that submissions may be the subject of a request under the Official Information Act. There is no part of our submission that needs to be withheld under the Act.

Background

The Financial Planners and Insurance Advisers Association is New Zealand's largest professional body for Financial Intermediaries, representing over 1400 financial advisers nationwide.

The Association's primary focus is to improve and enhance the professional status of financial planners and insurance advisers, and to advance the interests of members and their clients.

The FPIA aims to:

- Raise advisory standards in ethics and professional conduct.
- Provide education standards designed to inspire greater confidence and trust between advisers and the public.
- Identify and serve the needs and interests of members.

Our members advise their clients on a range of financial matters, including superannuation and saving for retirement.

Submission

1. FPIA asks that more research be carried out by IRD and other agencies as to the level of alleged misuse of the tax rules on employer contributions to superannuation funds on behalf of individual employees. Only anecdotal evidence has been suggested, based on the level of tax take from employers' superannuation contributions. According to The New Zealand Herald article of 2 February 2006, these payments increased 32% from \$502 million in 2004 to \$662 million in 2005.

It is highly likely that some of this increase could be due to genuine superannuation activities by employers and employees in providing for employees' retirement.

2. FPIA supports and encourages any effective and efficient workplace savings schemes and initiatives that enable and encourage people to save for their retirement. Approximately 50% of retirees older than 65 rely in most part on New Zealand superannuation payments. At current NZS payment levels and the current cost of living, this is demonstrably not sufficient to enable many people to achieve a reasonable level of comfort in their retirement. For many people, the only alternative is to draw down on the value of their family home, perhaps using reverse mortgages, or the actual sale of that home.
3. FPIA supports a superannuation regime, which encourages people to accumulate funds for a more secure retirement, that has the following characteristics:
 - It recognises that peoples' life expectancy is lengthening, with advances in health care, preventative medicine, changing attitudes to healthy lifestyles, and other factors.
 - It is easy to understand.
 - It recognises that people can fund for a secure and comfortable level of retirement using a combination of accumulated assets, employer and personal retirement funds, other investments, and New Zealand Superannuation.
 - It is demonstrably equitable.
 - It has effective governance, and efficient administration, at government and provider levels.
 - It gives people choice.
 - It provides for the opportunity to seek quality professional advice.
 - A high level of consumer education and support on workplace savings schemes and saving for retirement is provided by government agencies, investment and insurance product providers, employer and employee organisations, and professional associations.
4. FPIA supports the simplification of current arrangements. We therefore see no need to retain these two methods for calculating SSCWT.
 - The 39% flat rate method.
 - The PAYE method.
5. The Government has recognised that there is a cost to providing an incentive for people to salary sacrifice to increase their level of savings for retirement. On 18 February 2000, when introducing legislation to increase the top level of personal income tax to 39% while keeping the SSCWT rate at 33%, Dr Michael Cullen said:

"The aim is that genuine superannuation savers, even if they are high income earners, will be taxed at 33 cents. This incentive may persuade people to increase their superannuation savings, with some loss of potential tax revenue to the Government, but we are not averse to this."

FPIA submits that there should continue to be Government funded encouragement to encourage people to save for their retirement. We note that under the IRD proposal, the

top SSCWT rate will remain at 33%, maintaining the 6% differential (incentive) between the 39% tax proposal tax rate and the SSCWT rate.

FPIA supports the proposals to:

- Amend the current SSCWT basis so that the applicable rate is based on the aggregate of the contributor's salary and wages, and their employer's superannuation contribution on their behalf.
 - Amend the current SSCWT progressive thresholds.
6. FPIA submits that any changes not be retrospective, under the general anti-avoidance powers available to the IRD. We are particularly concerned that employers and employees who have taken steps to genuinely save for that employee's retirement, should not be penalised by any retrospective action.
 7. FPIA submits that further research needs to be carried out to look at how the implementation of the proposed progressive SSCWT regime might impact on defined benefit schemes (including instances when employer contributions are unallocated, or where contributions derive from the reserves of that scheme).
 8. FPIA notes that there is an expectation that these proposed changes may commence at the same time as other changes to the taxation treatment of investment income. In particular, they may occur simultaneously with the taxing of investment income at the investor's marginal tax rate. FPIA, in its submission on Taxation on Investment Income, 30 September 2005, has previously supported the proposal.
 9. FPIA notes that there is no proposal to change the current Fund Withdrawal Tax arrangements. We submit that there continue to be genuine reasons for FWT exemptions.
 10. FPIA is keen to speak to this submission, and to provide any supporting material.

For further comment, please contact:

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