The Treasury

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[1] 6(a) - to prevent prejudice to the security or defence of New Zealand or the international relations of the government

[2] 6(c) - to prevent prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial

[3] 9(2)(a) - to protect the privacy of natural persons, including deceased people

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[6] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand

[7] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials

[8] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions

[9] 9(2)(h) - to maintain legal professional privilege

[10] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice

[11] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice

[12] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

[13] Not in scope

[14] 6(e)(iv) - to damage seriously the economy of New Zealand by disclosing prematurely decisions to change or continue government economic or financial policies relating to the entering into of overseas trade agreements.

Where information has been withheld, a numbered reference to the applicable section of the Official Information Act has been made, as listed above. For example, a [3] appearing where information has been withheld in a release document refers to section 9(2)(a).

In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

Office of the Minister of Finance
Office of the Minister of Revenue

Chair
Cabinet Business Committee

REPEAL OF CHEQUE DUTY

Proposal

1. This paper seeks the Cabinet Business Committee's agreement to repeal cheque duty.

2. We seek agreement for enabling legislation to be passed on the day of Budget 2014, with the repeal to be effective from 1 July 2014. The ability to seek a refund of prepaid cheque duty would be repealed from 1 July 2014 also.

Executive summary

3. Cheque duty is the one remaining transaction duty. Cheque duty applies to bills of exchange (most commonly cheques) at a rate of 5 cents per bill of exchange. It is an outmoded tax, which no longer raises substantial revenue.

4. Repealing cheque duty would benefit businesses, non-profit organisations and individuals that still use cheques as a payment method. It would also reduce compliance costs, particularly for banks and printers of cheques.

5. We recommend that cheque duty is repealed in Budget 2014 via a Budget day bill, with the repeal effective from 1 July 2014 and no refunds of prepaid cheque duty available from then on.

Background

6. Cheque duty is the one remaining transaction duty. Cheque duty applies to bills of exchange (most commonly cheques) at a rate of 5 cents per bill of exchange. No duty applies to alternative methods of payment, such as cash, electronic transactions (for example, EFTPOS or via internet banking), or credit card transactions (repealed with effect from 1 April 1998).

7. The use of cheques has been in steady decline; cheque duty raised $17 million in 1991/92 and $10 million in 2001/02, but now only raises about $4 million a year. Technological advances have led to the introduction of various methods of electronic payments. The increasing popularity of these alternatives to cheques is more likely due to them being more convenient, faster and more secure methods of payment, rather than tax-motivated substitution (given the very low rate of cheque duty).

8. The repeal of cheque duty has been raised in previous reviews of the tax system, such as the (McLeod) *Tax Review 2001*, which recommended that cheque duty be repealed.

Comment

9. We do not consider that cheque duty meets the criteria for a good tax. It is easy to avoid, since closely substitutable types of transactions (such as cash, EFTPOS, internet banking and credit card transactions) are not subject to any duty. This makes it an ineffective way of raising revenue and is distortionary. That said, the very low rate of cheque duty (5 cents per transaction) suggests that its distortionary effect is likely to be small.

10. The distortion could be addressed by broadening the base (by applying a duty to a broader range of transactions) or repealing cheque duty. Transaction duties are a relic of the time before GST was introduced in 1986. As the trend since the late 1980s has been to repeal transaction duties, we consider repealing cheque duty to be preferable to broadening the base by applying a duty to a broader range of transactions.

11. Repealing cheque duty would benefit businesses, non-profit organisations and individuals that still use cheques as a payment method.

12. A transitional issue with repealing cheque duty arises due to the fact that cheque duty is usually prepaid, and currently a refund can be sought when the cheques have not been used or printed. If refunds are available after the effective date of repeal and/or in between announcement of the impending repeal and the effective date of repeal, it is likely that there will be a revenue impact beyond the cheque duty revenue forgone.

13. There are no empirical data on the number of cheques for which cheque duty has been prepaid that have not been used or printed. Therefore, to mitigate the fiscal risk associated with the repeal, we propose that no refunds of prepaid cheque duty shall be available from the effective date of repeal. This will also avoid compliance costs for banks associated with any increase in customers seeking a refund of prepaid cheque duty on unused cheques, which they may otherwise temporarily experience.

14. Our preference is to repeal cheque duty via a Budget day bill, so that cheque users are relieved of this duty as soon as practicable. If enabling legislation was instead included in the next available taxation bill after Budget 2014, it will likely take over a year before the repeal is effective. Taking such a long time to repeal a simple transaction duty risks creating a perception that the Government is not serious about the repeal. Our preference is for the repeal to be clean and certain.

15. We seek delegated authority to be given to the Minister of Revenue to make any minor or consequential amendments to the rules necessary to ensure the effective implementation of the repeal.

Consultation

16. Due to time constraints and Budget secrecy, limited consultation was undertaken on the proposal to repeal cheque duty. Our officials consulted the New Zealand Bankers Association (NZBA) on the practical implications of repealing cheque duty. NZBA advised our officials that, while all banks canvassed are supportive of the repeal of cheque duty, some banks have

indicated they have legacy IT systems and that repealing cheque duty with no lead-in time may cause problems for them. Those banks have expressed a preference for cheque duty to be repealed with effect from a set date in the future, to allow them some lead-in time to manage the transition from a systems perspective. Also, some banks have expressed a preference for the repeal to take effect from the first day of a quarter, in order to tie-in with current cheque duty return processes. NZBA indicated that a repeal date of 1 July 2014 (the first day of the next quarter following Budget 2014) would allow banks sufficient lead-in time to manage the transition.

17. The Treasury and Inland Revenue have been consulted. They both support the repeal of cheque duty, but expressed a preference for the repeal to be effective from 1 April 2016 using the next available taxation bill after Budget 2014 as the legislative vehicle for repeal.

Financial implications

18. Agreeing to the recommendations in this paper will have estimated fiscal costs, as per the following table:

	$m increase / (decrease)				
Vote Revenue Minister of Revenue	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**
Tax Revenue	-	(3.500)	(4.000)	(4.000)	(4.000)

19. The revenue loss from repealing cheque duty has been conservatively estimated at $4 million per annum. As cheque duty payments for the June 2014 quarter will not be received until July 2014, the estimated revenue loss for the 2014/15 fiscal year is reduced by $1 million. This is partially offset by an estimated additional revenue loss of $500,000 associated with refunds sought in relation to prepaid cheque duty on cheques that are unlikely to be used before 1 July 2014. However, there is a risk that the amount of refunds sought during the time between announcement and the date of repeal could be higher, due to the broad assumptions the estimate is based on.

20. The fiscal costs of repeal will be funded through the tax policy scorecard.

Administrative implications

21. Managing the repeal of cheque duty would have minimal administrative impacts for Inland Revenue. Cheque duty is managed via a standalone purpose-built application. This sits outside of Inland Revenue’s FIRST mainframe system and, as such, decommissioning the application is a straight-forward procedure. Repealing cheque duty would incur some minor additional administrative costs, which would be met within existing baselines. Inland Revenue has a high level of confidence that the repeal can be implemented in the timeframe indicated.

Compliance implications

22. Repealing cheque duty would reduce compliance costs for banks, printers of cheques and the printers’ customers, as they would no longer have to apply to Inland Revenue for licences authorising the printing or supply of bill of exchange forms prepaid with cheque

duty, or make payments of cheque duty to Inland Revenue. Additionally, banks and printers of cheques would no longer have to complete and file the quarterly/monthly returns that accompany their payments of cheque duty to Inland Revenue.

Human rights

23. There are no inconsistencies with the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993 arising from proposed repeal of cheque duty.

Legislative implications

24. If cheque duty is to be repealed, amendments to the Stamp and Cheque Duties Act 1971 and the Tax Administration Act 1994 will be required.

25. We recommend that these changes be included in a bill to be introduced and proceed under urgency on the day of Budget 2014 (that is, 15 May 2014). We recommend that the Taxation (Budget Measures) Bill, which is included in the 2014 legislation programme and has category 2 priority (must be passed in the year), is the legislative vehicle for the repeal.

26. We recommend that the changes are effective from 1 July 2014.

Regulatory impact analysis

27. The Regulatory Impact Analysis requirements apply to the proposal. A Regulatory Impact Statement (RIS) is attached.

28. The Quality Assurance reviewer at Inland Revenue has reviewed the *Review of cheque duty* RIS and considers that the information and analysis summarised in it meets the quality assurance criteria of the Regulatory Impact Analysis framework.

Publicity

29. Assuming that Cabinet approves the repeal of cheque duty, we intend to announce the repeal as part of the Budget 2014 package.

Recommendations

30. It is recommended that the Committee:

1. **Agree** to repeal cheque duty.

2. **Agree** that no refunds of prepaid cheque duty shall be available from the date of repeal.

3. **Agree** that enabling legislation be included in the Taxation (Budget Measures) Bill.

4. **Agree** that the repeal take effect from 1 July 2014.

5. **Note** that agreeing to the above recommendations will have estimated fiscal costs, to be funded through the tax policy scorecard, with a corresponding impact on the operating balance:

	$m increase / (decrease)				
Vote Revenue Minister of Revenue	**2013/14**	**2014/15**	**2015/16**	**2016/17**	**2017/18**
Tax Revenue	**-**	(3.500)	(4.000)	(4.000)	(4.000)

6. **Note** that managing the repeal of cheque duty would have minimal administrative impacts for Inland Revenue and that Inland Revenue has a high level of confidence that the repeal can be implemented in the timeframe indicated.

7. **Delegate** authority to the Minister of Revenue to make any minor or consequential amendments to the rules necessary to ensure effective implementation of the changes in the above recommendations.

8. **Invite** the Minister of Revenue to instruct Inland Revenue to draft legislation so as to give effect to the recommendations.

Hon Bill English
Minister of Finance

____ /____/____
Date

Hon Todd McClay
Minister of Revenue

____/____/____
Date