

# The Treasury

## Budget 2013 Information Release

### Release Document

July 2013

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Key to sections of the Official Information Act 1982 under which information has been withheld.

Certain information in this document has been withheld under one or more of the following sections of the Official Information Act, as applicable:

- [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
- [4] 9(2)(b)(ii) - to protect the commercial position of the person who supplied the information or who is the subject of the information
- [5] 9(2)(d) - to avoid prejudice to the substantial economic interests of New Zealand
- [6] 9(2)(f)(iv) - to maintain the current constitutional conventions protecting the confidentiality of advice tendered by ministers and officials
- [7] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [8] 9(2)(h) - to maintain legal professional privilege
- [9] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [10] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [11] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage
- [12] Not in scope
- [13] 7(b) - to prevent prejudice to relations between any of the Governments of New Zealand, the Cook Islands or Niue
- [14] 9(2)(ba)(i) - to prevent prejudice to the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied.

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, an [4] appearing where information has been withheld in a release document refers to section 9(2)(b)(ii).

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



## **Tax policy report: Officials' issues paper – thin capitalisation**

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<b>Date:</b>	4 December 2012	<b>Priority:</b>	High
<b>Security Level:</b>		<b>Report No:</b>	PAD2012/257 T2012/3107

### **Action sought**

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	<b>Action Sought</b>	<b>Deadline</b>
Minister of Finance	Agree to recommendations	10am, Thursday 6 December 2012
Minister of Revenue	Agree to recommendations and forward Cabinet paper to EGI	10am, Thursday 6 December 2012

### **Contact for telephone discussion (if required)**

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<b>Name</b>	<b>Position</b>	<b>Telephone</b>	
Tony Booth	Senior Policy Advisor, Inland Revenue	890 6153 (wk)	[3]
Andrea Black	Principal Advisor, Tax Strategy, Treasury	917 6156 (wk)	

Minister of Finance  
Minister of Revenue

## **Officials' issues paper – thin capitalisation**

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1. We have prepared an issues paper which proposes changes to the thin capitalisation rules to close tax loopholes. We have also prepared a draft Cabinet paper requesting approval to publish the issues paper.
2. This report asks you to refer the Cabinet paper (attached) to the Economic Growth and Infrastructure Committee for its meeting of 12 December 2012.

### **Fiscal implications**

3. The release of the issues paper, as a consultative document that announces no final decisions, has no fiscal implications.
4. However, if the proposals in the paper are eventually implemented, we expect there will be additional tax revenue. The amount raised will depend on the final design of policy, but is likely to exceed \$10 million per year.

### **Who the proposals will affect**

5. The proposals in the issues paper, if eventually implemented, would increase the tax paid by some foreign investors who use high levels of shareholder debt in their New Zealand businesses.
6. Most foreign-owned New Zealand groups will be unaffected, because they already comply with the thin capitalisation rules and have moderate levels of debt.
7. Private equity investors are the most likely to be affected by the proposals. These groups often have highly geared investments, use shareholder debt, and use businesses structures that are not currently subject to the thin capitalisation rules. Some private equity investors, including – we understand – some global investors in public-private partnerships, have genuinely external borrowing, as opposed to shareholder debt; they are less likely to be affected by the proposals.

8. Our judgment is that imposing a reasonable level of tax on foreign investors is in New Zealand's best interests. Some investment may be driven away when tax is imposed, but other investment is not especially sensitive to taxes. Overall, increased tax revenue outweighs the potential loss of some investment. This is consistent with the findings of recent tax reviews and of modelling work carried out by the Treasury and Inland Revenue.

### **Release date**

9. The Cabinet paper says that the issues paper will be released before Christmas.

10. A pre-Christmas release makes it more likely that final decisions about policy could be made in early April 2013, so that additional revenue could be counted in Budget 2013. However, there might be criticism of the release date because the holiday period will reduce the effective time that the public has for developing submissions. Criticism could be exacerbated because two other tax issues papers are also planned for release at the same time.

11. An alternative course of action would be to release the paper in late January, which will be less likely to provoke criticism of the consultation process. If that happens, there is almost no chance that final government decisions could be announced in April.

12. We ask you to decide on a release date (pre-Christmas or early January). If you decide on an early January date we will provide an amended draft Cabinet paper.

13. A number of external stakeholders have been asking for information about our plans for the thin capitalisation rules. Some of these stakeholders have concerns about the effect proposals for change might have on their current or planned investments. We recommend that you authorise us to brief key stakeholders in advance of public release of the issues paper. This would provide an opportunity to explain the policy and alleviate any unwarranted concerns.

## Recommended action

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We recommend that you:

- a) **Agree** to the release of the attached draft issues paper, subject to editorial corrections.

Agreed / Not agreed

Agreed / Not agreed

- b) **Authorise** officials to make editorial changes to the paper, in consultation with the office of the Minister of Revenue, before release.

Authorised / Not authorised

Authorised / Not authorised

- c) If you agree to recommendation (a), **choose** whether to release the attached officials' issues paper in December or in early January

December / January

December / January

- d) If you decide to release the attached issues paper before Christmas, **forward** the attached Cabinet Paper to the Economic Growth and Infrastructure Committee by 10am, Thursday 6 December.

Forwarded

Forwarded

- e) If you decide to release the attached issues paper in January, **forward** a replacement Cabinet Paper, which officials will provide, to the Economic Growth and Infrastructure Committee by 10am, Thursday 6 December.

Forwarded

Forwarded

- f) If you agree to recommendation (a), **authorise** officials to give briefings to key external stakeholders before the paper is publicly released.

Authorised / Not authorised

Authorised / Not authorised

**Andrea Black**  
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**Tony Booth**  
Senior Policy Advisor  
Inland Revenue

**Hon Bill English**  
Minister of Finance

**Hon Peter Dunne**  
Minister of Revenue