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Social Unemployment Insurance Tripartite Working Group  
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To whom it may concern

## A NEW ZEALAND INCOME INSURANCE SCHEME: A DISCUSSION DOCUMENT

### Introduction

The Corporate Taxpayers Group ('the Group') welcomes the opportunity to submit on the Future of Work Tripartite Forum's A New Zealand Income Insurance Scheme: A Discussion Document ('the discussion document'). Reflecting the Group's expertise and objectives, the Group's submission will focus in particular on the role the tax system may play in the operation of the comprehensive income insurance scheme as detailed in the discussion document.

### About the Group

The Group represents 45 of New Zealand's largest businesses and contributes to the development of tax policy and administration, with a particular focus on business taxes. The Group is an active participant in the tax policy process and believes (given the breadth and depth of experience and knowledge of the Group's members and advisors) that it can provide an excellent sounding board on tax policy-related issues, and a private sector perspective on advice from officials to the Government.

The Group assesses tax reform from four perspectives:

- **Contribution:** does the reform make a positive contribution to the tax system?
- **Competitiveness:** how does the reform improve the competitiveness of the tax system internationally, and how does the reform lead to increased productivity or innovation?
- **Compliance costs:** does the reform reduce compliance costs, or does the tax in question warrant the compliance costs imposed?
- **Certainty:** are the rules clearly drafted and easy to understand and comply with?

These principles guide the Group's interaction on policy issues and in this submission, provide context to the Group's views in the role the tax system will play in the operation of the comprehensive income insurance scheme as detailed in the discussion document.

Below we have summarised the Group's main general submission points / questions that need to be considered in respect of the New Zealand Income Insurance Scheme ('the Scheme'). We have also attached as an appendix the Group's response to selected questions from the discussion document that relate to the objectives and expertise of the Group.

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**natural**

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**We note the views in this document are a reflection of the views of the Corporate Taxpayers Group and do not necessarily reflect the views of individual members.**





### General submission points

- The Group does not wish to provide a view on whether the scheme should proceed or not, however the Group submits that the potential impact that the scheme has on other areas of the economy should be considered and factored into the decision making. For example, as an additional cost of employees, what is the potential impact that the scheme will have on employee contributions to KiwiSaver (i.e. will voluntary contributions reduce) and is the potential trade off “worth it”?
- The Group is concerned with how a scheme of this scale is set to be implemented in such a short period of time. If a decision is made to introduce the proposed scheme, the Government would seek to introduce legislation in 2022, and the scheme could start operating in 2023. The Group is concerned that this is simply not a long enough timeframe to introduce a functional and cohesive scheme of the scale proposed, particularly given it will be necessary for both the public and private sector to have adequate time to implement software systems to comply with the scheme. These concerns are heightened when fundamental questions as to the scope of persons to be covered by the regime are still to be determined.
- The Group questions how the scheme will work when employers do not have all of the relevant information about their employees’ total employment. There are factors which must be dealt with such as who will be responsible for collecting and reviewing all the relevant employee information, how the scheme will deal with issues of non-compliance, requests for additional employment information and how the scheme will deal with timelines if the relevant additional information is not disclosed in time by third parties to qualify for the scheme.
- It is stated within the discussion document that non-standard work includes a variety of arrangements such as casual workers, fixed-term workers, seasonal workers, temporary agency workers, other temporary workers, self-employed workers without employees and self-employed employers. Each of these mentioned working arrangements are unique in relation to their development under employment law and the circumstances in which the need for the scheme will differ. The complexity of the inclusion of these groups will add to the timeline challenge noted above.
- The Group notes that the scheme which will apply to non-standard workers “where practical”. The Group questions how will “where practical” be determined. What are the circumstances in which it may not be practical to provide cover to an individual? Non-standard employment relationships vary considerably from person to person so clear and concise guidelines on eligibility will need to be made. Further guidance must be provided with scenarios where cover may be granted versus where cover may not be granted to provide certainty for those who are non-standard workers.
- The Group notes that it will be important to have a clear definition of “reasonably anticipated income”. Employment law principles may provide useful guidance to help determine how the scheme will deal with this issue. In relation to this point, the Group notes that Inland Revenue could provide assistance by validating the frequency and amount received by an employee through MyIR.
- The Group notes that there are complexities to fixed term and seasonal workers entitlement to the scheme which must be addressed. This could be assessed by collecting anticipated employment end dates at the time the employer registers the employee with Inland Revenue. Payday filing data could also be used to establish a regular pattern of work.
- The Group notes in relation to practically distinguishing between contractors who resemble employees, and those with a high degree of independence, consideration should be given to tax concepts. Schedule 4 of the Income Tax Act 2007 could be considered in order for there to be consistency between when income withholding taxes are relevant and this scheme. Ensuring that rules for contractors are appropriately defined and safeguarded will introduce an added level of complexity that will be challenging to properly address in the desired timeframe.





- The Group notes that the collection of the levy from self-employed workers should be invoiced directly by ACC. There could be an option for the levy to be withheld by the payer as an additional withholding for self-employed workers covered by schedule 4 of the Income Tax Act 2007; i.e. those workers could request a tailored tax code with a higher withholding rate. Those workers should have the ability to transfer taxes withheld between Inland Revenue and ACC.
- The Group is concerned with how the scheme will interact with providers of private insurance. The Group considers it would be appropriate to have an opt out option for both employer and employees who have private insurance that accounts for loss of income in a form which is equivalent to or better than what is offered under the scheme.
- Similarly, we are concerned that the regime may introduce an element of double payment by employers and employees who have already negotiated a redundancy arrangement. We understand from discussions with Officials that they expect that over time such packages will be negotiated away. We would agree that this may be the case if there was certainty as to the tenure of this regime but consider such a challenge given the stated opposition by major Opposition Parties to this policy. At a minimum there will be an element of double payment until employment practices do change and this should be recognised in the design of the regime.
- The Group is concerned whether Inland Revenue’s current systems will be able to differentiate between types of income earned in order to treat insurance payments as income of a different character. Moreover, will ACC effectively be treated as an employer of the displaced worker and have to withhold PAYE as such? If this is the case, this could lead to logistical issues for ACC and it’s “employees” in establishing the correct tax codes.
- The Group believes that there should be clear rules for when an employer is not required to pay a bridging payment. For example, if an employer has a clear history of providing training opportunities to employees to allow them to upskill (prior to the displacement event), the employer should be exempt from paying the bridging payment. This would further encourage employers to proactively train employees and prepare them for alternative careers; particularly employers operating in sunset industries.
- Employers could accumulate “credits” that can be used to offset bridging payments. For example, if the employer has an established pattern of providing health and well-being benefits to employees in order to reduce the likelihood of a claim being made, they should not be liable to pay the entire bridging payment.
- The Group is concerned with the proposal to keeping positions open where a return to work within six months is likely and how this relates to keeping employees in payroll systems. There are implications which must be addressed in relation to what happens to employees in payroll systems once they qualify for the scheme. In the current proposal, there is no mention of how the redundancy payments will be dealt with in relation to payroll systems. Creating another system to deal with the scheme payments may result in a large undertaking which will result in costs to employers.
- The Group is concerned with the proposals regarding claimants being required to accept employment offers that provide the same or more salary / wages. The Group questions how lower wages or conditions will be quantified. There are issues that arise with offers of employment that combine salary and non-cash benefits. For an example, if the displaced employment was paid \$50,000 plus the use of a car, if a new job is offered which pays \$52,000 with no car, is this lower wages? In addition, a displaced worker may not have access to the value of “benefits” provided. These details would need to be established before the implementation of the scheme.
- The Group questions how will the total levy be calculated for employees who work multiple jobs which cumulatively exceed \$130,911. The Group is concerned with how this would be calculated as an employer would not have access to an employees total earnings from other employers. This would result in the employer not knowing how much of the levy has been paid across multiple employers which is an issue.



Where a refund is paid of over withheld employer levies, which employer would it go to? It is assumed that any excess levy paid by the employee will be refunded to the employee through the tax return process, as occurs with the existing ACC employee levy.

- The Group considers that there should be a simplified means in which employees can claim a tax deduction of the cost of the contribution made (reflecting that payments out are taxable). The Group asks whether Inland Revenue's new computer system is a possible opportunity to avoid every employee having to file a tax return to claim such a deduction.
- The Group believes there should be a stable levy setting system in place which is set well in advance of the potential implementation of the scheme to allow levy rates to be incorporated into payroll software and budgets. This would allow employers to appropriately prepare for the implementation of the scheme if required.





Please let us know if you have any queries in relation to the matters set out in this letter.

For your information, the members of the Corporate Taxpayers Group are:

- |    |  |    |   |
|----|--|----|---|
| 1  | AIA New Zealand Limited                | 24 | Methanex New Zealand Limited            |
| 2  | Air New Zealand Limited                | 25 | New Zealand Superannuation Fund         |
| 3  | Airways Corporation of New Zealand     | 26 | Oji Fibre Solutions (NZ) Limited        |
| 4  | ANZ Bank New Zealand Limited           | 27 | OMV New Zealand Limited                 |
| 5  | ASB Bank Limited                       | 28 | Pacific Aluminium (New Zealand) Limited |
| 6  | Auckland International Airport Limited | 29 | Powerco Limited                         |
| 7  | Bank of New Zealand                    | 30 | Resolution Life Australasia Limited     |
| 8  | Chorus Limited                         | 31 | SkyCity Entertainment Group Limited     |
| 9  | Contact Energy Limited                 | 32 | Sky Network Television Limited          |
| 10 | Downer New Zealand Limited             | 33 | Spark New Zealand Limited               |
| 11 | First Gas Limited                      | 34 | Summerset Group Holdings Limited        |
| 12 | Fisher & Paykel Appliances Limited     | 35 | Suncorp New Zealand                     |
| 13 | Fisher & Paykel Healthcare Limited     | 36 | T & G Global Limited                    |
| 14 | Fletcher Building Limited              | 37 | TAB New Zealand                         |
| 15 | Fonterra Cooperative Group Limited     | 38 | The Todd Corporation Limited            |
| 16 | Genesis Energy Limited                 | 39 | Vodafone New Zealand Limited            |
| 17 | Heartland Bank                         | 40 | Watercare Services Limited              |
| 18 | IAG New Zealand Limited                | 41 | Westpac New Zealand Limited             |
| 19 | Infratil Limited                       | 42 | WSP                                     |
| 20 | Kiwibank Limited                       | 43 | Xero Limited                            |
| 21 | Lion Pty Limited                       | 44 | Z Energy Limited                        |
| 22 | Mercury NZ Limited                     | 45 | ZESPRI International Limited            |
| 23 | Meridian Energy Limited                |    |   |

We note the views in this document are a reflection of the views of the Corporate Taxpayers Group and do not necessarily reflect the views of individual members.

Yours sincerely

Privacy of natural persons

**John Payne**  
For the Corporate Taxpayers Group



## APPENDIX ONE

The following is the Group's response to selected questions from the discussion document that relate to the objectives and expertise of the Group.

### Chapter 4 – How a new income insurance scheme could achieve our objectives

The Forum considers the benefits of income insurance for job loss due to displacement or health conditions would outweigh its costs

1. *Do you agree New Zealand should introduce an income insurance for job loss due to displacement or health conditions would outweigh its costs?*
  - The Group does not wish to comment.

### Chapter 6 – Coverage for displaced workers

#### Coverage provided for complete job loss only

9. *Do you agree that income insurance should cover only the complete loss of a job and cover situations where a person loses only one of several jobs that they hold?*
10. *Do you agree that insurance would be payable only where income loss was greater than a minimum threshold, such as 20 percent loss of total earnings, counting income from all of their jobs?*
  - The Group questions how employers will have all the relevant information about their employees' total employment income to determine whether there has been a 20 percent loss of total income.

#### Displacement and non-standard employment – a principle-based approach

11. *Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?*
  - The Group questions the use of "non-standard" and how this will be defined. Would it be possible to classify eligibility of non-standard workers based on tax codes?
12. *Do you agree that income insurance should cover the 'loss of reasonably anticipated income'?*
  - It will be important to have a clear definition of reasonably anticipated income due to the need for the employer to make a 4-week payment. This could be something which could be ascertained from an employment agreement; or alternatively something which could be determined based on looking at prior earnings, as filed with Inland Revenue. Ideally the amount would be able to be objectively calculated using a formula, and ideally calculated and determined by Inland Revenue using data already held to reduce compliance costs, disputes with employees, and risks of incorrect calculations for employers.
13. *Do you agree that income insurance entitlements should be based on an 'established pattern of work'?*
  - There will need to be clear guidance of what is an established pattern of work. Could this be validated by Inland Revenue by reviewing the frequency of an employee receiving salary and wages. This would establish a pattern based on actual payments to the employee rather than trying to establish a pattern based on some routine days or hours of work (which may be not possible to establish for casual workers).

#### Coverage provided for fixed-term and seasonal employees

14. *Do you agree that income insurance should cover fixed-term and seasonal employees if they are displaced before the end of an employment agreement, with the duration of the payment running to the scheduled end of the employment agreement, or the maximum insurance entitlement duration, whichever is shorter?*





- Consideration could be given to collecting anticipated employment end dates for fixed-term and seasonal workers at the time the employer registers the employee with Inland Revenue. This will provide an objective datapoint setting out intentions.

#### Coverage provided for casual employees

16. *Do you agree that income insurance should cover casual employees who can show a regular pattern of work with an employer and a reasonable expectation of future income?*

- As above, Inland Revenue's payday filing data should be used to establish a regular pattern of work.

#### Coverage for self-employed workers

20. *How can we practically distinguish between contractors who resemble employees, and those with a high degree of independence?*

- Consideration should be given to tax concepts, including the types of contractors who are covered by schedule 4 of the Income Tax Act 2007 or elect into these rules.

21. *How do you think the levy should be collected from self-employed workers?*

- Self-employed workers should be invoiced directly by ACC. However, there could be an option for a levy to be withheld by the payer as an additional withholding for self-employed workers covered by schedule 4 of the Income Tax Act 2007.

#### Coverage for New Zealand citizens and residents

28. *To ensure New Zealand workers are not disadvantaged by lower cost international workers, do you agree that working holiday makers, international students and temporary work visa holders – and their employees – should contribute to the proposed income insurance scheme's costs?*

- The approach taken should be simple for employers and therefore should be linked to the tax codes used by employees. Consideration should be given to exemptions for certain types of workers, for example Recognised Seasonal Workers employed by an employer registered under the Recognised Seasonal Employers' Scheme. The Group questions whether levies should be deducted from workers who are specifically ineligible to benefit from the scheme.

### **Chapter 7 – Entitlements for displaced workers**

#### Abatement rates would ensure a claimant is not financially better off as a result of their loss at work

34. *Do you agree that insurance should abate 'dollar for dollar' when earned income and insurance combined reach 100 percent of previous income?*

- It should be clear whether the receipt of a pay out under a private income protection insurance policy contributes to the abatement of this insurance payment.
- There will need to be clear rules and guidance about how to "wash out" issues, for example a claimant gets a part time job which pays monthly. The first payment exceeds the relevant thresholds. How will ACC clawback the abatement for the first 4 weeks of overpayments? Will Inland Revenue / ACC be able to issue deduction notices?

#### Insurance would be generally treated as income, to determine eligibility for welfare and student support

35. *Do you agree that insurance should be treated as income for assessing eligibility for income support such as main benefits and Working for Families tax credits and student support?*

- Will insurance be treated as income for the purposes of withholding further insurance levies?



36. *Given the purpose of the In-Work Tax Credit and Minimum Family Tax Credit in encouraging people into employment and helping with in-work costs, do you agree that income insurance claimants would not be eligible for these tax credits?*

- Will Inland Revenue systems be able to differentiate between types of income earned in order to treat insurance payments as income of a different character?
- Related to the above, will ACC effectively be treated as an employer of the displaced worker and withholding PAYE etc. If so, will this lead to difficulties in establishing non-eligibility for certain tax credits?

#### A sufficient base entitlement period

41. *Do you agree with a base insurance entitlement length of six months, plus a four-week bridging payment paid by the employer?*

- In relation to the bridging payment, will this be treated as an “extra-pay” under the Income Tax Act 2007 and taxed at a flat rate? What approach will be adopted to ensure that workers are not over-taxed throughout the bridging payment and entitlement period?

#### Avoiding unnecessary redundancies

45. *Do you agree that employers should pay former workers for the initial period of unemployment for four weeks?*

- There should be clear rules for when an employer is not required to pay a bridging payment. For example, if an employer has a clear history of providing training opportunities to employees to allow them to upskill (prior to the displacement event), the employer should be exempt from paying the bridging payment.
- To encourage employers to proactively train employees / prepare them for alternative careers the Government should introduce a specific FBT exemption for training costs incurred by employers (where training does not have a direct nexus to the existing employment). The Group notes that Australia has recently introduced a “super deduction” of 120% of expenditure by employers on providing training to staff. New Zealand should consider similar incentives for employers in order to mitigate the likelihood of claims needing to be made under this scheme.
- It should be clear what the entitlements are of a displaced worker if the employer is not required to pay a bridging payment; in particular do they receive 6-months of payments from ACC, or 7 months?

### **Chapter 8 – Coverage and entitlements for loss of work due to health conditions or disabilities**

#### Coverage for loss of at least 50 percent of capacity to work, for at least four weeks

51. Should the scheme cover partial loss of earnings due to a health condition or a disability reducing work capacity?
52. If partial loss is to be covered, do you agree claimants should have at least 50 percent reduction of capacity to work caused by a health condition or disability and that reduction is expected to last for at least four working weeks?
- How will loss of earnings be established, will this involve verifying this against payday filing data held by Inland Revenue?

#### Employers would remain responsible for taking reasonable steps to support an employee to continue working

56. *How could employers be supported to help workers with health conditions or disabilities to remain in or return to work?*

- Assistance provided to employees should be exempted from tax (either PAYE or FBT). For example, there should be no tax impost on an employer providing gym memberships, EAP, access to mindfulness apps, and health and well-being initiatives (some of these benefits may already be exempt from FBT under sections CX 23 and CX 24 of the Income Tax Act 2007).





Employers would be expected to make reasonable efforts to keep a job open where a return to work within six months is likely

58. *Should this be a statutory requirement placed on employers or an expectation?*

- The Group would want there to be clear rules around what an employer must provide if there is a statutory requirement placed on employers. For example, will sick and annual leave entitlements still accrue? How will it be determined that a return to work within six months “is likely”?

The scheme would generally meet the full cost of income replacement once a claim is accepted

59. *Do you agree that employers should only pay a bridging payment to employees leaving work because of a health condition or disability when the employment is terminated by the employer?*

- As with question 45, how does the non-requirement of a bridging payment impact on the total benefits received by the employee?
- Employers could accumulate “credits” that can be used to offset bridging payments – for example if the employer has an established pattern of providing health and well-being benefits to employees in order to reduce the likelihood of a claim being made (for example, the employer provides medical insurance, or sick leave in excess of the statutory minimum).

## **Chapter 9 – Insurance claimants’ obligations**

Reasonable obligations for people receiving income insurance payments

61. *Do you agree that claimants would not be expected or required to accept offer of employment that provide lower wages or conditions?*

- If the former / new employment includes a combination of salary/wages and non-cash benefits, how will “lower wages or conditions” be verified. For example, if the displaced employment was paid \$50,000 + use of a car, if a new job is offered which pays \$52,000 with no car, is this lower wages? A displaced worker may not have access to the value of “benefits” provided at a previous job.

## **Chapter 10 – Delivering income insurance**

Independent and effective delivery

70. *Do you think it is best for ACC to deliver the income insurance scheme alongside the accident compensation scheme?*

- It is clear that Inland Revenue will need to play a material role in relation to the income insurance scheme, accordingly Inland Revenue should receive additional baseline funding from the Government to fund the additional workload.

Scheme integrity and enforcement

83. *Do you agree with the proposal to establish an effective offences and penalties framework to protect the scheme’s integrity?*

- It will be necessary to consider whether additional penalties need to be added to the Tax Administration Act 1994.

Information collection and sharing

84. *Do you agree with the proposal to develop information sharing agreements and sharing arrangements with employers, other agencies, and service providers?*

- We support information sharing.



Most funding would come from compulsory levy payments on income

85. *Do you agree the income insurance scheme should be funded from compulsory levies on the income that is insured, rather than from general taxation?*

- If it is funded from income it will need to be clear what income is/isn't subject to the levy. Having the scheme funded from separate levies will provide greater certainty over Government revenues and expenditure as compared with having the scheme paid for from general taxation.

Levy payments would be shared by employers and workers

86. *Do you agree that levy contributions should be equally split between the employee and employer?*

- Levies should not apply to employers who already provide employees with private income protection insurance coverage which is equal to or better than what is offered under the scheme.
- The Group understands that 20% of employees are covered by private income protection insurance; this is a substantial amount of employees who will double-insured.

87. *Do you agree that levies for health conditions and disabilities and for redundancy should be set separately?*

- Yes. Separate levies will need to be set if self-employed workers do not need to pay both levies.

Both employee and employer would be charged at a flat rate

88. *Do you agree that employees should be levied at a flat rate on income below \$130,911?*

- How will the total levy be calculated and washed up of the employee workers multiple jobs which cumulatively exceed \$130,911?
- The Group notes the regime is complicated if the levies operate at similar but different levels to the existing ACC earners levy (as the amounts currently match the rate and earnings level for the 2021/22 ACC Earner Levy. That said, the Group notes that ACC earner levies have been increasing and are forecast to increase further (as set out in the table below); the Group is not advocating for higher levies.

Year	Levy rate	Maximum earnings	Maximum levy payable
1 April 2024 – 31 March 2025	1.60%	\$142,283	\$2,276.52
1 April 2023 – 31 March 2024	1.53%	\$139,384	\$2,142.57
1 April 2022 – 31 March 2023	1.46%	\$136,544	\$1,993.54
1 April 2021 – 31 March 2022	1.39%	\$130,911	\$1,819.66

90. *Do you agree that experience rating would not be an appropriate design setting for the employer levy?*

- An experience rating would appropriately reward good employer behaviour.
- How will the employer levy be determined if employees work multiple jobs. The employer does not have access to total earnings information to know when the maximum levy has been paid across all employers.

Levies would adjust smoothly over time, with independent fund management

91. *Do you agree that an independent fund with a stable levy-setting system should be established to finance the income insurance scheme?*

- There should be a stable levy setting system in place which is set well in advance to allow levy rates to be incorporated into payroll software (and budgets).