



14 February 2025

Financial Markets
Building, Resources and Markets
Ministry of Business, Innovation and Employment
PO Box 1473
Wellington 6140

By email: financialmarkets@mbie.govt.nz

Dear Sir / Madam

Enabling Kiwisaver investment in private assets

Thank you for the opportunity to provide feedback on the Discussion Document.

Our overall comment is that the project should also consider whether amendments to the tax rules for Portfolio Investment Entities (PIEs) are needed.

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 139,000 financial professionals, supporting them to make a difference to the businesses, organisations and communities in which they work and live. Our New Zealand Tax Team advocates in the best public interest.

More information about CA ANZ is included in Appendix One

Background

Kiwisaver is now a billion dollar industry. The Discussion Document suggests that the utility of Kiwisaver could be improved if Kiwisaver funds could be invested in “private assets”.

Paragraph 14 states:

...Kiwisaver members may be missing out on a better diversification of risk and better returns, and New Zealand businesses and the economy may be missing out on a significant source of funding.”

The Discussion Document does not explicitly consider the legal structure of the proposed assets; however, it refers to assets that are perhaps niche or illiquid. This reference may potentially include private equity investments, or perhaps land developments.

Tax rules for Kiwisaver

Kiwisaver commenced in 2007. Broadly speaking, the aim at that time was to encourage individual retirement savings in New Zealand through managed funds. The tax rules were seen as an impediment, so the Government created a new tax regime. All default Kiwisaver funds were required to comply with the PIE regime. The aim of the PIE regime was to allow a managed fund to replicate the tax treatment that the investor would have if investing directly into the investment assets.

The PIE regime also gave preferential tax rates to investors, with the aim of encouraging the public to save through PIEs. At the same time, the Government also sought to limit the types of entity that could become PIEs (and, thus, access preferential tax rates).

In 2024, the current Government looked to clarify, or narrow, the criteria for becoming a PIE. The Taxation (Annual Rates for 2024-25, Emergency Response, and Remedial Matters) Bill included two amendments, described in the Commentary to the Bill¹ as follows:

“The amendments would clarify that:

- a person in the business of borrowing and lending money cannot be a PIE, and
- income cannot generally be channelled into a PIE by way of interest payments from an associated person that is not eligible to be a PIE.”

¹ Page 177

Our comments

The Discussion Document sets out several regulatory changes that could be made to encourage a wider range of Kiwisaver investments.

In our view, if the proposed regulatory amendments are to proceed, the Government should also consider if the PIE eligibility criteria are an additional barrier. Whether amendments are needed will depend on the types of investment envisaged by the Discussion Document.

PIEs are already allowed to invest in land². Inland Revenue recently released a Technical Decision Summary³ which confirmed that a PIE may invest in land and that the income from rents and the sale of leasehold interest in land satisfied the income types under section HM 12.

In addition, PIEs may invest into debt or equity assets so may currently be invested in private equity projects; however it is not clear to us to what extent they invest in public-private partnerships or large-scale assets.

The second of the amendments proposed in 2024 (to restrict PIE eligibility where the fund derives only interest income from an associate that is not eligible to be a PIE) may also need revision.

Conclusion

It will be necessary to consider whether there are currently any common investment structures that fall outside the PIE rules and are therefore not able to access Kiwisaver funds. This will require a delicate balance. As noted, PIEs have preferential tax rules. The Government naturally wants to restrict eligibility to vehicles that meet the investment objectives. On the other hand, allowing a wider range of entities to become PIEs could allow access to Kiwisaver capital for future growth.

² Section HM 11 Income Tax Act 2007

³ <https://www.taxtechnical.ird.govt.nz/-/media/project/ir/tt/pdfs/tds/2025/tds-25-01.pdf?modified=20250123024303&modified=20250123024303>

We would be happy to discuss our submission with you. Please contact Jolayne Trim.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'John Cuthbertson'.

John Cuthbertson FCA

NZ Tax and Financial Services Leader

A handwritten signature in blue ink, appearing to read 'Jolayne Trim'.

Jolayne Trim CA

NZ Senior Tax Advocate

Appendix One

About Chartered Accountants Australia and New Zealand

Chartered Accountants Australia and New Zealand (CA ANZ) represents more than 139,000 financial professionals, supporting them to build value and make a difference to the businesses, organisations and communities in which they work and live.

Around the world, Chartered Accountants are known for their integrity, financial skills, adaptability and the rigour of their professional education and training.

CA ANZ promotes the Chartered Accountant (CA) designation and high ethical standards, delivers world-class services and life-long education to members and advocates for the public good. We protect the reputation of the designation by ensuring members continue to comply with a code of ethics, backed by a robust discipline process. We also monitor Chartered Accountants who offer services directly to the public.

Our flagship CA Program, the pathway to becoming a Chartered Accountant, combines rigorous education with practical experience. Ongoing professional development helps members shape business decisions and remain relevant in a changing world.

We actively engage with governments, regulators and standard-setters on behalf of members and the profession to advocate in the public interest. Our thought leadership promotes prosperity in Australia and New Zealand.