

**Te Hunga Roia Māori o Aotearoa
(New Zealand Māori Law Society Incorporated)**



**Submission on Te Aheawhe Tāke (Tax Working
Group's) 'Future of Tax'**

27 APRIL 2018

**TE HUNGA ROIA MĀORI O AOTEAROA SUBMISSION
ON
TAX WORKING GROUP'S 'FUTURE OF TAX'**

1. INTRODUCTION

- 1.1 This submission is made for and on behalf of Te Hunga Roia Māori o Aotearoa (**THRMOA**), also known as the New Zealand Māori Law Society Incorporated.
- 1.2 THRMOA has a membership of approximately 350 Māori lawyers. In addition to these members, THRMOA also includes membership of Māori students studying towards a Bachelor of Laws or taking law related papers offered at wānanga throughout Aotearoa.
- 1.3 THRMOA encourages the effective networking of members, makes submissions on a range of proposed legislation, facilitates representation of its membership on selected committees, and organises regular national hui which provide opportunities for Māori to discuss and debate legal issues relevant to Māori.
- 1.4 When making submissions on law reform, THRMOA does not attempt to provide a unified voice for its members, or to usurp the authorities and responsibilities of whānau, hapū and iwi, but rather seeks to highlight areas of concern, and suggest further reform options where appropriate.
- 1.5 The current co-presidents of THRMOA are Tu'inukutavake Barron Afeaki and Ophir Cassidy.
- 1.6 This is a high-level submission which seeks to highlight the major issues that THRMOA sees as priorities for Māori.

CONTACT PERSON REGARDING THIS SUBMISSION

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TE HUNGA ROIA MĀORI O AOTEAROA

2. KEY ISSUES

- 2.1 We support moves to broaden the tax base and create a fairer tax system. We are in favour of changes that would, among other things, support the inclusion of tikanga Māori into Aotearoa's tax system and the further consideration of how taxes could apply to taonga assets.

Māori authority regime

- 2.2 We support the retention and development of the Māori authority tax regime.
- 2.3 The Māori authority regime has been key to providing ownership models for whānau that reflect the traditional nature of Māori communities and economies. Any substantial changes that would reduce the economic alignment offered by the Māori authority tax regime should not be supported on the basis that this will undermine the regime and introduce a bias for individual ownership.

The taxation of Land and Capital gains tax

- 2.4 We have concerns about how either a land tax or a capital gains tax might be applied to Māori. We consider that the unrealised taxation of tribal land held by whānau, hapū and iwi poses a significant risk to Māori tino rangatiratanga (Māori rights to self-determination and sovereignty) in respect of their own land. We consider wide exemptions for tribal land held by Māori will be necessary if the Crown is to meet their obligations in respect of Māori tino rangatiratanga.
- 2.5 We also consider that unrealised taxation of tribal land could lead to Māori being alienated from their lands and suggest that this risk will need to be mitigated if land held by Māori within their own tribal area is to be taxed.
- 2.6 Finally, we are concerned with the impacts that unrealised land taxation will have on the Treaty settlement process. Post-settlement entities tend to be comparatively "asset rich" and "cash poor" meaning they may face cashflow difficulties if they are taxed on an unrealised basis in respect of their land. More broadly, unrealised land taxation may materially impact the outcomes of the Treaty settlement process and could undermine the good faith in which Treaty settlements are carried out.
- 2.7 Against these concerns, we also observe that the benefits associated with protecting Māori rights and facilitating the post-settlement development of hapū and iwi may offer significant advantages as New Zealand continues to shape itself and develop. We consider these benefits also warrant consideration and speak in favour of an exemption for Māori tribal land.
- 2.8 We suggest that, when considering either a capital gains tax or a land tax, the Tax Working Group should have regard to the following:
- (a) The principles of the Treaty of Waitangi and Māori tino rangatiratanga;
 - (b) the impact that the tax will have on the Treaty settlement process;

- (c) the risk that the tax will have the effect of alienating Māori from their land; and
- (d) the benefits that might be promoted through tax concessions for tribal land held by Māori.

A progressive company tax

- 2.9 We are generally in favour of a progressive company tax rate. Māori have, for centuries, been entrepreneurial peoples and starting a small business is a simple way to realise a more prosperous life for whānau.
- 2.10 Similarly, the current company tax rate applies to other body corporates (such as us) which are “for Māori, by Māori” organisations. Progressive company tax rates, which are more in-line with personal income rates would allow small Māori businesses and organisations to operate more effectively for their whānau or members.

Tikanga Māori

- 2.11 We support initiatives that will further incorporate Tikanga Māori into the tax system. This includes having consideration to values such are:
 - (a) Tino rangatiratanga (self-determination);
 - (b) Whanaungatanga (family); and
 - (c) Kaitiakitanga (stewardship).

3. SUMMARY

- 3.1 We encourage the Te Aheawhe Tāke to consider how the tax system can better reflect a Māori world-view. This includes:
 - (a) Continuing to recognise the importance of the Māori authority regime for whānau, hapū, iwi and Māori organisations;
 - (b) The recognising of the disproportionate effect a land tax or capital tax could have on whānau, hapū, iwi and Māori organisations; and
 - (c) The implementation of a progressive company tax rate.