NZSUPERFUND
Te Kaitiaki Tahua Penihana Kaumātua o Aotearoa

TITLE:

Submission to Tax Working Group

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EVENT | PRESENTATION:

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#2571946

Outline

- New Zealand Superannuation Fund – background (3 mins)
- Submissions: (12 mins)
  - New Zealand tax exemption
  - Nationally significant infrastructure
  - Other ancillary submissions
- Q&A, discussion (10 mins)

New Zealand Superannuation Fund - background

- The Fund is a pool of assets on the Crown's balance sheet. It improves the ability of future governments to pay for superannuation and reduces the taxes to be paid by New Zealanders.

- As at 30 September 2018:
  - Fund size NZ$41.1 billion
  - Return since inception pre-NZ tax (15 years) 10.44%

- Mandate to invest prudently and commercially consistent with:
  - Best-practice
  - Maximising return without undue risk
  - Avoiding prejudice to New Zealand's reputation

New Zealand Superannuation Fund - background (cont)

- Fund cannot control an operating business (interest > 50%) - it requires co-investment partners.
- Crown income from the Fund is subject to NZ tax and, depending on the source, foreign tax.
- ***The Fund is almost alone amongst peer sovereign wealth funds (both offshore and in NZ (i.e. ACC and EQC)) in paying tax at home.***
- Largest taxpayer in NZ (paid $6.4 billion since inception).
- Performance measured: pre-NZ tax, post-foreign tax.
- Best practice tax risk management framework and co-operative compliance agreement with Inland Revenue (IR).

Submission – NZ Income tax exemption

- Seeking exemption from NZ tax.

- GNZS assessment of benefits from an exemption (will increase as the Fund grows):
  - More efficient
  - Lower contributions would need to be made over time.
  - No need to liquidate assets to pay tax.
  - Provisional tax system amplifies compliance costs given volatility in earnings.
  - Significant reduction in tax compliance costs for each of the Fund, IR and Treasury.
  - Reduction in foreign tax risk re foreign withholding tax exemptions.
  - Further foreign tax exemptions should become available in Belgium, Poland and Philippines (approximately NZ$0.75m per annum).

Submission – NZ Income tax exemption (cont)

- Officials' Paper to TWG in 2018:
  - There is a case to exempt the Fund.
  - Benefits (which ultimately accrue to the taxpayer) include a reduction in compliance costs and some reduction in foreign taxes
  - Suggests the Fund paying NZ tax has an "advantage" in that it "allows for future flexibility of the Government to manage its fiscal position by changing the level of contribution to the NZSF (as it could then be raising net revenue from the Fund)."
- Our view:
  - Benefits from a tax exemption material and compelling; consistent with Treasury's Living Standards Framework.
  - Consider Officials' flexibility argument flawed and contrary to our legislation (NZSRI Act):
    - NZSF set up for inter-generational purpose - intended to ring-fence funds to help reduce the tax burden of NZ Superannuation for future generations
    - Payments of NZ tax by the Fund during the 2009-2017 contributions suspension effectively diverted $4.9 billion to other Crown purposes
- For completeness:
  - No effect on the Crown accounts arising from an income tax exemption. NZ tax paid by the Fund is eliminated on consolidation.
  - A change to the tax settings for capital income from Australasian share gains will result in a significant increase in the Fund's future tax payments – approx. $100m p.a.

Submission - Nationally Significant Infrastructure Regime

- NZ has a significant infrastructure deficit and the Government is committed to closing this gap. External aligned expert capital and an innovative approach is essential.
- Specific concessionary tax regime to encourage investment in nationally significant infrastructure projects (NSIP).
- Concessional tax rate and profit repatriation locked in for a term to provide certainty.
- Long-term patient investors with the necessary expertise have choices about where to invest and value certainty allowing them to bid for projects based on a known tax position/ non-tax regulatory framework e.g. RMA approvals, provision for foreign skilled labour etc.
- Other countries provide NSIP-related tax settings to attract long term investors; NZ does not. NZ needs to remain competitive.

Submission - Nationally Significant Infrastructure Regime (cont)

- Targeted Regime with specific eligibility criteria:
  - Large deal size
  - Public utility test (urban redevelopment, public transit, communications, energy and water reticulation)
  - Demonstrated ability to deliver and provide operational expertise.
  - Required alignment with Treasury's Living Standards Framework.
  - Increases productivity
  - Need for pre-approval by relevant Government Agency.
- Simple – applies to project entity. No need to bifurcate realty and operational components.
- Transparent – the public will know who has qualified and what it costs.
- Will assist in attracting scarce global operational expertise with a track record in relation to specialised infrastructure (skills not readily available in NZ e.g. the Fund/CDPQ Auckland light rail consortium).
- Will attract new investors, different business models and innovation.
- Current settings have not delivered the required 'step change'. NSIP part of a packaged solution to help solve infrastructure deficit.

Submission - Nationally Significant Infrastructure Regime (cont)

- Why important for the Fund?
  - We would like to invest in infrastructure where it is consistent with our investment criteria / mandate.
  - We need co-investors as we are unable to control an operating entity.
  - Co-investors need to be like-minded i.e. long term patient capital similar investment horizons and able to fund significant projects.
  - Co-investors need to provide scarce global operational expertise and demonstrate a successful track record.
  - In the majority of cases the co-investors are likely to be foreign.
  - Expertise gained in completing NSIP in NZ will create opportunities to participate in similar onshore and offshore consortia.

Submission - Nationally Significant Infrastructure Regime (cont)

- Officials' view:
  - Only consider where sensitivity to tax and spill over benefits.
  - Capital productivity enhanced by taxing investments as neutrally as possible. Concessions draw resources away from other activities that may offer a higher return for NZ.
  - Concessions add complexity and are not transparent.
  - Treasury PPP team – observe no issues in attracting equity investors
  - Burden of proof not satisfied to justify concession.

- We think a targeted transparent Nationally Significant Infrastructure regime that helps to close the infrastructure deficit is of national importance.

- The ability to attract scarce overseas expertise in a competitive global market by offering simple and certain tax and regulatory settings is compelling. The burden of proof is satisfied given the eligibility criteria.

Other ancillary submissions

- FDR / FX hedging regime is unworkable
- Provisional tax regime doesn't work for the Fund (and others with volatile income streams)
- Ability to offset the Fund's provisional tax payments against Government contributions
- Reduce rate of FDR (Fair Dividend Rate)
- Continued availability of co-operative compliance agreements with IR
- Corporate flow through vehicle for co-investing
- Double tax agreement negotiations to include sovereign immunity

Q&A, discussion