10 July 2007

The Chairman
Finance and Expenditure Committee
Parliament Buildings
WELLINGTON

Taxation (Annual Rates, Business Taxation, KiwiSaver, and Remedial Matters) Bill

Introduction

This submission is made by the New Zealand Business Roundtable, an organisation comprising primarily chief executives of major New Zealand business firms.

It focuses on the KiwiSaver provisions of the bill.

Regulatory Impact Analysis requirements

The Cabinet Manual requires all policy proposals that result in government bills to be accompanied by a regulatory impact statement (RIS), unless an exemption applies. Such RISs are to be published and included in the explanatory note to bills.

The essence of an RIS is a requirement to:

- state the nature of the problem being addressed
- specify the objective(s) of any proposed legislation
- outline options for achieving the objective(s)
- indicate a preferred option based on a cost benefit analysis
- advise on the consultation undertaken.

As part of the government's Quality Regulation Review, these disciplines have been tightened. The minister of commerce stated at a recent conference on regulation that the government's approach involves "clearly identifying the problem and objective, considering any existing regulatory frameworks, setting out options, identifying risks and opportunities, always asking whether the response is proportionate, conducting the all-important cost benefit analysis, and consulting on all of these with key stakeholders."

The government has also recently voted for select committee consideration of a member's Regulatory Responsibility Bill which would tighten regulatory processes further.

The Business Roundtable has been a longstanding supporter of the RIS process and applauds the recent initiatives to tighten regulatory disciplines.

KiwiSaver provisions

In this context a glaring deficiency of the bill is that it contains no RIS on the KiwiSaver provisions, notably the proposed employer levy. We understand none was prepared or published. This is a clear breach of explicit Cabinet requirements.

Specifically, there is no indication in the bill of:

- the *problem* being addressed (is it an alleged problem of household savings, national savings, savings for retirement, the current account balance, the state of New Zealand's capital markets or some other problem? Some of these issues are mentioned in passing on page 2 of the bill but the nature of any problem is not specified and there has been much public debate over the existence and cause of any alleged problems)

- the *objectives* of the legislation (references to 'A better retirement', 'A stronger economy' and 'A fairer society' do not identify a problem that justifies consideration of government action and are too vague to satisfy RIS requirements)

- a consideration of feasible *options* relevant to savings (for example, lower income taxes, modifications to New Zealand Superannuation, or an Australian-type compulsory savings scheme)

- an analysis of the *costs and benefits* of feasible options

- *consultation* (there was no consultation; indeed the minister of finance stated that the scheme's introduction would have taken "years of consultation" had it not been a budget surprise. This is a breach of Cabinet requirements and tantamount to an admission that the rationale for the scheme is not persuasive).

Conclusion

The Business Roundtable recommended that the original KiwiSaver scheme should not proceed in the absence of sound and objective research that clearly demonstrated it was warranted. We have major additional reservations about the extension of the scheme on the grounds of fiscal cost, complexity, and the impact on wage bargaining.

However, the key point of this submission is that the proposals are in breach of the Cabinet's regulatory analysis requirements. It is up to all the institutions of government, including parliament, to uphold them. Flagrant breaches render them meaningless. This point is particularly salient at a time when the government has been telling the business community that it is strengthening regulatory disciplines. Self-evidently, the Committee should not accept such a breach.

Recommendation

The Business Roundtable recommends that the bill should not proceed further on the grounds that it is in breach of Cabinet regulatory analysis requirements.

Instead, the government should be required to produce a rigorous Regulatory Impact Statement and allow interested parties the opportunity to make submissions on it before the bill is reported back to the House.

We would appreciate the opportunity to be heard in support of this submission.

Yours faithfully

R L Kerr
EXECUTIVE DIRECTOR

direct dial: +64 4 499 0790
email rkerr@nzbr.org.nz