Community Housing
Nga Wharerau o Aotearoa

PO Box 11543
Wellington
New Zealand
Ph 04 385 8722
www.commmunityhousing.org.nz

30 April 2018

Tax Working Group Secretariat
via email: submissions@taxworkinggroup.govt.nz

RE: Future of Tax

Thank you for the opportunity to provide our perspective on how changes to the tax system can improve outcomes for New Zealanders. Community Housing Aotearoa is the peak body for New Zealand's community housing sector, working toward All New Zealanders well-housed. Our 80 provider members house approximately 25,000 people nationally across 13,000 homes. Our 23 partner members include developers, consultants and local councils.

We see several areas where tax changes can specifically improve the wellbeing and reduce the inequality of lower income households relative to higher income households. We submit that charities and other registered non-for-profit housing entities who charge below market rents should be incentivised through the tax system to increase supply of permanent social and affordable housing.

Our submission asks the Tax Working Group to consider:

- a GST rebate to registered Community Housing Providers incurred in the construction of new affordable homes.
- development of a sophisticated, comprehensive capital gains tax on housing, that exempts genuinely adequate, permanent affordable housing for rental or shared ownership, as well as exempting one home per family.

These changes will stimulate the supply of new affordable rental and ownership homes by registered Community Housing Providers and provide additional crown revenue to mitigate the impact of speculative housing investment on lower income households. The methods we propose provide for regulatory oversight, consumer protections, and retention of public benefit and crown investment through a sophisticated and simple approach.

Community Housing Aotearoa supports the submissions from the community housing sector, in particular the Manawatu Community Trust for their thorough description and example of how the GST rebate could work in practice.

Definitions are important
In calling for all New Zealanders to be well-housed we have adopted the Human Rights Framework on adequate housing which gives us a robust and legally based definition. Adequate housing is defined in General Comment 4, CESCR, and includes 7 'indicators' - security of tenure, availability of services, facilities and infrastructure, affordability, habitability, accessibility, location, and cultural adequacy. We use the internationally recognised definition of affordable as housing costs accounting for no more than 30% of a household's income. These provisions are set out in the Our Place plan available at http://www.communityhousing.org.nz/our-place/our-place

For the purposes of this submission, any housing that is able to access a tax incentive should comply with these definitions.

GST Rebate
The background paper clearly documents the inequality trends for households after housing costs. We also note the dramatic increases in homelessness and households on the Social Housing Register[1] requiring a rental subsidy to afford a home. The proposed massive investment in KiwiBuild is an at-scale response. Recycling the GST paid by registered Community Housing Providers on new builds back into additional homes is a complimentary action to address the housing crisis.

This rebate will provide an on-going incentive to deliver new affordable homes. It will work seamlessly with other funding sources including philanthropic, private and public capital. It will provide certainty for providers as an-ongoing resource available to leverage a mix of different funding including rental subsidies as well as up-front equity.

<u>Eligibility</u>: Only entities registered with the Community Housing Regulatory Authority under the Housing Restructuring and Tenancy Matters Act (1992) should be eligible for the rebate. In addition, only those registered entities who also have either Charitable status or Community Housing Entity[2] status should be eligible. These requirements will ensure that all benefits received and all profits are either kept by the entity, or if profits are distributed or applied to another person or entity, they can only go to:

- the entity's beneficiaries or clients
- another community housing entity that has this exemption
- another tax charity
- organisations entitled to receive charitable donations.

<u>Rebate Process:</u> Eligible entities would submit required documentation to IRD justifying the requested reimbursement amount. At a minimum, this would include:

- GST receipts
- Code of Compliance Certificate

[1] http://www.msd.govt.nz/documents/about-msd-and-our-work/work-programmes/social-housing/housing-quarterly-report-dec2017.pdf
[2] http://www.ird.govt.nz/charitable-organisations/chart-orgs-comm-housing/

Compliance Period: We recommend that any property receiving the GST rebate be retained as affordable for a period of at least 15 years. For clarity, we specifically cite the points made in Manawatu Community Trust submission:

- *As a charitable trust or other registered housing provider we would develop new affordable rental accommodation.*
- *GST on expenses for the development would be captured as an adjustment on our return.*
- *A matching amount would be recorded on our balance sheet as a liability.*
- *We would be required to make a declaration each year that the assets remain in use for affordable housing, and this declaration would be auditable (we could also be required to disclose this as part of our financial statements).*
- *If we sell the developed housing asset within a specified time period – say 15 years – then we would be required to pay the amount of the liability to the IRD.*
- *If we keep the developed asset for affordable housing for the required time period, then we would be allowed to write the liability off.*

The housing provider must have a strong enough balance sheet to be able to carry impact of the GST amount for the specified time period (15 years in the example above). We believe this is necessary to ensure an element of sustainability in that providers will need to have sufficient assets to balance the carrying of this liability, and that the assets will continue to be used for the purposes of affordable housing.

In other jurisdictions such as California, public benefits provided to affordable housing have compliance periods of up to 55 years, managed through a publicly recorded Regulatory Agreement. If concerns of the Tax Working Group are that the public benefit provided by the GST rebate should result in a compliance period longer than 15 years, we would be supportive of that approach so long as there is a clear and transparent method for satisfying the compliance period, and subsequent write off of the liability over time.

We suggest that a measure of success of this tool would be on two fronts:

- the number of new affordable homes delivered (that would not have been built otherwise)
- the number of affordable homes that pass over to full market sale, and the successful capture of the GST rebate at that time.

These two measures ensure that the rebate acts as a stimulus for the supply of genuinely affordable housing, as well as payment of the GST when that unit no longer meets the regulatory tests for affordability

Monitoring: The Community Housing Regulatory Authority monitors the activities of its registered entities annually[3]. This monitoring activity includes the mandatory filing of audited financial statements, ensuring oversight that the benefits received from the GST rebate are re-invested for public benefit. This existing monitoring regime means there will not be a requirement for additional monitoring expenses for IRD. Further we wish to clarify that the monitoring requirement is on the Community Housing Provider – not the individual household residing in the home. We do not believe there should be any liability on a Provider to repay the GST rebate if the resident household improves their situation; but only when the home itself is sold on the open market. If the proceeds of the sale are reinvested in new, additional social or affordable housing we suggest consideration of a mechanism to exempt that as well (see the Tax Deferred Exchange explanation below).

Consequential regulatory changes: We recommend that the the two further classes of registration be activated for the Community Housing Regulatory Authority, to clarify the use of the GST rebate applies to organisations undertaking capital development and asset management, as there is a lack of clarity on these activities under the current Class I Social Landlord regulations. The eligibility provisions set out above could also be enshrined withn the Class I Social Landlord provisions, as an alternate method to ensure the public benefit is achieved. To minimise the reporting burden, we suggest that the annual returns filed by CHPs with the Community Housing Regulatory Authority should suffice for the purposes of this rebate. We are happy to provide further detail on this to the Tax Working Group if you require.

Capital Gains on Residential Property

We believe that speculative investment is having a direct negative impact on housing affordability. As identified in the background paper, 'real property held for more than two years is undertaxed relative to other investments when there are capital gains'. The time is at hand to bring speculative investment in real property into alignment with other investments. This will support families who need houses as homes and not investments.

To balance this change for investors and to make long term investment in homes more attractive, a deferral mechanism can be used. A method used in the USA is a tax-deferred exchange into additional rental housing[4]. This mechanism allows owners to adjust portfolios without a tax penalty when the proceeds are into like kind property. The capital gain is taxed when the asset is ultimately sold and the proceeds no longer invested into rental housing.

Families rely on building household wealth and security of tenure by owning the family home. Homeownership strongly supports community wellbeing and therefore any capital gains tax must exempt the primary family residence. Families who require assistance along their journey toward homeownership should not be disadvantaged,

---

[3] https://chra.mbie.govt.nz/registered-chp/annual-reporting/

[4] https://www.irs.gov/newsroom/like-kind-exchanges-under-irc-code-section-1031

which is why we have set out above the interface between the GST rebate and this proposed component of tax treatment.

We welcome further engagement with the Tax Working Group on the matters set out above.

Community Housing Aotearoa does wish to speak to this submission, and would be happy to provide further detail.

Kind regards

Scott Figenshow
Chief Executive

director@communityhousing.org.nz
021 061 9664