

TAXATION POLICY, LEGISLATION AND ADMINISTRATION

Many factors influence the processes used in Group 1 countries to develop taxation policy and legislation. Apart from tax considerations, these factors include the division of powers between the legislature, executive and judiciary, legislative drafting styles and broader developments in public service administration.

There is an increasing emphasis on improved coordination of the economic policy and tax technical skills applied by the various agencies involved in development of taxation policy and legislation. The evidence suggests a basic choice between consolidating responsibility for development of policy and legislation in a single agency (the majority of cases) or improving coordination across no more than two, or at most three, key agencies.

In some countries tax legislation may also be subject to independent evaluation and scrutiny. Some countries supplement tax legislation with interpretive guidance, rulings or secondary legislation. Some separate interpretation of the law from collection of the revenue. All provide for appeal processes to be available to taxpayers. An increasing emphasis has been evident on consultation, but generally within ad hoc processes determined at the discretion of governments. A number of countries, not including Australia, have processes for early announcement of proposed tax policy changes.

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Introduction

Purpose

6.1 A key function of the Review of Business Taxation is to examine the processes currently in place in Australia to develop taxation policy, to prepare the legislation embodying that policy and then to administer the law that results from the parliamentary process, including interpreting and applying the law and collecting the tax payable. Part 1 of *A Strong Foundation* contains an extensive discussion of the shortcomings of the existing processes in Australia. The purpose of this chapter is to examine some important aspects of the operational processes of selected business taxation systems.

Approach

6.2 Information has been collected on the processes used in Group 1 countries to develop taxation policy and legislation. The various systems in place will reflect at least two features of each country:

- The system of government and the ability of the executive government to control the legislature. The process is likely to be different in countries with a presidential system involving separation of powers between the executive and the legislature, in countries where the government is unable to control both houses, in countries where the power of the legislature is limited by constitutional protections, and in countries where only one house of parliament has significant powers to influence legislation.
- The importance of income tax in overall tax collections and the extent to which the law is set out in detail in legislation. Some countries set out principles in the legislation and then rely on interpretation by the revenue authority or the judicial system. Such countries may not see the need for sophisticated systems for developing legislation, given that their legislation tends to be reasonably simple.

6.3 The business tax system processes covered in this chapter are shown in Figure 6.1 which is reproduced from *A Strong Foundation*. A more detailed discussion of the elements of this diagram can be found in Chapter 4 of that discussion paper.

Figure 6.1: Core processes for designing business taxation

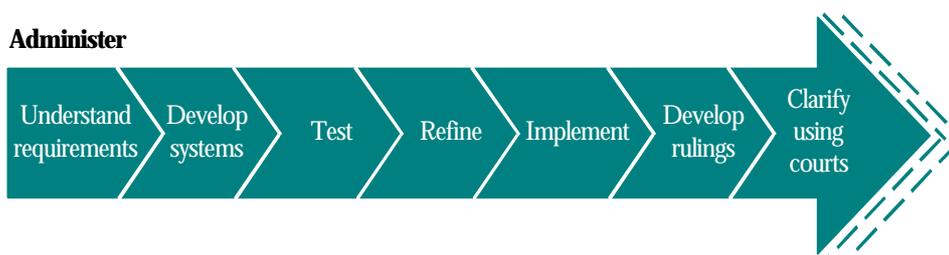
Develop Policy



Develop Legislation



Administer



6.4 Before examining the data for the individual countries included in the analysis, it is useful to focus on several principles that have emerged. While countries have used different techniques and structures to achieve their objectives, a number of key features can be identified:

- Australia is not unique in placing a strong emphasis on the need for reform of the income tax system. More than half of the countries included in Group 1 are currently considering, or have recently implemented, major reforms;
- in developing policy and drafting the supporting legislation, countries are attempting to coordinate economic policy and tax technical skills to ensure that the legislation achieves its policy objectives. This is a difficult task as the skills involved are diverse and success can often depend on the experience and ability of a limited number of experts. At a minimum, close cooperation is required between several agencies to achieve the desired outcome;
- in some countries, processes are in place to enable independent comment on the quality of newly drafted tax legislation. This involves an appraisal of the legislation by bodies such as the judiciary or a specialised agency, with a report to Parliament on the suitability of the legislation for its stated purpose; and
- the administration of the tax system is often in the hands of a single agency. However, an alternative model that is in use in several countries involves the separation of responsibility for tax

collection from the responsibility for the interpretation of the law. Thus, an alternative agency is responsible for issuing rulings, interpreting guidelines and other secondary taxation material. This separation recognises the different responsibilities associated with the functions of tax collection and legal interpretation.

Key comparisons

Tax reform in other countries

6.5 Of the thirteen other countries included in Group 1, more than half have recently announced significant tax reforms or have some process in place which is intended to lead to reforms. The motivation for reform varies to some extent from country to country but two overriding objectives emphasised are: the need to reduce complexity; and the need to make the tax system more conducive to employment growth.

6.6 Table 6.1 provides a summary of the Group 1 countries where significant reform activity is apparent. These are not the only countries currently experiencing reform activity but they are illustrative of the extent of reform currently being either envisaged or undertaken in other parts of the world.

6.7 To some extent, the reforms currently under consideration represent a re-examination of reforms that occurred in the mid-1980s. Those reforms were aimed at reducing the very high effective tax rates that had tended to arise in the previous decade or so but which had been partly masked by the effects of inflation. For a variety of reasons, the process of reform that began at that time injected disproportionate complexity into tax systems in many countries. There is an increasing realisation that tax systems have grown in an ad hoc manner and need to be reviewed with the objective of applying some logical framework to the tax system, embodying desired equity and neutrality objectives.

Table 6.1: Tax reform initiatives

Country	Nature of tax reform
Canada	Minister of Finance established Technical Committee on Business Taxation. Committee presented major report in December 1997. No policy decisions at this stage.
Germany	Major announcements on policy proposals since the recent general elections. For business taxation, these include some base broadening and rate reduction.
Ireland	System of Advance Corporation Tax to be abolished from 1999 and replaced by a system of withholding tax on resident shareholders. Non-residents in treaty and EU countries exempt from withholding tax. Company tax rate to be reduced to 12.5% by 2003.
Netherlands	Major initiative under consideration involving taxing individuals on a deemed rate of return on assets.
New Zealand	Constant review of the tax system with particular emphasis on the international aspects of the system.
Sweden	Examining ways in which the tax system could be modified to promote employment. Also looking to see whether the tax system is promoting the migration of Swedish multinational companies.
Taiwan	Introduced imputation system with effect from 1 January 1998.
United Kingdom	Replacing the system of Advanced Corporation Tax with a notional tax credit arrangement with effect from 1999. The company tax rate will also be reduced slightly to 30%.

Development of taxation policy and legislation

6.8 The major challenge in the implementation of taxation policy involves combining the economic, legal and legislative drafting skills in a way which produces legislation which is workable, reasonably easy to understand, accurately represents the policy intention and is not arbitrary in its application. The first challenge of such an objective is to ensure that skills of sufficient quality are available to the government to carry out these processes. It is not possible within the context of an international comparison to make a judgment as to whether individual countries have had the necessary skills available. However, it can be the case that even if these skills are available, lack of appropriate coordination and processes will still result in poor legislation.

6.9 We focus here on the processes used in other countries which can contribute to the necessary level of coordination. Table 6.2 shows in broad terms the way in which the various agencies are used in each of the Group 1 countries to change tax policy and legislation.

Table 6.2: Arrangements for changing tax policy and legislation

Country	Agencies involved in process
Australia	Policy developed by Treasury in consultation with Australian Taxation Office (ATO). Legislation drafted by tax specialists in the Office of Parliamentary Counsel under instruction from ATO. Coordination is relatively informal.
Canada	Policy and legislative drafting are the responsibility of Department of Finance. It consults closely with Revenue Canada which is responsible for tax administration.
Chile	Ministry of Finance largely responsible for detailed policy and drafting of legislation. It also produces explanation of the law which is used to assist interpretation. Inland Revenue Service (IRS) is consulted on detail but is essentially only responsible for tax administration. Chile has a presidential system and some legislative areas are restricted by constitutional protection.
France	Policy proposals can come from either the government or parliament. The Ministry of Finance develops details of policy. Legislation is drafted by Service de la Legislation Fiscale under the guidance of the Ministry of Finance. France has a presidential system.
Germany	The Ministry of Finance (MOF) is responsible for all stages of the policy and legislative process. It is assisted by a number of specialised committees, essentially consisting of civil servants, working under the direction of MOF. All legislation must also be approved by the states of the Federation through the Bundesrat on which they are represented.
Ireland	Policy is developed by Department of Finance with strong input from economic/social research bodies. Input provided by Revenue Commissioners on tax technical issues. Legislation drafted by Attorney General's Department to which officers from Department of Finance are attached.
Japan	Policy and legislation developed by the Tax Bureau of the Ministry of Finance, which is separate from the revenue collection agency (National Tax Administration). Guidance on policy provided by consultative body of experts to the Prime Minister.
Netherlands	The Secretary of State for Financial Affairs within the Finance Department is responsible for tax policy. This Department is also responsible for drafting legislation. The legislation is reviewed by the State Council which reports to the Parliament.
New Zealand	Treasury is responsible for high level tax strategy and policy. The Policy Advice Division within Inland Revenue is responsible for detailed formulation and drafting of legislation. Coordination based on written Generic Tax Policy Process (GTPP).
Singapore	Tax policy is the responsibility of Ministry of Finance (Revenue Division). Significant industry policy input from other agencies. Legislation drafted by Attorney General's Department under guidance of Revenue Division.
Sweden	Ministry of Finance responsible for tax policy and legislative drafting. The drafting is done using associate judges as part of their training. Comments provided by the Courts and other interested bodies provided in a report to parliament. This occurs on all legislation.
Taiwan	Detailed policy is drawn up in Ministry of Finance which is also responsible for drafting legislation. MOF seeks views of private sector experts. Elected body considers legislation and has expert assistance on this. Consultation generally occurs based on draft legislation.
United Kingdom	Treasury has overall responsibility for policy but confines itself to broad principles. Detailed policy development is carried out by Inland Revenue which is responsible for drafting legislation.
United States	The most detailed of all processes. Treasury advises the Executive on policy. Policy initiatives can arise from either the President or Congress. Drafting is done in Committee by both Houses using the resources of several agencies of Congress, particularly Joint Committee on Taxation. The US has a presidential system with strong separation of powers between the legislature and the executive.

6.10 What is evident from this summary is that the majority of countries concentrate the responsibility for policy and legislation in one or two agencies. The most common model appears to have a single agency charged with the responsibility for developing the detail of the policy and either drafting the legislation itself or overseeing the preparation of the legislation. In a number of countries, including Canada, New Zealand and the United Kingdom, the responsibility for the preparation of all legislation is with a specialised agency, the equivalent of the Office of Parliamentary Counsel in Australia. In practice in these countries, this agency looks after the formalities of the legislation and not with the substance. Responsibility for the substance rests with the agency developing the detailed policy.

6.11 Ireland represents a further variation. Officers from the Department of Finance and Administration are seconded to the Attorney General's Department which has responsibility for drafting the legislation.

6.12 The advantage of a model involving a limited number of agencies is that it allows for better coordination of the various skills needed to ensure that policy and legislation are in line. The Australian model involves at least three agencies with informal coordination between them. This puts added pressure on the coordination process and stresses the importance of informal relationships to ensure that the model functions effectively. The United Kingdom model appears to be closest to this, no doubt because the Australian model operates in a similar Westminster system. The United States model involves even more agencies but it is difficult to compare this process with that in Australia because of the very substantial differences in the separation of powers between the Executive (President) and the Congress.

6.13 It is interesting to note that in the United Kingdom there is a move towards merging the various revenue agencies. Responsibility for revenue raising currently is divided between the Inland Revenue (essentially income taxes), Customs (notably VAT) and Department of Social Security (social security contributions). The current government has merged Social Security with Inland Revenue and it is possible that this will continue with Customs also merging with Inland Revenue. Although this probably reflects issues associated with tax administration and collection, it also will bring together several agencies which have had separate legislative drafting responsibilities.

6.14 The New Zealand model is somewhat similar to that in Australia but successive governments have recognised difficulties with the process and have moved to remedy the deficiencies. This resulted in the introduction of the *Generic Tax Policy Process* (GTPP) which formalises the arrangements between the three agencies involved. The GTPP covers the full process from broad economic strategy through policy design and consultation to the final passage of legislation and the identification of remedial issues needing

attention. As such, it covers a broader range of issues than are considered here.

6.15 The significant feature of GTPP in this context is that it seeks to provide a formalised process for managing changes to the tax system from initial conceptual design to implementation through legislation and changed administration processes. These processes included specific consideration and management of consultation with interested parties. An important feature was the allocation of overall management of the process to a single agency (Inland Revenue) with specific provision for input from other agencies, in particular the Treasury, on policy design and economic and fiscal implications. The GTPP also provided for formal protocols for the allocation of responsibilities at Ministerial level.

6.16 By and large, the GTPP provides a framework within which tax policy design and implementation can proceed within established 'rules of the game'. The more formal processes tend to be relied upon where there are potentially differing views among officials or Ministers, or significant opposition to changes by interested parties. Resolution is facilitated by addressing issues systematically within previously-agreed procedures, rather than for the procedures themselves to be subject to dispute.

6.17 The focus of the process is on strategic management of tax reform initiatives from the time of their inception. However, this presents management challenges. The skills required to manage such processes do not necessarily reside in specialists with legal, economic, accounting or public policy expertise. Those engaged in managing the interface with external parties must also have skills that facilitate consultation with the private sector. These skills are difficult to retain. Another management challenge is to ensure that other agencies (such as the Treasury) have particular input where appropriate.

6.18 In summary, two related conclusions appear to emerge from a review of models in place in other countries:

- The number of agencies with a major role in the process of developing policy and legislation is generally no more than two, including the agency responsible for the drafting of legislation. Other agencies can have a smaller consultative role. If this cannot be achieved, careful attention is required to coordination.
- The agency with principal responsibility tends to have adequate legal tax skills to deal with the detailed policy elements. While economic policy input is critical to the process, this is typically not separated from the tax technical skills.

6.19 The structures in place in most other countries reflect historic considerations rather than the result of definite planning. Only New

Zealand appears to have had a clear policy objective of restructuring the policy and legislation process to improve outcomes. However, the examples followed in other countries still provide alternative models to consider.

Independent scrutiny of legislation

6.20 Several countries include a further step in the scrutiny of legislation that is not evident in Australia. Both the Netherlands and Sweden provide for a report to Parliament on the suitability of the legislation. This may involve a report by an independent agency as in the Netherlands. In Sweden, interested bodies, particularly the Courts, prepare comments on legislation and provide them to the Ministry of Finance. The Ministry is then responsible for the preparation of a report to Parliament which summarises the comments received. The Swedish model is also common in other Scandinavian countries.

6.21 It is difficult to gauge how effective this additional step is in practice but it does provide an independent appraisal to Parliament on matters which are generally too technical for members of parliament to deal with themselves. Other countries utilise parliamentary committees to review legislation but this process can involve a wide range of considerations and does not guarantee the quality of legislation. If it can be structured as a genuine review process, subjecting the underlying policy to debate and scrutiny, it can serve a similar purpose. This is not always the case.

Administration of tax law

6.22 Administration of the tax law involves interpretation and application of the law, the collection of tax and enforcement of the law using both penalties set by parliament and the judicial process. The countries included in the analysis exhibit a variety of approaches making it somewhat difficult to identify common characteristics. However, two features stand out warranting further investigation:

- In some countries, some form of guidance is provided for the interpretation of tax legislation. This may be in the form of interpretive guidance (not binding on the revenue authority or the taxpayer), a ruling (which generally is binding on the revenue authority only, where more favourable than the law), or secondary legislation (binding on both the revenue authority and the taxpayer); and
- Responsibility for issuing interpretive material and generally for administering interpretation of the law is sometimes separated from responsibility for collection of the tax.

6.23 Table 6.3 shows those countries which provide some means whereby interpretive and administrative material is made available to taxpayers to provide guidance on the way that the agency believes that the legislation should be interpreted. One issue to keep in mind here is that the agency may interpret the law according to the clear meaning of the words or it may interpret it more in line with its understanding of government's policy intention.

Table 6.3: Country processes for providing interpretive guidance

Country	Process for interpretive guidance
Australia	ATO issues public and private rulings which are binding on the ATO, where more favourable than the law. Private rulings now made public in sanitised form.
Canada	Revenue Canada issues non-binding interpretive material. May issue private rulings that are binding on Revenue Canada but not obliged to do so.
Chile	IRS can interpret law but such rulings only take effect as secondary legislation binding on all parties when IRS is specifically granted the power in legislation so to rule. Can also issue special rulings when requested which are binding on the IRS and the taxpayer but open to appeal for taxpayer. Such rulings can be made public in regular IRS publication.
France	Government can issue decrees to provide detail on laws already passed by Parliament. These are secondary legislation binding on all parties but they can be challenged if seen as not consistent with the underlying statute. The Service de la Legislation Fiscale issues guidelines and, where the law specifies, rulings, both of which are binding on the Service. Responsibility for the actual collection of income tax is with the Direction de la Comptabilite Publique.
Germany	Explanatory decrees can be issued by the Ministry of Finance (MOF) explaining the law. These are binding on the MOF but can be challenged by an affected taxpayer on the grounds that they are not consistent with the primary legislation. Little use is made of rulings.
Ireland	Regulations are secondary legislation issued by relevant Minister. Taxpayers can get clarification on a point of law but informal and not binding. The Revenue publishes a binder of such informal rulings issued in the past 25 years.
Japan	Cabinet and Minister of Finance issue details of laws after statute passed by Parliament. These are essentially regulations which are binding on both the revenue and the taxpayer. Rulings made by National Tax Administration are provided to regional tax bureaus and district tax offices, essentially to ensure uniformity of administration. These are interpretive guidance not binding on the courts.
Netherlands	A Secretary of State can issue general rules consistent with a statute on a particular issue or for a particular period. Such guidelines and rulings are secondary legislation and are binding. Revenue authority also issues details on the action it proposes on specific issues.
New Zealand	Few regulations are issued. The Commissioner of Inland Revenue has the ability to issue technical determinations (secondary legislation) on specific questions which have the force of law. Commissioner can also issue rulings binding on the Revenue.
Singapore	Inland Revenue produces Interpretation and Practice Notes to provide interpretive guidance. This is critical to taxpayers as the law is relatively simple and precise administration can be flexible.

Sweden	National Tax Board, which is separate from the revenue authority, is responsible for legislative interpretation. The Board can issue guidelines — secondary legislation — where legislation permits. A separate body issues binding rulings.
Taiwan	Legislation is simple and taxpayers must rely on rulings and supplementary material issued by Ministry of Finance (MOF). Binding rulings as well as informal advice are available from MOF. Also issues rulings in a booklet every half month based on specific requests that have been received.
United Kingdom	Body of informal law exists including bulletins and internal manuals from Inland Revenue providing interpretive guidance. Informal process for obtaining the views of Inland Revenue on a transaction. Introduction of a general anti-avoidance provision under consideration and this would be accompanied by a transactions approval process.
United States	Regulations are used extensively in the US to provide the detail of tax law. They have the same force of law as the revenue code. These are issued by Treasury and IRS. IRS tends not to rule on issues providing interpretive guidance until regulations are in place.

6.24 This summary is not able to capture all of the detail on how tax law is administered in each country. Several key observations can be made.

6.25 First, several countries separate the interpretation of the law from the mechanical aspect of collection of the revenue. This is particularly the case in France, Germany and Sweden, and to a lesser extent, the Netherlands. This separation recognises the functional differences between revenue collection and legal interpretation and attempts to introduce an element of independence in the interpretation of the law to provide greater fairness to taxpayers.

6.26 Second, most countries have systems of issuing secondary legislation or interpretive guidance. Some have systems to issue binding rulings somewhat similar to that in Australia (binding the revenue authority to rulings more favourable than the actual law). In a number of countries, including Australia, the issuing of secondary legislation is only permitted where this power is specified in the law. In some other countries, an informal process exists whereby a taxpayer can seek guidance from the revenue authority without necessarily proceeding to seek a formal ruling. This process tends to be quick and enables a taxpayer to understand the approach that the revenue authority believes it should take.

6.27 Third, some countries have a process of providing information on a regular basis on the type of requests that are being received for rulings or informal opinions and the attitude of the revenue authority to the issues involved. This is a less formal process than followed in Australia where the emphasis tends to be on binding rulings, both public and private. Such a process may place additional administrative burden on the Australian Taxation Office but, as a means of providing an additional layer of non-binding administrative guidance, it is an area that could be considered further in Australia.

Appeal process available to taxpayers

6.28 In all countries, an appeal or review process is available to taxpayers who are not satisfied with the original decision of the revenue authority. Although the precise details of the process vary, the appeal process generally allows for some form of internal or administrative review before a matter would move to the courts. In the United Kingdom, three avenues of appeal are available before proceeding to the High Court. These involve varying degrees of independence and expertise. The taxpayer can seek a Commissioner's private hearing, a General Review which does not involve tax experts or a hearing by Specials which involves a review by tax specialists. Generally, complex business tax issues will go straight to Specials.

6.29 Sweden tends to take the opposite approach by involving local representatives, usually of political parties, at the early stage of review, but with a judge trained in the law. As the matter moves to higher courts, the degree of community representation decreases and of legal (not necessarily tax) expertise increases.

6.30 A number of countries have specialised taxation courts, notably the United States, Germany and the Netherlands. Opinions will differ on whether taxpayers are better served by specialised courts or by the legal system generally. In theory, at least, specialised courts should lead to clearer and more consistent interpretation of what is a very complex area of the law, not only because of the volume and complexity of the legislation but also because of the complex commercial arrangements that are frequently being reviewed.

Scope for public consultation on policy and legislation

6.31 *A Strong Foundation* has drawn attention to the lack of a clearly defined consultative process on tax policy and legislation in Australia, particularly at the early stages of the development of policy.

6.32 In the case of the other Group 1 countries the process of consultation appears to be somewhat ad hoc. Most countries have a process for parliamentary review, particularly of legislation, whereby concerns of taxpayers can be addressed. However, this process is of its nature political and difficult to influence once draft legislation has been prepared and each of the political parties has taken a position.

6.33 Formal processes for consultation on policy are in place in a number of countries. This section briefly discusses the more clearly defined examples.

6.34 New Zealand has adopted a process known as GTPP. This process requires that any bill that is put before Parliament has gone through a process of public consultation. As a result, the government releases discussion papers for consultation on proposed tax reforms. Importantly, the objectives of this process are to encompass greater transparency and contestability, two features that have been central to many of the reforms in the business sector in recent years. GTPP should lead to improved efficiency both because of improved tax design and because of improved accountability of all parties involved in the process.

6.35 Japan also has a fairly formalised process of consultation involving the Tax Commission, which is a consultative body advising the Prime Minister. It is made up of prominent and experienced representatives who discuss the tax system and submit reports on tax reform to the Prime Minister. Based on these reports, the Ministry of Finance drafts tax reform outlines which it submits to a sub-committee of Cabinet and eventually to Parliament.

6.36 In a number of other countries, consultation at an early stage has become the norm although it is not yet formalised. Canada and the United Kingdom are two of the best examples. The processes in these countries have always tended to be more open than in Australia and currently there is a fair amount of confidence in the process despite the fact that it is rather ad hoc.

6.37 Germany also falls into this category. The process of consultation on the current set of reform proposals provides a good example. This involves consultation with all sectors of industry and with the individual states. The latter is important in Germany because of the need for legislation to be passed by the states through the state legislative body, the Bundesrat.

6.38 A further model involves consultation being funnelled through professional or business groups. This is widely used in Ireland, Sweden, Singapore and Taiwan and in fact tends to occur in most countries on more complex issues where a detailed understanding of the commercial aspects of a possible policy change is required.

6.39 The final model involves a detailed review process by Parliament, particularly using a committee system. The United States and France provide the best examples of this although other countries have elements of the process. The model works most effectively where the parliament has some powers independent from those of the government, either because there is a clearly defined separation of powers (as in France and the United States) or because the government is a coalition or a minority. The model may not be as effective in Australia as in those countries even though the Senate generally does have the power and ability to modify bills.

6.40 Parliamentary scrutiny does not, however, guarantee a tax system that reflects a consistent policy framework. The political process inevitably involves trade-offs and compromises that may cloud the underlying policy. There is a widely held view that the United States system is the most complex in the world and contains more ad hoc policy provisions than most tax systems because of the ability of elected representatives to deliver tax benefits to sectional interests (aided by the lack of any restriction on attaching provisions to otherwise unrelated legislation). Such a system can make it difficult to retain adequate integrity in the policy framework of the tax system. At the same time, however, open parliamentary processes where genuine inequities or design problems can be remedied represent an important component of an efficient and well designed tax process.

Planning for business tax changes

6.41 An important component of the process for changing business tax policy evident in many countries is the concept of planning. This involves public announcements of the program for reviewing business taxation for the next several years. This not only informs taxpayers of the broad reforms being contemplated but also enables the government and its agencies to allocate resources appropriately and carry out the necessary policy analysis with the degree of rigour required.

6.42 The GTPP in New Zealand is based on the principle that taxation policy should be formulated consistent with a medium term fiscal objective and based on a three-year revenue objective. Of course, for reasons associated with unforeseen avoidance opportunities, it may be necessary to implement changes outside this system but in general, policy will be developed within these objectives.

6.43 This approach enables public consultation to be factored into the process at an early stage while the proposed policy approach is still in the formative stages. The advantage of this is that it enables the economic and policy framework to be thoroughly considered before the detail of the policy is filled in. Experience has shown that once the broad policy approach has been set in place it becomes very difficult to change. As a result, micro problems tend to be dealt with through compromises in the detail which accentuate complexity and blur the original policy intent.

6.44 Few countries have the same structured approach to consultation. While it is now common in many countries to issue broad consultative documents in particular cases, this is not part of the fabric of the policy development process and hence is not a reliable method of guaranteeing consultation.

6.45 A common approach in a number of countries is for the tax reform program for the year to be presented in an address to the Parliament by the Head of State. This may then be reinforced in the budget presentation by the Treasurer or the Minister of Finance. Although this element is not all that much different from the process in Australia, the essential difference is one of openness. Frequently these measures will be discussed with business and professional groups before they are announced in the budget. Except in cases where significant revenue loss through avoidance is probable, the budget tends to be used to announce the program for reform in the next year rather than as the means of introducing new initiatives.

6.46 This process of early announcement is apparent in the United Kingdom, the United States, Canada, Ireland, France and the Netherlands. In the United Kingdom, the government presents in December each year a so-called Green Budget which outlines the approach it is expecting to take in the final budget, including major revenue issues. The actual budget is then presented in March/April with legislation in the few months after that.

6.47 The major advantage with early announcement of significant reforms is that it removes the secrecy from the process, a factor that has limited the extent to which tax reform matters in Australia have been fully analysed in advance. Experience has shown that consultation that is delayed until the late stages of legislative drafting is restricted in its scope. Not surprisingly, the position of the government and of the agencies involved tends to be reasonably firmly settled at that stage and consultations tend to be about removing more significant difficulties. This will often lead to greater complexity in the legislation which it might have been possible to avoid if the particular issue had been factored into the process at an earlier stage.