Greater Wellington Regional Council (Council)

Tax risk governance framework

For adoption by the Audit and Risk Committee

September 2016

1. Purpose

This document establishes the tax governance framework for Council's Audit and Risk Committee.

1.1. Background

Council is a large, high profile, organisation that is responsible for providing services to the New Zealand public. As such, Council must maintain exemplary governance and tax compliance standards.

Although Council is largely exempt from paying corporate income tax, it is required to correctly account for Goods and Services Tax, Fringe Benefit Tax, PAYE, and a range of other withholding taxes. These taxes make up a significant portion of the New Zealand Government's annual tax take. Accordingly, the tax obligations of Council cannot be taken lightly.

Inland Revenue has signalled its expectation that all large organisations should have tax risk management incorporated within their governance framework. This is consistent with international best practice; tax authorities in foreign jurisdictions, including Australia and the United Kingdom, have been advocating this approach is taken by large Public and Private sector organisations.

1.2. Risk management

The Audit and Risk Committee is, along with other responsibilities, tasked to:

- Assist Council to determine its appetite for risk.
- Review whether management has in place a current and comprehensive risk management framework and associated procedures for effective identification and management of Council's significant risks.
- Consider whether appropriate action is being taken by management to mitigate Council's significant risks.
- Ensure that management is kept appraised of Council's governance body's views on uncontrolled risk.
- Ensure management are keeping the Audit and Risk Committee fully appraised of all independent sources of assurance, via the risk management framework.

Proactive tax risk management can facilitate mitigation of:

- Operational risk – by way of reducing the potential for reputational damage befalling Council as a result of non-compliance, and the possible negative impacts on various stakeholders, such as employees and suppliers.
- Financial risk – through minimising the financial impact of non-compliance, and the costs associated with over- or under-paying tax by Council.
- Compliance risk – in terms of ensuring areas of non-compliance are identified, thereby minimising any penalties or interest being imposed by Inland Revenue and reducing the risk of Council being subject to an Inland Revenue audit.

2. Tax risk profile

Council has an obligation to fulfil its tax compliance obligations as required by tax legislation, including the Income Tax Act 2007, Goods and Services Tax Act 1985 and Tax Administration Act 1994.

Given the high profile and public nature of Council, there is a need to adopt a conservative approach towards tax compliance. Accordingly, Council will adopt a "LOW" tax risk profile such that it has an open and honest working relationship with Inland Revenue.

3. Tax risk management strategies

The following strategies will be adopted by Council to ensure that it maintains a low tax risk profile and effectively manages its tax obligations and potential tax risks.

Council will develop a tax risk management plan to be formally adopted by the Audit and Risk Committee. The plan will be reviewed *at least* every three years. The plan will:

- Identify key areas of tax compliance risk that are faced by Council
- Establish the steps required to effectively manage or mitigate each risk area
- Provide clear and realistic time frames to carry out the steps.

3.1. Responsibility for tax issues

The GM Corporate Services/CFO has overall responsibility for the management of the tax issues of Council. As appropriate, the GM Corporate Services/CFO may delegate responsibility for tax issues to another appropriately qualified person.

3.2. Reporting tax risks to Audit and Risk Committee

As the Audit and Risk Committee meet four times a year, any significant tax risks will be reported in the first instance to the GM Corporate Services/CFO as soon as they are identified and where appropriate, to the chair of the Audit and Risk Committee within two weeks of being identified.

A 'significant tax risk' to Council may be where an incorrect interpretation is made that results in:

- A situation where penalties and interest could be imposed against Council
- A situation where a tax liability is required to be settled that is in excess of $20,000
- A situation where Council could be subject to prosecution
- A situation where an accusation of tax avoidance could be levied.

Council will report on all tax risk management matters to the Audit and Risk Committee at least once a year. As part of that report, a summary should be prepared and presented to the Audit and Risk Committee setting out key issues, and may include the following:

- Key financial information including any outstanding taxes due, and any interest or penalties imposed during the year
- Particulars of any proposed legislative tax changes which could impact on Council
- Details of any significant outstanding taxes in dispute with Inland Revenue
- Details of advice sought and future matters to consider
- A table of tax tools and services used and whether each aligns with Council's 'LOW' risk tax profile i.e. Strategy vs Achievement.

3.3. Tax awareness and training

Council will ensure that all relevant staff are provided with adequate training and resources to effectively identify and manage its tax obligations and risks. Where appropriate, this may involve sending selective staff on external courses or engaging an external speaker to conduct in-house training.

3.4. Meetings and correspondence with Inland Revenue

Council will endeavour to maintain strong working relationships with Inland Revenue, other government bodies, and related third parties. All dealings with external parties will be undertaken in a professional and timely manner.

Apart from routine PAYE, FBT and GST returns and payments, all other correspondence, meeting requests or queries from Inland Revenue must be immediately referred to the GM Corporate Services/CFO. The GM Corporate Services/CFO is the only person authorised to correspond or meet with Inland Revenue to discuss the tax matters of Council – although they may delegate this responsibility to others where appropriate.

3.5. Tax advice and rulings

Council will maintain detailed information and computations supporting all tax return filing positions. If there is any uncertainty in respect of a filing position where the amount of tax exceeds $10,000, Council will seek written advice from external tax advisors.

In some instances, the degree of uncertainty over a particular tax issue may warrant seeking a Binding Ruling from Inland Revenue. No approach should be made for a Binding Ruling without the prior approval of the GM Corporate Services/CFO. However, the GM Corporate Services/CFO may obtain agreement from the Audit and Risk Committee if considered appropriate.

3.6. Tax returns and payments

Council will file all returns and pay any resulting tax liability on, or before, the stipulated due dates. When preparing and filing tax returns, Council will be transparent, and fully disclose all relevant information supporting a tax position in a tax return. Council will only adopt tax positions that are highly likely to be correct based on current law. Notwithstanding this, Council will endeavour to ensure that the most tax efficient position is adopted.

Any tax payments in excess of $50,000 must be authorised by the GM Corporate Services/CFO.

Tax payments must be supported by detailed tax computations and explanations which are initialled by the preparer and then countersigned by that person's superior prior to payment.

3.7. Filing and record keeping

In terms of the Tax Administration Act 1994, Council is required to retain tax records for several years. To assist in archiving and the subsequent retrieval of relevant tax records, Council will separately file each tax return and supporting computation and advisory correspondence based on the year of assessment and tax type.

In addition, Council will maintain a detailed index of the relevant tax files to enable their efficient retrieval should they be requested by Inland Revenue in later years. Specifically, the index should contain details relating to the file reference, relevant tax period, tax type, subject of the document on file and location of the file, and evidence of review by the GM Corporate Services/CFO. This index should be maintained irrespective of whether the information is in electronic or hard copy format.

3.8. Regular reviews

The tax risks of Council potentially increase over time through a combination of personnel and legislative changes. To ensure the tax compliance procedures of Council are kept up to date and accurate, an independent external review of GST, PAYE/Withholding Taxes and FBT should be undertaken every three years. This review will tend to be undertaken in a 'rolling' format, with a different tax type being reviewed each year.

3.9. Penalties and voluntary disclosures

Wherever possible Council should endeavour to minimise any penalties and Use Of Money Interest. Accordingly, any tax discrepancies identified should be addressed and disclosed to Inland Revenue as soon as possible. Unless the discrepancy has been identified pursuant to a (current) tax investigation, Council (in consultation with the Audit and Risk Committee) should always consider making a Voluntary Disclosure as a means of minimising any potential penalties.

3.10. Tax policies

To assist staff with the day to day tax treatment of issues specific to Council and to ensure a consistent tax treatment of items across the organisation, Council subscribes to PwC's Online Tax Policies. PwC maintains PAYE, GST, FBT, and KiwiSaver tax policies, and are regularly updated for legislative changes.