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Ministry of Transport
Via email: cleancars@transport.govt.nz

Dear Sir / Madam

SUBMISSION ON THE CLEAN CAR STANDARD AND CLEAN CAR DISCOUNT CONSULTATION PAPER

Please accept this submission on behalf of our client, the Christchurch City Council ("The CCC").

The CCC wishes to submit on the consultation document *Moving the light vehicle fleet to low-emissions: discussion paper on a Clean Car Standard and Clean Car Discount* "consultation document" and in particular the issue of Fringe Benefit Tax ("FBT") costs in relation to electric vehicles being too high and a barrier to the use of electric vehicles by a business operation and not an encouragement to the business community reducing emissions in their light vehicle fleets.

The CCC understands that one of the major policy proposals within the consultation document is the introduction of the Clean Car Discount. This policy would make fuel efficient and electric vehicles more affordable for Kiwis to buy, potentially by a discount of up to $8,000 for new vehicles and $2,600 on used vehicles. Vehicles costing more than $80,000 would not be eligible for discounts. This proposal will be timed to replace the exemption from road user charges that applies to electric vehicles (the exemption expires in December 2021).

Fringe benefit tax on electric vehicles

The FBT regime (as set out in the relevant provisions of the Income Tax Act 2007) applies to benefits employers provide or make available to their employees (either directly or via an arrangement with a third party). Specifically captured under the FBT regime are motor vehicles employers make available to their employees for private use. One of the purposes of the FBT regime is to ensure tax is levied and paid on non-cash benefits to employees at a reasonably equivalent rate as cash remuneration is generally captured and taxed under the PAYE regime.

The CCC believes that the FBT rules significantly overtax motor vehicle benefits in a number of instances, and there are a number of ways the rules could be improved to be less of a blunt instrument. The FBT rules are particularly overbearing in relation to electric vehicles that have a different initial cost and cost of use profile to traditional fuel-powered light vehicles. As an example, as the CCC operates a fleet of pool cars that include both electric and standard fuel vehicles, if a particular employee uses an electric vehicle for private use once in the quarter and then mainly uses lower cost fuel vehicles, the taxable value of all the instances of private use is required to be calculated with reference to the highest cost vehicle (i.e. the electric vehicle). This further inflates the FBT cost to be borne by employers in relation to the use of electric vehicles.

FBT payable in relation to motor vehicle fringe benefits is calculated using a formula to calculate the taxable value of the benefit that includes both the GST inclusive cost price of the vehicle and a factor relating to the cost of using the vehicle each year (20% of the cost price), discounted for days the vehicle is not available for the employee's private use. Collectively, this calculation determines the value of the fringe benefit to the employee.

The CCC believes that this approach overstates the value of the benefit provided to the employee. This is because the cost of running an electric car will be lower than for a standard vehicle and the capital outlay is higher than for an equivalent standard motor vehicle. In addition, there are technical restrictions on the availability to use electric cars for private use. For example, it would be difficult for an employee to use the car for long-distance private travel during weekends and holidays. This may also influence the likelihood of the vehicle travelling 14,000km per year (which the FBT running cost per year calculations are based on).

The CCC would support a lowering of the 20% threshold for electric cars, as the high FBT cost of an electric vehicle (compared to a standard motor vehicle), places a disproportionate tax burden on the use of electric vehicles. This additional burden creates a disincentive in the tax system for employers to provide electric vehicles for employee use and to transition vehicle fleets to electric vehicles over time.

The Clean Car Discount to the cost of electric vehicles may not be sufficient to counteract the disproportionate FBT cost arising from the use of electric vehicles.

The CCC considers that, in addition to lowering the 20% threshold, consideration should also be given to other refinements to the FBT regime. For example:

- Removal of electric vehicles from the FBT net entirely.
- Amend the definition of "work related vehicle" in section CX 38 of the Income Tax Act 2007 ("ITA") to allow electric vehicles within the definition (i.e. only exclude cars which are not electric from the definition in subsection CX 38(2)).
- The definition of "private use" in section CX 36 could be amended to exclude home to work travel in an electric vehicle (which is not a work related vehicle) where the employee is required to store and charge the vehicle outside of working hours.
- Amending section RD 54 to allow employee contributions to the running costs of an electric vehicle (i.e. electricity used to charge it at home) to be estimated and removed from the taxable value of the benefit in a compliance cost friendly way.
- Ensuring that the business tools exemption in section CX 21 applies to the installation of an electric vehicle charging station at the employee's residence. Subsection CX 21(2) casts doubt on the exemption applying at present.
- Ensuring that the cost price of the electric vehicle is not inflated by including the cost of a charging station.
- The CCC is against high compliance costs and therefore would support treating all electric vehicles in the same manner; i.e. the CCC does not support introducing separate rules for different classes of electric and hybrid vehicles, the same rules should apply to them all.

We are aware that the above issues have been raised by other taxpayers with Inland Revenue Officials in the past.

Please let me know if you have any questions in relation to the issues raised in this submission.

Kind regards

Andrew Button
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For Deloitte Limited *(as trustee for the Deloitte Trading Trust)*

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