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The incorporation of company tax in price determinations
Independent Pricing and Regulatory Tribunal
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Dear Sir/Madam

Thank you for the opportunity to provide comments on the Tribunal's Draft Report on the incorporation of company tax in pricing determinations.

Except as discussed below, we generally support the positions of principle that the Tribunal proposes to adopt. At the same time we note that the draft report lacks detail on how those principles will be implemented and that the Tribunal intends to consult with regulated businesses to develop that detail.

The exception we refer to is the proposed treatment of customer or developer contributions discussed in section 4.1.3 of the draft report, where the Tribunal's preferred position is that "developer contributions be excluded from activities of a regulated business for estimation of tax liabilities".

The draft report correctly describes the situation in relation to contributions received as cash. That is, the contribution is treated as income in the year that it is received, and the regulated business receives a tax benefit over time through depreciation (for tax) of the associated asset, the value of which includes the contribution. The result is a present value cost to the business. Of course, as noted in the draft report, the cash contribution may be "grossed up" to offset that cost. Whether that is the case should be a matter of fact. If the contribution is not grossed up, then the present value cost should be recognised in the regulatory tax calculation.

In the case of "gifted" assets, it is not the case that "there would be no tax implications arising from the transfer of infrastructure at a price of zero". The assets must be ascribed a value for tax and the whole of that value is treated as if it was received as a cash contribution. Tax is paid on the ascribed value as income, and then the asset is depreciated for tax over time. Just as for cash contributions, the regulated business incurs a present value cost when it receives gifted assets, and that cost should be recognised in calculating the regulatory allowance for tax.

Please contact me on 02 9455 1551 if you wish to discuss this submission.

Yours sincerely

Warwick Tudehope
Manager Network Regulation