Resurrecting the Estate Duty in Contemporary New Zealand

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Abstract

This research investigates the feasibility of re-introducing a comprehensive estate duty regime in contemporary New Zealand, explored through the lenses of tax practitioners and tax academics. Estate duty was utilised in New Zealand for 111 years, from 1881 until 1992. Once a well-regarded and moderate contributor to the New Zealand tax system, the estate duty regime withered in both popularity and efficiency during the second half of the 20th century, eventually being abolished by the incumbent National Government in 1992.

Since the 1992 estate duty abolition, few scholars have published literature regarding the possible re-introduction of the estate duty in New Zealand. Estate duty has also remained an equally absent topic in the New Zealand parliamentary debates (NZPD). As such, this research explores the practicability of re-imposing an estate duty in New Zealand by probing the knowledge and theories of tax practitioners and tax academics.

Through semi-structured interviews, participants first elaborated on their past experiences and knowledge (if any) of the previous estate duty regime. The participants were then asked to evaluate why (in their view) the estate duty was abolished in New Zealand in 1992. The semi-structured interviews then assessed the rationales for, and against, levying an estate duty in present-day New Zealand.

While some participants supported a new estate duty on the basis of greater fairness and wealth redistribution in the New Zealand tax system, others criticised the regime for being overly complex and political in nature. The tax practitioners and tax academics also recognised issues of asset selection, asset valuation, the tax rate, liquidity, exemptions, inter vivos gifting, trusts, and migration as key matters for policymakers to address prior to any possible resurrection of estate duty in New Zealand.

Whether or not an estate duty is the right fit for New Zealand, it is evident that conflicts surrounding the taxing of wealth endure.

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List of Abbreviated Terms

CGT	Capital Gains Tax
COVID-19	Coronavirus Disease
DOS	Department of Statistics
GST	Goods and Services Tax
GTPP	Generic Tax Policy Process
IRD	Inland Revenue Department
MP	Member of Parliament
NZOY	New Zealand Official Yearbook
NZPD	New Zealand Parliamentary Debate
OECD	Organisation for Economic Co-operation and Development
TRC	Taxation Review Committee (Ross Committee 1967)
TWG	Tax Working Group

Chapter 1: Introduction

1.1 Background

[Estate Duty] is the fairest and most equable of all taxes under a rational law ... [Estate duty is] a tax on the wealth in the hands of those who did not earn it and to whom the deceased owed no duty (Ward, 1909, p. 442).

1.1.1 Historical Overview

For over 126 years (from 1866 - 1992), New Zealand levied a comprehensive death duty regime. First introduced by the *Stamp Duties Act of 1866*, death duty[1] was initially utilised (in the form of succession duty) to help service the New Zealand Land War debts (Littlewood, 2012). In 1909, the *Death Duties Act of 1909* shifted the focus of death duty to reducing the concentration of intergenerational wealth in affluent families (which it addressed by levying *both* estate and succession duties) (Marriott, 2016). By 1915, the estate and succession duties were moderate revenue raisers, contributing approximately 13.54% of New Zealand's tax revenue (Littlewood, 2012). Death duties remained reasonably efficient during the first half of the 20th century, as both the Liberal Party (1890 - 1912), and later the Labour Party (1935 - 1949), ensured the estate and succession duties were well equipped to break-up considerable transmissions of intergenerational wealth (Barrett, 2015). Succession duty was repealed in 1955 by the *Estate and Gift Duties Act 1955*.

During the latter part of the 20th century, the New Zealand estate duty slowly waned, both in tax yield and political popularity (Green & McKay, 1979; Littlewood, 2012; Marriott, 2016). By 1959, the estate duty collected a mere 3% of New Zealand's tax revenue (Department of Statistics [DOS], 1962, p. 793). Most significantly, the incumbent Labour Government's move to increase the maximum rate of the estate duty to 60% (up from 40%) (Estate and Gift Duties Amendment Act 1958*)* was poorly received by New Zealanders. In contrast to previous changes, the adverse public response to the 1958 estate duty reform marked an early incidence of taxpayer resistance towards progressive wealth taxation in New Zealand (Littlewood, 2012).

[1] For the purposes of this research, *death duty* (or death duties) is an interchangeable term which may refer to either *estate duty* (levied on final balance of the deceased's estate), *succession duty/inheritance tax* (levied on the beneficiary who received the inheritance), or both (unless specified).

As a consequence, the 40% maximum rate was swiftly reinstated by the *Estate and Gift Duties Amendment Act 1961*.

Over the subsequent 20 years, the estate duty received numerous (arguably trivial) changes to its exemption thresholds, range of available exemptions, and scale of dutiable rates (Taxation Review Committee [TRC], 1967). In 1979, the *Estate and Gift Duties Amendment Act 1979* radically altered how the estate duty was levied in New Zealand. From 1978 to 1984, the de minimis threshold for the estate duty rose steeply, from $25,000 to $450,000, resulting in 98.90% of deceased estates being exempt from estate duty in 1984, a considerable increase from 55.23% in 1978 (DOS, 1981, pp. 697 - 699; 1985, pp. 751 - 753). During the same period, the total tax take from the estate duty slumped from 0.99% (in 1978) to 0.30% (in 1984). Estate duty was eventually abolished in New Zealand in 1992 by the incumbent National Government under the *Estate Duty Abolition Act 1993,* due to concerns that it was causing economic distortions and producing low tax revenues (New Zealand National Party, 1992).

1.1.2 Estate Duty in the Current Context

Given the 30-year gap since the estate duty was abolished in New Zealand, this research sought to evaluate whether the estate duty should be re-introduced (in some form) in contemporary New Zealand. Using an inductive approach, semi-structured interviews were conducted with tax practitioners and tax academics to analyse both the potential factors leading to the abolition of the estate duty in 1992, as well as the feasibility of re-introducing an estate duty in present-day New Zealand.

Due to the complex and under-researched nature of the subject area, this research recruited tax practitioners and tax academics (Arendse, 2018; Powell, 2021). An active effort was also made to select individuals who had prior working experience with the estate duty, as the author felt that such participants would likely have greater conceptual and technical knowledge of estate duty as a mechanism (both in a historical and a contemporary context). Ultimately, the data gained from the semi-structured interviews should enable policymakers to evaluate whether the practical and philosophical benefits of re-introducing an estate duty would outweigh both the financial and political costs of its re-imposition.

1.2 Research Questions

This research answers the following research questions (RQ):

RQ 1: What were some of the factors which contributed to the estate duty being abolished in New Zealand in 1992?

RQ 2: To what extent do tax practitioners/academics support re-introducing the estate duty in contemporary New Zealand? Why? Why not?

RQ 3: If the estate duty was re-introduced, what issues would need to be considered?

These research questions sought to fulfil three primary objectives. RQ 1 endeavoured to establish some of the key justifications behind the 1992 estate duty abolition. To answer RQ 1, the author adopted a two-phase approach. In the first phase, the author conducted a comprehensive document analysis, and in the second used semi-structured interviews to gather primary data.

RQ 2 was designed to evaluate whether tax practitioners and tax academics supported the re-introduction of the estate duty in present-day New Zealand, while RQ 3 focused on identifying the possible structural and technical difficulties associated with re-imposing such a regime. RQ 2 and RQ 3 were predominantly answered through semi-structured interviews conducted with tax practitioners and tax academics.

1.3 Relevance of Topic

Since the 1980s, economic inequality in New Zealand has risen dramatically, exacerbating other disparities and concentrating opportunities at the top (Rashbrooke, 2021, p. v).

In recent years, the topic of *wealth inequality* has been hotly debated in many Western societies, with New Zealand being no exception (Inland Revenue Department [IRD], 2023; Organisation for Economic Co-operation and Development [OECD], 2015). As Rashbrooke (2021) has noted:

> Barely a day goes by without a media story about the struggles of young people to afford a first home [in New Zealand], and their experience is rarely free from some kind of family support … Even more often, of course, they have simply relied on a large deposit from Mum and Dad. (p. iii)

As wealth inequality concerns continue to surface, policymakers face increasing pressure to improve legislative fairness in the New Zealand tax system (Tax Working Group [TWG], 2010; 2019). According to the TWG (2019): "Relative to other OECD countries, the [New Zealand] tax system is not particularly progressive" (p. 30). Unlike most countries in the OECD, New Zealand does not levy a comprehensive capital gains tax (CGT) or have a death duty regime (OECD, 2018). This anomaly in tax policy has resulted in peculiar (and arguably partial) tax preferences for owners of capital assets (Marriott, 2016; IRD, 2023). Furthermore, such oddities in tax policy might be somewhat responsible for the growth in economic inequality in New Zealand in recent decades (Rashbrooke, 2021). As the TWG (2019) has claimed:

> The inequality-reducing power of the [New Zealand] tax and transfer system has fallen over the last three decades, and this outcome reflects the fact that the tax system and the transfer system have both become less effective at reducing inequality. (p. 30)

The New Zealand Green Party (2020) too has criticised the lack of capital taxes in New Zealand, attributing a declining rate of household ownership to such omissions in tax policy. As the New Zealand Green Party (2020) has asserted, "persistent and structural inequalities are driven by unequal wealth … Families with good incomes struggle to buy homes [in New Zealand]. More and more people are renting and 43% of adults do not own a home" (p. 10).

Although the Bright-line Test rule was extended in March 2021 to include capital gains made from the sale of some residential properties disposed of within ten years of acquisition, and the top income tax rate was raised to 39% on incomes over $180,000 in April 2021 (Income Tax Act 2007), these amendments have arguably done little to mitigate New Zealand's supposed wealth inequality issues. Whilst a diminutive form of a CGT, the Bright-line Test is usually avoided if an individual holds onto their residential land(s) for 10 years or longer[2]. By contrast, the 39% income tax rate increases the existing tax burden on wage and salary earners, those less likely to accumulate and retain substantial wealth (as pay-as-you-earn [PAYE] is subject to information reporting and cannot be avoided) (Tan & Braithwaite, 2018).

In the absence of new capital taxes, Rashbrooke (2021) has claimed that New Zealand will likely observe greater equality gaps between the poorest and wealthiest echelons of society:

[2] According to Section CB 16A(1) of the *Income Tax Act 2007*, the Bright-line Test rule does not (generally) apply to the private home or dwelling of an individual. Rather, Section CB 6A of the Act targets real assets (such as housing, land, and buildings) which are not held primarily for the private occupancy of the owner (e.g. rentals).

> Given the current vogue for ‘well-being’ in both personal and public life, [New Zealanders] risk the emergence of what might be called ‘well-being’ classes, groups of people whose profoundly different levels of life satisfaction are entrenched and multigenerational. (p. v)

To help alleviate wealth concentrations, some academics in New Zealand (Littlewood, 2018; Marriott, 2016) have proposed introducing a broad-based low-rate CGT. However, whilst such an imposition would likely extend New Zealand’s tax base (by taxing capital assets), thus far most CGT recommendations have been rejected by the latest National (2008 - 2017) and Labour (2017 – present) Governments (New Zealand Green Party, 2020).

By contrast, little has been debated or published on the feasibility of re-introducing an estate duty in New Zealand. Given the apparent lack of political will to adopt a CGT, perhaps an estate duty represents a sensible alternative to target accumulated capital in New Zealand. Although the past success of the estate duty has been widely contested (Green & McKay, 1979; Marriott, 2016; New Zealand National Party, 1992; Duff, 2005), public perceptions towards taxation can change radically over time (Littlewood, 2012). Thus, this research seeks 1) to identify whether the key justifications for abolishing the estate duty in 1992 are still relevant in contemporary New Zealand, and 2) to ascertain the theoretical and practical arguments both supporting and opposing death duty mechanisms.

1.3.1 Wealth Reports (2023)

1.3.1.1 Inland Revenue’s High-Wealth Individuals Research Report (2023)

In April 2023, the IRD released a report investigating (in part) whether 311 of New Zealand’s wealthiest families (worth, on average, $276,000,000) were paying their fair share of taxes. Overall, the IRD (2023) found that “the median family in the high-wealth group only pays 9.5% of their *economic income* [the sum of all the ways people gain the ability to spend money] in tax” (p. i). By contrast, “the effective [income] tax rate paid by middle-income New Zealanders is at least double that paid by wealthier New Zealanders [in some cases upwards of 30%]” (IRD, 2023, p. i). The IRD (2023) concluded that New Zealand’s (current) lack of capital taxes was largely responsible for the above results.

The IRD (2023) also released data on sums of inheritances and gifts received by the wealthiest New Zealanders: “In the decade from 2010 to 2020, 49 inheritances or gifts were disclosed, eleven of [which] were for amounts over $5,000,000" (IRD, 2023, p. 115). This is likely a substantial amount (of inherited wealth) by most New Zealanders' standards.

1.3.1.2 OliverShaw's New Zealand Effective Tax Rate's Report (2023)

Murray et al. (2023) have also conducted research regarding the effective rate(s) of income tax that wealthy (and less wealthy) New Zealanders pay. In contrast to the IRD's (2023) findings, Murray et al. (2023) have argued that high-wealth/high-income New Zealanders, with over $1,400,000 of real economic income, pay income tax at an average effective rate of 29% (for professional couples with no dependants) to 31% (for self-employed couples) (p. xxvi). Murray et al. (2023) also found that only single medium-wealth/medium-income persons', with approximately $500,000 of real economic income, pay income tax at a higher average effective rate (46%). These findings (generally) suggest that as a person's economic income increases, the average effective rate of tax paid by the individual also increases.

1.3.1.3 Relevance of Reports

Although the findings of the IRD (2023), and Murray et al. (2023) varied considerably[3], these reports provide further justification for conducting this research. Being that each of the authors investigated whether wealthy taxpayers are paying their fair share of taxes in contemporary New Zealand, this reflects that wealth inequality is (and remains) a topical field of inquiry in New Zealand. Being primarily a redistributive mechanism, the estate duty should (theoretically) aid in addressing wealth inequalities in New Zealand (were such issues deemed necessary of addressing by policymakers) (Rashbrooke, 2021).

1.4 Research Outline

The remainder of this research is outlined as follows. Chapter 2 restates the research questions, methods and approach employed in this research. Chapters 3 and 4 present historical and conceptual literature on estate duty. More specifically, Chapter 3 offers a historical overview of the estate duty regime in New Zealand, while Chapter 4 provides a theoretical discussion that both supports and challenges a new estate duty. Chapter 5 discusses the findings of the semi-structured interviews with tax practitioners and tax academics, whilst Chapter 6 analyses

[3] It is worth noting that Murray et al. (2023) did not include unrealised capital gains in their calculations, whilst the IRD (2023) deemed such gains a form of income for the purposes of its research.

the interview results. Chapter 7 concludes this research, first by providing an overview of the major findings and limitations, and second by identifying areas for future research.

1.5 Contribution

This research contributes to the existing literature in multiple ways. Little has been published since 1992 in New Zealand regarding estate duty. As such, the results of this research present contemporary perspectives on the potential benefits and difficulties associated with re-introducing an estate duty in New Zealand. In addition, this research highlights the importance of considering tax history when making tax policy decisions. This research may remind policymakers that historical decisions were made due to circumstances at that point in time. As political, economic, and cultural conditions have changed, a previously repealed policy or regime may potentially suit re-implementation (in a similar or modified form).

Chapter 2: Research Questions, Design, and Methods

2.1 Introduction

This chapter begins by explaining the research questions, followed by an overview of the methodological theories underpinning this research. The chapter then outlines the methods employed to satisfy the research questions.

As part of this research's contribution is evaluating the perspectives of tax practitioners and tax academics regarding the possible re-introduction of estate duty in New Zealand, this research utilised semi-structured interviews. Accordingly, this chapter provides details of the interview format and participant selection. As this research pursues the opinions and knowledge of various tax practitioners and tax academics, the author adopted an interpretivist approach.

2.2 Research Questions

This research addresses the following questions:

RQ 1: What were some of the factors which contributed to the estate duty being abolished in New Zealand in 1992?

RQ 2: To what extent do tax practitioners/academics support re-introducing the estate duty in contemporary New Zealand? Why? Why not?

RQ 3: If the estate duty was re-introduced, what issues would need to be considered?

2.3 Methodology

2.3.1 Interpretivism

Due to the under-researched nature of the estate duty (Arendse, 2018; Powell, 2021), this research adopted an interpretive (qualitative) approach. An interpretive approach "allows [a researcher] to identify issues from the perspectives of [the] study participants and understand the meanings and interpretations that they give to behaviour, events, or objects" (Hennink et al., 2020, p. 100). According to McKerchar (2010), *interpretivism* "provides an understanding of social reality based on the subjective interpretation of the researcher" (p. 75). Furthermore, interpretivism assumes that the findings are probably true for their given context (McKerchar, 2010).

As the key focus is investigating the subjective viewpoints of tax practitioners and tax academics on the re-introduction of the estate duty in New Zealand, this research is inductive in nature. By contrast, deductive research (usually quantitative) relies on substantial existing theories (Claydon, 2015). These theories form the basis of the general hypotheses, for which empirical data is collected, analysed, and critiqued. Such processes do not reflect the purpose of this research, which is to build knowledge in an under-researched area rather than confirm pre-existing theories. As McKerchar (2010) has noted, while a qualitative researcher "is not seeking an absolute or objective truth … [s/he] still wants to make a worthwhile contribution to the body of knowledge" (p. 226).

2.4 Research Design

2.4.1 Two-Phases

As this research contains both a historical and a contemporary inquiry into estate duty, data collection took place over two phases. First, phase one explored key legislative and policy amendments made prior to the 1992 estate duty abolition via a document analysis. The examination of this secondary data guided the research questions and topics covered in phase two; the semi-structured interviews. The triangulation of both primary and secondary data helped to mitigate the limitations of archival sources and generate the results presented in Chapter 5 (Bowen, 2009).

2.4.2 Document Analysis

As stated above, the first phase incorporated a thorough document analysis. Bowen (2009) defines *document analysis* as, "a systematic procedure for reviewing or evaluating documents, both printed and electronic material" (p. 27). Jones (2010) extends this definition, suggesting that documents may include "any sort of information previously collected by others, amenable to systematic study" (p. 1,008). One benefit of document analysis is that documents of all types can help the researcher "uncover meaning, develop understanding, and discover insights relevant to the research problem" (Bowen, 2009, p. 29). Document analysis is appropriate (and necessary) for this research, as the data drawn from such sources can be used to contextualise the primary data collected during the interviews (Bowen, 2009).

In phase one, the author analysed *archival data*; primarily books, journals, newspapers, statutes, institutional reports, and public documents (Bowen, 2009). As Lee (2022) has stated, the primary challenge associated with using archival sources is the vast amount of available material and a scholar's capacity to analyse all of it. As part of this research's focus was to evaluate *why* the estate duty was abolished in New Zealand in 1992, the scope of this research was narrowed to documents primarily released after 1968. Such sources were considered useful material as they provided a contemporary historical context on which the interview questions could be based. As Littlewood (2012), McKay (1978), and the TRC (1967), have already detailed the lifecycle of the estate duty pre-1968, the author was further motivated to focus on documents post-1968.

Phase one was conducted as follows. First, the author undertook a high-level overview of the early legislative history of the estate and succession duties in New Zealand to provide the context for which the remaining document analysis could follow. Second, the author explored statutory amendments to the *Estate and Gift Duties Act 1968.* These presented systematic changes to the scale of tax rates utilised, exemptions introduced, amended, and repealed, and thresholds for which the top tax rate took effect. Third, the author reviewed the New Zealand Official Yearbooks (NZOY). The NZOY furnished details on the total number of estates fully exempt from, and taxed at, the maximum rate of estate duty in any given year (up to 1985). Such findings were valuable as they provided trends which could be examined and organised into major themes (Bowen, 2009).

Fourth, to help ascertain the potential logic behind the above changes, the author studied the New Zealand parliamentary debates (NZPD). The 1979 and 1992 NZPD were most fruitful, as they covered significant Bills of Parliament which amended (and abolished) the estate duty regime. Hansard enabled the author to garner both an understanding of *why* significant legislative amendments were made to the *Estate and Gift Duties Act 1968* in 1979, as well as the extent to which such changes were politically opposed. However, whilst documents (including Hansard) may provide background as well as historical insight, they "should not be treated as necessarily precise, accurate, or complete recordings of events that have occurred" (Bowen, 2009, p. 33). Given that Hansard contains debate which is highly political by nature, the author made an active effort to separate factual information from political exaggeration.

Whilst archival sources tend to be less retrospective in nature (Jones, 2010), an inherent limitation of document analysis is that it may not provide sufficient detail (Bowen, 2009).

Documents are usually produced for purposes other than research; they may be biased, or not provide sufficient detail to answer the research question(s). Biases might also occur due to the author's choice of secondary sources. Thus, to mitigate the effects of potential biases, it is constructive for document analysis to be supplemented by an additional form of data collection; in this case, the author used semi-structured interviews.

2.4.3 Qualitative Interviews

In phase two, primary data was obtained via formal interviews. As Seidman (2006) has stated, "interviews are a suitable tool for understanding interpretivist research as they allow for an understanding of the lived experience of other people and the meaning they make from that experience" (p. 9). Seidman (2006) has also noted that, before conducting any interviews, a researcher must "read enough to be thoughtful and intelligent about the context and history and to know what literature on the subject is available" (p. 38). Therefore, conducting interviews after the document analysis was complete was appropriate, as such inquiries provided knowledge gaps to probe during the interviews.

Interviews were semi-structured, as this suited the methodology. As Edwards and Holland (2013) have explained, a semi-structured interview "is interpretive and critical, and provides flexibility in how and when questions are put and how the [participant] can respond" (p. 29). While a semi-structured interview may provide a predetermined list of questions (Powell, 2021), there is no expectation that all questions will be asked (which is a limitation of structured interviews). To derive the necessary information, a qualitative researcher "needs to be open-minded, curious and empathetic, flexible, and be able to listen to people telling their own story" (Hennink et al., 2020, p. 10). Participants were provided with a list of open-ended questions in advance, to encourage them to vocalise their opinions and ideas without being influenced or restricted by the author (McKerchar, 2010). The author could then improvise follow-up questions based on the participant's responses as required (Kallio et al., 2016).

2.4.3.1 Sampling Techniques

Purposive sampling was primarily utilised due to the specialist nature of the topic. According to Etikan et al. (2016a), *purposive sampling* is "the deliberate choice of a participant due to the qualities the participant possesses" (p. 2). As McKerchar (2010) has suggested, the selection of participants should be "purposeful and clearly aligned with the purpose of the research" (p. 155). Purposive sampling involves selecting individuals proficient and well-informed about the subject area (Etikan et al., 2016a). As the general taxpaying public would be unlikely to have the knowledge required to answer most of the interview questions, the author recruited tax practitioners and tax academics.

For the purposes of this research, 'tax practitioner' has been given a broad definition. A *tax practitioner* is an individual actively engaged in the tax profession, including tax lawyers, tax accountants, business advisors, and policymakers. By contrast, a *tax academic* is a faculty member of a New Zealand university who teaches and researches in taxation. Categorising some participants proved challenging in instances where they had experience (past and/or present) as both a tax 'practitioner' and a tax 'academic'. In such circumstances, categorisation reflected the individual's dominant role.

Eight tax practitioners and six tax academics were recruited, for a total of fourteen semi-structured interviews. These interviews, between 45 and 90 minutes in length, were conducted during February 2023 via Zoom Video Communications (Zoom) and recorded using Zoom's automated recording feature. Nine participants were based in Wellington, three in Auckland, and one in Christchurch and Dunedin respectively (see Table 2.1). Participants' prior work experience varied widely. Several individuals had extensive careers; up to 45 years working in taxation in New Zealand (particularly tax policy). The least experienced participant had approximately 15 years of tax experience. No financial incentive was provided in return for the participants' involvement.

The author administered a preliminary pilot test to examine whether amendments to the proposed interview questions were necessary. Following the pilot test, no significant changes were made to the semi-structured interview guide. Participants were then selected and contacted via email or LinkedIn using their publicly available contact information and offered a formal interview based on their knowledge of the subject area. Participants were notified that such interviews were fully confidential and that they could withdraw at any time. Upon agreement, participants were sent an information sheet, consent form, and a list of the proposed questions to help them prepare. At the start of the interviews, participants were reminded that the interview would be recorded, and that the data collected would be used in a research project. Participants were also asked whether they had any questions before the first topic was addressed. All recorded interviews were transcribed by the author and sent to the relevant participant (as requested) for reviewing. No interview transcripts were amended during this process.

Table 2.1
Interview Participants

Participant	**Gender**	**Position**	**Location**
Participant A	Female	Tax Academic	Wellington
Participant B	Male	Tax Practitioner	Auckland
Participant C	Male	Tax Practitioner	Wellington
Participant D	Male	Tax Academic (Retired)	Wellington
Participant E	Female	Tax Practitioner	Christchurch
Participant F	Female	Tax Academic	Wellington
Participant G	Male	Tax Academic	Auckland
Participant H	Male	Tax Academic	Wellington
Participant I	Male	Tax Academic	Wellington
Participant J	Male	Tax Practitioner	Wellington
Participant K	Male	Tax Practitioner	Wellington
Participant L	Male	Tax Practitioner	Auckland
Participant M	Male	Tax Practitioner	Dunedin
Participant N	Male	Tax Practitioner	Wellington

To supplement the purposive sampling approach, the author adopted snowball sampling. According to Biernacki and Waldorf (1981), *snowball sampling* is a method "which yields a study sample through referrals made among people who share or know of others who possess some characteristics that are of research interest" (p. 141). Etikan et al. (2016b) have suggested that snowball sampling is particularly useful "when the population of interest is hard to reach and compiling a list of the population poses difficulties for the researcher" (p. 6). Due to the advanced nature of the interview questions (and lack of publicly available contact information) recruiting suitable participants became increasingly problematic. As such, snowball sampling was appropriate to help extend the list of potential participants. At the conclusion of most interviews, participants were provided with the option of recommending individuals whom they felt would be able to answer the semi-structured interview questions. Utilising purposive sampling, the author then contacted some of the suggested persons via email or LinkedIn.

As purposive sampling (a qualitative sampling method) focuses on saturation (Etikan et al., 2016a), interviewing continued until no substantially new information was provided by a participant. As McKerchar (2010) has stated, only a few study participants are needed in qualitative research as "the purpose is to achieve the depth of information by mining each participant deeply for their experiences" (p. 15). However, whilst 14 individuals were recruited, the author is aware that saturation is a subjective concept and that no guarantee can be made that further interviews would have produced no *new* data. Nonetheless, the author was satisfied with the interview findings due to observing similarities in responses and chose to cease interviewing participants for this reason.

2.5 Summary

This chapter has outlined the methodology for this research. Due to the under-researched nature of the topic, the author adopted an interpretivist approach. The author felt this was a suitable approach, as part of the contribution of this project involved ascertaining the views of tax practitioners and tax academics on the potential re-introduction of the estate duty in New Zealand. The overall focus of this research was to add to an existing field of knowledge, rather than confirm a pre-existing theory.

In terms of method, the research adopted a qualitative two-phase strategy. Phase one involved a thorough document analysis on the history of the estate duty regime in New Zealand, obtained via an exploration of New Zealand statutes, yearbooks, and parliamentary debates. Such inquiries assisted in identifying the research areas to probe through semi-structured interviews.

In phase two, the author conducted semi-structured interviews with tax practitioners and tax academics. The author also undertook a preliminary pilot test to ensure that the interview questions were broad enough to cover the areas of interest. Fourteen participants were then enlisted via email or LinkedIn. Participants were recruited primarily via purposive sampling, whilst snowball sampling aided in expanding the potential pool of participants. The interview questions were semi-structured, as this provided greater flexibility for both the participants and the author. All interviews were recorded using Zoom's automated recording feature and transcribed by the author. Human ethics approval was also granted before any participants were recruited.

Chapters 3 and 4 present the literature review for this research, with a historical overview of the estate (and briefly the succession) duty regime in New Zealand (in Chapter 3), and an analysis of the philosophical arguments both supporting and opposing an estate duty (in Chapter 4).

Chapter 3: Literature Review Part A – Historical Overview of the Estate and Succession Duty Regimes in New Zealand

3.1 Introduction

This chapter presents a historical overview of the lifecycle of the estate and succession duty regimes in New Zealand from 1866 to 1992. The definition of estate duty varies in the literature. For the purposes of this research, *estate duty* is defined as "a tax levied on a person's estate at the time of his or her death" (Francis, 2012, p. 3). In a broader sense, estate duty is also considered an "excise tax on the privilege of transferring property at death" (Jacobson et al., 2007, p. 1). *Succession duty* (or inheritance taxation), by contrast, "is imposed on the total amount of wealth received by the recipient [via a will or intestate]" (Niimi, 2019, p. 51).

It is pertinent to include definitions of both estate and succession duty, as the public commonly treats them as interchangeable terms. Furthermore, as New Zealand previously taxed both the estate of an affluent (deceased) individual and their beneficiaries' inheritance (Death Duties Act 1921), it is appropriate to appreciate and distinguish the two as having different characteristics. Finally, whilst this research focuses primarily on estate duty, succession duty offers an alternative tax form for policymakers to consider.

3.2 Historical Focus

Death duty was first introduced in the form of succession duty in 1866 (Stamp Duties Act of 1866) and was eventually abolished as estate duty in 1992[4] (Estate Duty Abolition Act 1993). This is an extensive period and one examined by several scholars. Littlewood (2012), the TRC (1967), and McKay (1978), have each published literature on the lifecycle of the estate and succession duties in New Zealand. These authors have primarily described changes to the range of exemptions utilised, the scale of rates used, the thresholds at which such rates took effect, and the political reasoning behind these amendments. Littlewood (2012), and the TRC (1967), particularly focused on the early history of death duties in New Zealand (1866 – 1968), leaving little academic contribution to add for those years.

[4] Succession duty was levied in New Zealand from 1866 – 1881, and from 1909 – 1955. Estate duty was levied in New Zealand from 1881 – 1992 (Littlewood, 2012).

Recent estate duty history (1969 – 1993) is most pertinent to consider when evaluating the plausibility of re-introducing an estate duty in New Zealand. As discussed below (and shown in Tables 3.2 – 3.4), the *Estate and Gift Duties Act 1968* was significantly modified between the years 1969 to 1993. Part of this research's contribution is highlighting these changes and providing logic for why such revisions took place. Thus, Chapter 3 primarily details the relevant legislative amendments to the *Estate and Gift Duties Act 1968*.

For completeness, this chapter also briefly covers the early history of the estate and succession duties in New Zealand. This overview establishes the initial rationale behind introducing death duty, and outlines the evolution of trends and viewpoints towards estate (and succession) duties over time.

3.3 Early Legislative Amendments: 1866 – 1955

The *Stamp Duties Act of 1866* was the first statute to tax deceased estates in New Zealand and was primarily introduced to cover New Zealand Land Wars debts (Littlewood, 2012). The duty was levied based on the closeness of the relationship between the deceased and the successor, with beneficiaries individually taxed on their inherited sums (succession duty). The first £20 of any succession was exempt (the de minimis/general exemption). Whilst spouses were fully exempt from succession duty, children, parents, and grandparents were taxed at 1%. Succession duty rose to 3% for siblings, 5% for the siblings of parents, 6% for siblings of grandparents, and 7% for any other relative, capped at 10% for those who had no familial relationship.

The *Stamp Act of 1875* continued to impose succession duty, increasing the de minimis to £100. As with the *Stamp Duties Act of 1866*, spouses were fully exempt, and the rates of duty varied depending on the relationship between the beneficiary and the deceased. However, instead of adopting a flat rate of duty (as was utilised by the *Stamp Duties Act of 1866*), tax rates progressively increased. Succession duty was lowest for a deceased's children, ranging from 1% for inheritances of £100 to £1,000, 1.5% for sums of £1,000 to £5,000, and 2% for successions over £5,000. By comparison, individuals not related were punitively taxed at 10% when they received a bequest over £100.

The *Deceased Persons' Estate Duties Act 1881* repealed succession duty, instead introducing estate duty. Rather than taxing successors on their inheritances received, the estate duty taxed the deceased individual based on the final balance of their estate. While the first £100 was exempt, a testator with an estate worth over £50,000 paid 10% of the final balance of their estate. Whilst gifts donated Mortis Causa[5] and given to evade estate duty were included in the final estate balance, widows retained their spousal exemption. Monies left to children and grandchildren were 50% exempt from the estate duty. It is also worth noting that in 1885, the *Deceased Persons' Estate Duties Amendment Act 1885* introduced gift duty to prevent wealthy New Zealanders' from avoiding the estate duty by gifting their assets away *inter vivos* (whilst still living).

In 1909, the focus of death duty shifted to reducing the intergenerational wealth of affluent families (Littlewood, 2012), regulated by the *Death Duties Act of 1909*. This change in focus was important, as the government began to recognise an expanding wealth gap between affluent and lower-income households (Marriott, 2016). Taxing the affluent via estate and succession duties was viewed as a positive measure to reduce this wealth gap (Littlewood, 2012). Furthermore, some believed that the state contributed towards wealth generation through its provision of infrastructure, which justified obtaining the estate duty from affluent individuals (as the wealthy were more likely to benefit from these societal infrastructures and generate further wealth) (Marriott, 2016).

The *Death Duties Act of 1909* levied both estate and succession duties. While testators were taxed on the final balance of their estate, successors were taxed on monies received from their inheritance. A £500 de minimis was provided for testators, whilst a flat rate of 15% was levied on portions of the estate valued above £120,000. Sums ranging from £500 to £120,000 were taxed progressively, beginning at 1% for estates worth £500 to £1,000 and climbing to 14.67% for those between £115,000 and £120,000 in value.

Whilst no succession duty was payable on the first £20,000 received by a widow or child of the deceased, sums above this were taxed at 2%. There was no succession exemption for widowers, who were taxed immediately at 2%. Other relatives paid 5% on their inheritances. For non-relatives, succession duty was a stringent 10%. Aside from widows and children, any additional dollar inherited over £20,000 was dutiable at double the rate.

The *Death Duties Act 1921* continued to impose both estate and succession duties. Gifts were only excluded from estate duty when they were given more than three years before the testator's death. To qualify for this exemption, recipients were also required to retain sole control over such gifts. A £1,000 de minimis was provided for all testators, whilst the scale of dutiable rates

[5] According to Hughes (2003), *Mortis Causa* refers to a transfer of property (such as a gift) made in contemplation or anticipation of the property owner's death (e.g. a death-bed settlement).

graduated from 1% on estates valued from £1,000 and £2,000, up to a flat rate of 20% for sums above £100,000. An allowance was given for debts, including a deduction for the testator's funeral costs. Charitable bequests were fully exempt.

For succession duty, the first £10,000 inherited by a widow was exempt. Inheritances between £10,000 and £20,000 were dutiable at 2%. Finally, sums above £20,000 were dutiable at 4%. Children received £1,000 free from succession duty, then were taxed 1% on successions of £1,000 to £5,000, 2% on bequests of £5,000 to £10,000, 3% on inheritances of £10,000 to £15,000, 3.5% on sums of £15,000 to £20,000, and 4% on monies over £20,000. All remaining beneficiaries (including widowers) received £500 tax-free. A maximum rate of 20% applied to those with no familial relationship who received an inheritance of over £20,000.

Overall, the estate and succession duties were reasonably efficient in the early 20th century. Until 1949, they provided a moderate share of New Zealand's tax revenue (Littlewood, 2012). The Liberal Party (1890 – 1912), and later the Labour Party (1935 – 1949), governed during a considerable part of the early 20th century, and whilst in power they ensured that the estate and succession duties were well-regulated and targeted towards reducing wealth inequality in New Zealand (Barrett, 2015).

The following table provides figures for the total percentage of tax revenues collected by the estate, succession, and gift duties combined, from 1900 – 1950.

Table 3.1
Total Tax Yield: Estate, Succession, and Gift Duty (1900 – 1950)

Tax Year Ended	% of Total Tax Yield
1900	2.84%
1905	4.66%
1910	4.59%
1915	13.54%[6]
1920	6.02%
1925	9.19%
1930	8.87%
1935	8.92%
1940	3.95%
1945	4.66%
1950	4.21%

Source: Littlewood (2012), p. 102.

3.4 Legislative Amendments: 1955 – 1968

The *Estate and Gift Duties Act 1955* made several noteworthy amendments to the death duty regime. First, succession duty was fully abolished. This change reduced the legislative complexity of death duty in New Zealand, as well as overall compliance and administration costs (McKay, 1978). Whilst the de minimis for estate duty remained at £1,000, the maximum dutiable rate stood at 40% on the final balance of estates valued above £100,000. Whilst widows were provided a spousal exemption of up to £12,000, children received £500. Although no exemption was originally available to widowers, this was later overturned by the *Estate and Gift Duties Amendment Act 1957*, which introduced a £1,000 exemption for widowers. Successors dying within five years of receiving a bequest were also given an exemption for between ten to fifty per cent of the total value of such inherited wealth, depending on how

[6] Although 13.54% of total tax revenues was collected via estate and gift duties in 1915, this sharp increase in yield was not due to an increase in deaths (DOS, 1919, p. 146). The scale of dutiable rates and exemptions provided for the estate duty remained unchanged. Such yields likely occurred due to particularly wealthy individuals dying in 1915, as well as potential delays in the finalising of such estates. Furthermore, in 1915, the de minimis for succession duty for widows and children decreased from £20,000 to £5,000, capturing more individuals (Finance Act 1915). This too may have contributed to the spike in tax yield presented in Table 3.1 above.

recently their predecessor had died. Finally, assets settled under the *Joint Family Homes Amendment Act 1955* were exempt up to £3,000.

The *Estate and Gift Duties Amendment Act 1958* implemented a punitive 60% maximum tax rate on deceased estates valued over £30,000, as well as higher rates on sums between £1,000 and £30,000. As shown in Table 3.2 (below), such changes resulted in 2.99% of testators being taxed at the top rate of estate duty in 1960 (DOS, 1962, p. 809) as opposed to 0.11% in 1957 (DOS, 1959, p. 1,137). It is worth noting that 60% was the highest rate ever levied on deceased estates in New Zealand.

The new 60% maximum rate (and the more increased graduated rates) was negatively received by the New Zealand public (Littlewood, 2012). Due to a lack of regulatory efforts to combat avoidance, such acts were the equivalent of "dipping deep into large fortunes with a sieve" (Littlewood, 2012, p. 93). Labour lost the 1960 election. However, the estate duty was not solely to blame. Taxes on beer, cigarettes, cars, and petrol had also increased the New Zealand public's dissatisfaction (Vosslamber, 2012).

The stringent measures introduced by the *Estate and Gift Duties Amendment Act 1958* were short-lived. In 1961, the *Estate and Gift Duties Amendment Act 1961* re-instated the 40% top rate and £100,000 maximum threshold. The de minimis too was raised to £2,000.

Table 3.2
Deceased Estates Dutiable at the Maximum Rate (1955 – 1985)

Year	Total Estates Dutiable at the Maximum Rate[7]	Total Deceased Estates	Percentage of Total Estates Dutiable at the Maximum Rate	Threshold Upon Which the Maximum Rate Took Effect
1955	12	11,156	0.11%	£ 100,000
1956	18	11,572	0.16%	£ 100,000
1957	13	11,977	0.11%	£ 100,000
1958	175	11,840	1.48%	[8]£ 100,000/30,000
1959	317	11,675	2.72%	£ 30,000
1960	346	11,564	2.99%	£ 30,000
1961	204	12,567	1.62%	[9]£ 30,000/100,000
1962	28	12,496	0.22%	£ 100,000
1963	28	13,011	0.22%	£ 100,000
1964	35	13,134	0.27%	£ 100,000
1965	32	12,975	0.25%	£ 100,000
1966	37	13,311	0.28%	£ 100,000
1967[10]	40	13,326	0.30%	£ 100,000
1968/1969[11]	48	17,282	0.28%	[12]$ 200,000
1969/1970	56	14,341	0.39%	$ 200,000
1970/1971	117	14,814	0.79%	$ 150,000
1971/1972	112	14,360	0.78%	$ 150,000
1972/1973	144	13,430	1.07%	$ 150,000
1973/1974	237	13,883	1.71%	$ 150,000
1974/1975	325	14,849	2.19%	$ 150,000
1975/1976	371	14,873	2.49%	$ 150,000
1977/1978[13]	230	14,472	1.59%	$ 255,000
1978/1979	255	14,188	1.80%	$ 255,000
1979/1980	359	14,513	2.47%	$ 250,000
1980/1981	408	14,637	2.79%	$ 250,000
1981/1982	349	14,031	2.49%	$ 250,000
1982/1983	278	14,546	1.91%	$ 300,000
1983/1984	189	14,297	1.32%	$ 350,000
1984/1985[14]	148	13,413	1.10%	$ 450,000

Source: *New Zealand Official Yearbook* (1957 – 1987); compiled by the author.

[7] From 1955-1985, the top rate was 40% (except for the period of 1958 – 1961 where the rate was 60%).
[8] £30,000 threshold introduced by the *Estate and Gift Duties Amendment Act 1958* from the 27th of June 1958.
[9] £100,000 threshold introduced by the *Estate and Gift Duties Amendment Act 1961* from the 20th of July 1961.
[10] Until 1967, the NZOY used 1st of January – 31st of December as a year.
[11] From 1968, the NZOY used the 1st of April – 31st of March as a year.
[12] From the 10th of July 1967, New Zealand replaced pounds, shillings, and pence, with dollars and cents. £1 was converted to $2 under Section 5(4) of the *Decimal Currency Act 1964*.
[13] No data was available for the period 1st of April 1977 – 31st of March 1978.
[14] No data was available after 31st of March 1985.

3.5 Estate and Gift Duties Act 1968

The *Estate and Gift Duties Act 1968* was the principle act in place for the 25 years before the estate duty was abolished in 1992. One major change introduced by this statute was the basis on which the estate duty was charged (Littlewood, 2012). While previous legislation had only levied estate duty based on *situs* (the location of the property), the *Estate and Gift Duties Act 1968* changed this to situs and *domus* (the jurisdiction that a person treats as their permanent home). The main effect this had was capturing real property (such as land, housing, and buildings) located outside of New Zealand within the dutiable base (Littlewood, 2012). Furthermore, this Act was the first to provide relief for double taxation, primarily for properties situated outside New Zealand (and taxed elsewhere) when the testator was domiciled in New Zealand.

Under Section 6 of the *Estate and Gift Duties Act 1968*, a *dutiable estate* included (a) "all property, wherever situated … where the deceased was domiciled[15] in New Zealand at the time of his [or her] death" (p. 239) and (b) "all property, situated in New Zealand … where the deceased was domiciled out of New Zealand at the date of his [or her] death" (p. 239). The maximum dutiable rate remained at 40%, as did the $200,000 top threshold. In calculating the dutiable estate of the deceased, outstanding debts were an allowable deduction. However, gifts given within three years of the testator's death were included in the dutiable estate. As with the *Estate and Gift Duties Act 1955*, there was no succession duty.

3.5.1 Available Exemptions and Relief

The *Estate and Gift Duties Act 1968* provided several estate duty exemptions and reliefs under s 4 (p. 238), and ss 31 – 42 (pp. 252 – 259).

- *De Minimis*

Where the final balance of a deceased's estate totalled less than $8,000, no estate duty was payable.

[15] According to James (2012), "there is no single definition of domicile, and the concept is complicated. However, [domicile] may be thought of as the country to which a person 'belongs', though this is not necessarily the one in which that person was born" (p. 82). James (2012) has further defined domicile as "the place where [a person] always intends to return" (p. 82).

- *Bequests for Local Historic Interest*

Sums bequeathed for the upkeep of national or local historic interest (property not for the benefit of a single or group of individuals) were exempt from the estate duty.

- *Group Superannuation Schemes*

Pensions provided for a widow through a group superannuation scheme were exempt, to a maximum of $1,000 per year.

- *Succession of Spouse*

Widows were provided up to $30,000 in spousal relief, which was deducted from the total value of her inheritance. A widower would receive up to $14,000 in spousal relief.

- *Succession of Infant Child*

Children under the age of 21 received $1,000 in tax relief, deducted against the value of their successions.

- *Estates of Servicemen*

A linear ancestor (parent, grandparent, child, or grandchild) of a deceased serviceman (any person who had died while on active service, or from wounds, and working for the navy, military, or air force) received up to $15,000 in tax relief.

- *Estate Duty Paid Outside New Zealand*

To prevent double taxation, a deduction was available for properties included within the deceased's estate, located outside New Zealand, and dutiable in another jurisdiction.

- *Successive Estate Duty*

Assets bequeathed to a beneficiary were exempt up to 75% (to reduce double taxation) when the inheritor died within five years of receiving such properties from the testator. Concessions differed depending on the length of time between the two individuals' deaths.

<u>Time Since Death</u>

- Within four months: 75% deduction
- Between five and eight months: 60% deduction
- Between nine and twelve months: 50% deduction

- Between one and two years: 40% deduction
- Between two and three years: 30% deduction
- Between three and four years: 20% deduction
- Between four and five years: 10% deduction

- *Gift Duty*

To mitigate double taxation, property subject to estate duty, but also gift duty, would have the gift duty portion refunded.

- *Joint Family Home*

The *Joint Family Homes Act 1964* provided estate duty relief ($8,000) for a family home jointly-owned and occupied by a husband and wife. When one spouse died, the deceased's interest in the joint family home would be included in the dutiable estate. Eight thousand dollars was then deducted from this, or the total value of such interests, up to $8,000 (TRC, 1967).

3.6 Legislative Amendments: 1969 – 1979

The *Estate and Gift Duties Amendment Act 1969* furnished multiple changes to the *Estate and Gift Duties Act 1968*. From the 26th of June 1969, the de minimis was increased to $12,000. Relief for spousal successions increased too (to $40,000), rising from $30,000 for wives and $14,000 for husbands (Estate and Gift Duties Amendment Act 1965). Notably, this was the first time in New Zealand that the successive spousal exemption was equal for both genders.

The *Estate and Gift Duties Amendment Act 1970* (Section 2) introduced a *personal chattels* exemption, whereby the testator's final estate balance could be reduced by (up to) $2,000 when such estates were comprised of, "linen, china, glass, books, pictures, prints, furniture, jewellery, articles of household use or enjoyment, garden effects, musical, sporting, and scientific instruments and apparatus, wines, liquors, and consumable stores" (p. 132). Vehicles of any kind were excluded from this exemption. Furthermore, from the 25th of June 1970, all deceased estates valued above $150,000 were taxed at $40,380 plus 40% of the final balance above $150,000. Prior to this, the *Estate and Gift Duties Act 1968* levied a flat rate of 40% on deceased estates exceeding $200,000 in value.

The *Estate and Gift Duties Amendment Act 1972* established an exemption for charitable bequests, in which the final balance of a deceased's estate was reduced by up to $25,000 when the beneficiary (or one of the beneficiaries) was a charitable trust. The *Joint Family Homes*

Amendment Act 1972 also raised the joint family home exemption, allowing a deduction for the deceased's interest in a jointly-owned property, up to the value of $12,000. Both Acts took effect on the 22nd of June 1972.

The *Estate and Gift Duties Amendment Act 1974* extended several existing exemptions and instituted another. The spousal exemptions, for both husband and wife, were raised to $60,000, with personal chattels excluded up to $4,000. Furthermore, group superannuation pensions were exempt, to the value of $2,000. This Act also introduced (in Section 2) relief for orphan children under 20 years of age where a parent had died and "the other parent of that child did not survive" (p. 969). The successions of such children were exempt, up to $10,000, contingent upon the age of the child at the time of his or her parent's death. Moreover, the *Joint Family Homes Amendment Act 1974* significantly modified the joint family home exemption, whereby the *total value* of the deceased's interest in a jointly-owned property could now be deducted from the final balance of the testator's estate. Both Acts came into force on the 30th of May 1974.

The *Estate and Gift Duties Amendment Act 1976* (applied from the 29th of July 1976) increased the estate duty de minimis to $25,000, as well as the top threshold by which the top tax rate took effect ($255,000). Testators of such dutiable property now owed $72,200 plus 40% of the (portion of the) estate valued above $255,000. A deduction was also introduced for the testator's funeral expenses. However, the most significant amendment was the introduction of the 'Matrimonial Home Allowance'. This provision enabled a testator to nominate one matrimonial home which would be fully exempt, if passed by survivorship to a living spouse. The *matrimonial home* is defined in Section 6 of the *Estate and Gift Duties Amendment Act 1976* as:

> That estate or interest of a deceased person forming part of the dutiable estate of the deceased in a dwelling, house, or flat, or townhouse, that in each case is situated in New Zealand and is used habitually or from time to time by the deceased and the spouse of the deceased or either of them as a family residence. (p. 568)

However, the 'Matrimonial Home Allowance' could not be utilised alongside the 'Joint Family Home' exemption provided by the *Joint Family Homes Act 1964*, as amended by the *Joint Family Homes Amendment Act 1972*, and the *Joint Family Homes Amendment Act 1974*. In such cases, the joint family home exemption took precedence over the matrimonial home allowance.

The *Estate and Gift Duties Amendment Act 1978* extended the exemption for personal chattels. Where personal chattels were bequeathed to a surviving spouse, the full amount of such chattels was now exempt from estate duty. In addition, the existing $4,000 relief provided under the *Estate and Gift Duties Amendment Act 1974* was raised to $6,000, applying to personal chattels bequeathed to individuals other than a spouse.

3.7 The Estate and Gift Duties Amendment Act 1979

The *Estate and Gift Duties Amendment Act 1979* significantly amended several existing estate duty provisions. The de minimis threshold was raised from $25,000 to $100,000, with the scale of rates of duty reducing in scope from 35 different rates to three. From the 21st of June 1979 to the 31st of March 1980, any deceased estate with a final balance less than $100,000 was exempt from estate duty. Estates worth between $100,000 and $250,000 were taxed 35% on sums above $100,000. Forty per cent remained the highest tax rate, applying to properties valued over $250,000. As shown in Table 3.3, in the 1979/1980 financial year the total proportion of estates exempt from the estate duty rose steeply, from 55.23% to 91.72% (DOS, 1981, p. 699; 1982, pp. 698–- 699).

Moreover, the *Estate and Gift Duties Amendment Act 1979* provided a four-year schedule, in which the de minimis would increase annually until it reached $250,000 in 1982. From the 1st of April 1980 to the 31st of March 1981, $150,000 became the new de minimis, resulting in 95.28% of estates being exempt from the estate duty in the 1980/1981 financial year (DOS, 1983, p. 728).

In addition, the *Estate and Gift Duties Amendment Act 1979* repealed the $60,000 spousal exemptions previously introduced by the *Estate and Gift Duties Amendment Act 1974*, as well as the $1,000 child exemption established in the *Estate and Gift Duties Act 1955*. The $10,000 maximum exemption provided for orphan children was also repealed. Concessions were also removed for successors dying within five years of inheriting property, as were sections of the *Estate and Gift Duties Act 1968* that bestowed reliefs for the assets of deceased servicemen.

Table 3.3
Deceased Estates Exempt from the Estate Duty (1955–- 1985)

Year	Total Deceased Estates Exempt at the Maximum Rate	Total Deceased Estates	Percentage of Total Estates Exempt	De Minimis Threshold
1955	3,510	11,156	31.46%	£ 1,000
1956	3,517	11,572	30.39%	£ 1,000
1957	3,359	11,977	28.05%	£ 1,000
1958	2,912	11,840	24.59%	£ 1,000
1959	2,658	11,675	22.77%	£ 1,000
1960	2,389	11,564	20.66%	£ 1,000
1961	3,712	12,567	29.54%	£ 2,000
1962	4,508	12,496	36.08%	£ 2,000
1963	4,451	13,011	34.21%	£ 2,000
1964	6,087	13,134	46.35%	£ 4,000
1965	7,260	12,975	55.95%	£ 4,000
1966	7,251	13,311	54.47%	£ 4,000
1967[16]	7,063	13,326	53.00%	£ 4,000
1968/1969[17]	8,673	17,282	50.19%	$ 8,000
1969/1970	9,185	14,341	64.05%	$ 12,000
1970/1971	9,299	14,814	62.77%	$ 12,000
1971/1972	8,601	14,360	59.90%	$ 12,000
1972/1973	7,420	13,430	55.25%	$ 12,000
1973/1974	6,695	13,883	48.22%	$ 12,000
1974/1975	6,228	14,849	41.94%	$ 12,000
1975/1976	5,412	14,873	36.39%	$ 12,000
1977/1978[18]	8,475	14,472	58.56%	$ 25,000
1978/1979	7,836	14,188	55.23%	$ 25,000
1979/1980	13,311	14,513	91.72%	$ 100,000
1980/1981	13,946	14,637	95.28%	$ 150,000
1981/1982	13,682	14,031	97.51%	$ 250,000
1982/1983	14,268	14,546	98.09%	$ 300,000
1983/1984	14,108	14,297	98.68%	$ 350,000
1984/1985[19]	13,265	13,413	98.90%	$ 450,000

Source: *New Zealand Official Yearbook* (1957 – 1987); compiled by the author.

[16] Until 1967, the NZOY used the 1st of January – 31st of December as a year.
[17] From 1968 onwards, the NZOY used the 1st of April – 31st of March as a year.
[18] No data was available for the period of the 1st of April 1977 – 31st of March 1978.
[19] No data was available after the 31st of March 1985.

3.7.1 Evaluation of the Changes in 1979

The *Estate and Gift Duties Amendment Act 1979* considerably altered how the estate duty was levied in New Zealand. The NZPD, discussed below, provide some logic for the above revisions.

3.7.1.1 Farming

The farming industry was a decisive motivator for the changes presented in the *Estate and Gift Duties Amendment Act 1979*. In Volume 423 of Hansard, D. MacIntyre (1979), Minister of Agriculture, expressed that:

> The reduction in [the] estate [duty] will give young farmers and their families' security, and will also give them the opportunity to plough back the extra money into their farms to increase production, rather than paying it to lawyers and accountants. (p. 1,105)

H. C. Templeton (1979), Member of Parliament (MP) for National, believed that the de minimis increase was justifiable on an *inflation* basis:

> For some time there has been strong pressure to provide some concessionary treatment for farmers, particularly in relation to the effect that land price escalation has had on the overall value of their estates. It is well known that a high proportion of medium-sized estates are those of farmers. (p. 1,193)

Templeton (1979) further indicated the need to stimulate greater farming investment:

> It is clear that the imposition of estate duty at the previous levels of exemption and rates was severely inhibiting investment … In many cases, expansion or improvements to a farm meant an increase in the capital value of the farm. This in turn meant that unless some intricate form of estate planning was adopted, more estate duty became payable. (p. 1,194)

Rather than limiting such efforts to the farming industry, Templeton (1979) endorsed a broadly-felt increase to the estate duty threshold:

> Relief from [the] estate duty for farms in itself raises problems. In most instances, it creates an artificial market for farmland with the undesirable side effect of raising its value. Although special loan facilities are still available to assist in the payment of [the] estate duty, the necessity to raise large sums, through repaying [the loans], means that many farms will become uneconomic. (p. 1,194)

3.7.1.2 Efficiency and Simplicity

The proposed estate duty de minimis increases were regarded as more efficient by the incumbent National Government and were expected to furnish greater benefits than each of the repealed exemptions combined (Green & McKay, 1979). In debating the *Estate and Gift Duties Amendment Bill 1979*, Robert Muldoon (1979), then Prime Minister of New Zealand, claimed that "the reason most of the other exemptions have gone is that when the amount starts at $100,000, it is above the amount of an exemption for a spouse etc. … When estates reach $100,000, the other exemptions are absorbed" (p. 1,196).

In agreement with Muldoon (1979), Templeton (1979) regarded the removal of most estate duty exemptions as aiding tax simplicity:

> In raising the exemption to $100,000, we allowed for exemptions of $60,000 for a spouse, $1,000 for an infant, $10,000 for an orphan, and $15,000 for a deceased serviceman. These together total less than $100,000. We, therefore, thought it simpler ... to have a blanket exemption. (p. 1,197)

3.7.1.3 Ability to Pay

Muldoon (1979) also considered a higher de minimis threshold necessary to prevent middle-income earners from unexpectedly having dutiable estates. According to Muldoon (1979):

> The Bill's worth is that it takes smaller estates out of the duty-paying area, including those of wage earners and people with quite small estates who … found that for the first time, their estates were liable for [the payment of estate duty] … The Bill before us will ensure that none of those estates pays [estate duty]. (p. 1,201)

3.7.1.4 Other Critiques

However, several scholars, including Green and McKay (1979), and Littlewood (2012), have heavily criticised most of the 1979 estate duty amendments. Although Green and McKay (1979) conceded that some taxpayers would have benefitted from the threshold changes, they maintained that the financial advantages gained were not substantial enough to warrant reducing the estate duty to a "hollow shell" (p. 253) of New Zealand's only meaningful wealth tax. In particular, Green and McKay (1979) felt that some farmers were justifiably caught by the estate duty, affirming:

> If the descendent has deliberately refrained from an inter-vivos gifting programme for no reason other than refusing to part with total control over his [or her] assets, the burden of duty that results, substantial though it may be, hardly warrants a great deal of legislative sympathy. (p. 247)

Although the new exemptions applied to all taxpayers, Littlewood (2012) regarded the National Government's logic behind such revisions as unsound. Littlewood (2012) claimed that it was very rare for young farmers in the late 1970s to "sell their inheritances to pay the [estate] duty" (p. 96). Thus, Littlewood (2012) deemed the 1979 reforms as far broader than necessary. Moreover, instead of lifting the de minimis thresholds, Green and McKay (1979) recommended that policymakers introduce instalment options to mitigate liquidity concerns.

Finally, Green and McKay (1979) believed that increasing the estate duty de minimis would not guarantee an increase in productivity. There were also inflation-related issues, which the *Estate and Gift Duties Amendment Bill 1979* did not substantially alleviate.

3.8 Contemporary Legislative Amendments: 1980 - 1993

The *Estate and Gift Duties Amendment Act 1980* repealed Part C of the First Schedule of the *Estate and Gift Duties Amendment Act 1979,* instead utilising the $250,000 de minimis (Part D) from the 1st of April 1981. The scale of rates also decreased to two; zero per cent for estates not exceeding $250,000 in value, and 40% on any sum above $250,000. Such exemptions spared 97.51% of estates from the estate duty during the 1981/1982 financial year (DOS, 1984, p. 745).

The de minimis threshold was further increased by the *Estate and Gift Duties Amendment Act 1981*. From the 1st of April 1982, deceased estates valued at less than $300,000 were no longer liable for the estate duty; during the 1982/83 financial year, 98.09% of estates paid no estate duty (DOS, 1985, p. 753).

The *Estate and Gift Duties Amendment Act 1982* adjusted the estate duty de minimis again from the 1st of April 1983. In this case, all estates with a final balance of less than $350,000 paid no estate duty. As such, in the 1983/84 financial year, a nil rate of estate duty was levied on 98.68% of deceased estates (DOS, 1986, p. 759).

The *Estate and Gift Duties Amendment Act 1983* furnished one final change to the estate duty de minimis threshold. From the 1st of April 1984, the first $450,000 of the final balance of a testator's estate was exempt from the estate duty, resulting in 98.9% of deceased estates paying no estate duty during the 1984/85 financial year (DOS, 1987, p.674).

From the 1st of October 1987, the *Estate and Gift Duties Amendment Act 1987* introduced an exemption for forgiven liabilities. When monies owed through a financial arrangement were excused via the will of a testator upon their death, such sums were not included within the dutiable estate of the deceased.

The *Estate and Gift Duties Amendment Act 1990* issued one final material change, with the exemption for charitable bequests increasing from $25,000 to $100,000. This change took effect on the 1st of April 1990.

3.9 Estate Duty Abolition - 1992

The estate duty was abolished by Section 5 of the *Estate Duty Abolition Act 1993*. No estate duty is payable on the estate of any person who died on or after the 17th of December 1992. The *Estate Duty Repeal Act 1999* fully repealed the estate duty, removing any reference to the *Estate and Gift Duties Act 1968*.

3.9.1 Evaluation of the 1992 Estate Duty Abolition

The New Zealand estate duty abolition debates are reported in Volume 534 of Hansard as part of the *Taxation Reform Bill (No. 6) 1992* debate. This section presents some of the key arguments made by MPs both supporting and opposing the abolition of the estate duty, as well as the views of relevant scholars.

3.9.1.1 Inflation and Avoidance

Wyatt Creech, then Minister of Revenue, endorsed the 1992 estate duty abolition. Creech (1993) claimed that the estate duty, "never achieved its original objective" (p. 11,458) of breaking up large estates owned by wealthy families. In addition, he criticised the ease by which the estate duty could be avoided by affluent taxpayers, as well as the $450,000 de minimis, which became increasingly susceptible to inflation during the 1980s. As Creech (1993) noted:

> The [estate duty] threshold has stayed the same since 1984. The people at the bottom end of the wealth scale, just tripping over into the area, found themselves liable for the tax but not sufficiently in a position to be able to get the accounting and legal advice that one needs to develop ways to get through it. (p. 11,458)

3.9.1.2 Productivity

Also approving the 1992 estate duty abolition, Mr John Robertson (1993), Member for Papakura, exclaimed: "The bill abolishes [the] estate duty, and I am pleased to see that happen" (p. 14,391). In Robertson's opinion, "an enormous amount of work went into drawing up trusts in New Zealand to try to avoid [the] estate duty" (1993, p. 14,391) and that such efforts (usually made by the wealthiest in society) were significantly unproductive. Robertson (1993) therefore alleged that removing the estate duty would facilitate an increase in productivity in New Zealand, especially amongst the farming community.

3.9.1.3 International Tax Competition

New Zealand also faced increasing pressures to abolish the estate duty after Australia repealed both its State estate duties (during 1977 – 1978) and its Federal estate duty (in 1979) (Duff, 2005). Australian protestors, primarily farmers and small business owners, campaigned to eradicate estate duties in Australia in the early 1970s (Green & McKay, 1979). The strength of this movement hinged on three factors (Duff, 2005). First, Australia had failed to adjust its exemptions to account for inflation. Consequently, many middle-income taxpayers previously exempt from estate duty became liable for this impost upon their deaths. The effectiveness of any tax regime hinges on it being perceived as fair (Tan & Braithwaite, 2018); some Australians felt that the estate duty thresholds did not reflect their economic positions, which weakened overall support for the regime.

In addition, both administrative and compliance costs continued to increase, as the revenue authority expended greater resources to collect minimal taxes (Green & McKay, 1979). As noted above, Australia also had both Federal and State estate duties. As these were duplicate systems, small and medium-sized enterprises (SMEs) suffered a greater burden to comply with the regimes (Duff, 2005). Finally, discretionary trusts were extensively utilised by the affluent and well-educated to reduce their (eventual) estate duty liabilities; such avoidance mechanisms shifted the burden onto SMEs and less-prepared taxpayers.

By repealing its estate duties, Australia provided New Zealand with international tax competition. As the *Estate and Gift Duties Act 1968* utilised a domus and situs basis to tax deceased estates, this encouraged affluent retirees to change their domicile to Australia (Duff, 2005). These practices further eroded the efficiency of the estate duty regime in New Zealand, fuelling criticisms that such taxes were prone to extensive tax avoidance (Duff, 2005).

Max Bradford, MP for Tarawera, held that Australia's estate duty repeals had contributed to a considerable decline in capital investment among wealthy New Zealanders, which would only be remedied by New Zealand's own estate duty abolition. As Bradford (1993) affirmed:

> It is well known that the estate duty has frightened people off from investing capital onshore in New Zealand so that they invest capital offshore… In Queensland, where it is tied up in assets that probably do not a lot for the Australian economy… but do nothing for New Zealand. (p. 11,462)

Bradford (1993) further declared: "The government does not want to discourage New Zealanders from saving or accumulating wealth, because from that comes the savings that are needed to get investment going again" (p. 11,462).

3.9.1.4 Insignificance

At the time it was abolished, the estate duty collected a mere 0.33% of total tax revenues in New Zealand (Table 3.4). As Littlewood (2012) claimed, abolishing the estate duty was "easily affordable and made virtually no difference to the state of the public finances" (p. 98). In 1985, only 1.1% of estates were dutiable for the estate duty (Table 3.2), and this would likely have been lower in 1992 (data was unavailable). As such, whilst it is plausible that most voters were unconcerned about the fate of the estate duty, the minority still obligated to pay it "were affluent, influential and resented it bitterly" (Littlewood, 2012, p. 98).

Table 3.4
Total Tax Revenues Collected by the Estate Duty (1955 – 1985)

Year	Estate Duty Collected (000)[20]	Total Tax Revenues (000)	Percentage of Tax Revenue Collected by Estate Duty
1955	£ 6,637	£ 234,800	2.83%
1956	£ 6,244	£ 244,800	2.55%
1957	£ 7,625	£ 252,900	3.02%
1958	£ 8,188	£ 244,900	3.34%
1959	£ 9,165	£ 305,200	3.00%
1960	£ 10,593	£ 297,300	3.56%
1961	£ 12,079	£ 334,500	3.61%
1962	£ 11,715	£ 358,200	3.27%
1963	£ 10,263	£ 342,000	3.00%
1964	£ 10,143	£ 371,200	2.73%
1965	£ 9,418	£ 422,300	2.23%
1966	[21]$ 20,928	$ 918,200	2.28%
1967	$ 21,158	$ 988,900	2.14%
1968	$ 20,241	$ 1,012,700	2.00%
1969	$ 22,050	$ 1,058,600	2.08%
1970	$ 24,669	$ 1,181,000	2.09%
1971	$ 27,751	$ 1,455,000	1.91%
1972	$ 23,670	$ 1,706,900	1.39%
1973	$ 26,714	$ 1,926,600	1.39%
1974	$ 31,018	$ 2,394,700	1.30%
1975	$ 38,360	$ 2,865,300	1.34%
1976	$ 50,524	$ 3,185,300	1.59%
1977	$ 51,697	$ 3,844,900	1.34%
1978	$ 45,668	$ 4,626,300	0.99%
1979	$ 49,320	$ 4,989,500	0.99%
1980	$ 47,470	$ 6,020,000	0.79%
1981	$ 37,217	$ 7,050,500	0.53%
1982	$ 30,159	$ 8,798,000	0.34%
1983	$ 29,918	$ 10,097,500	0.30%
1984	$ 31,271	$ 10,431,200	0.30%
1985	$ 29,405	$ 11,913,600	0.25%
1986	$ 25,196	$ 14,235,900	0.18%
1987	$ 29,698	$ 17,408,100	0.17%
1988	$ 41,635	$ 21,528,100	0.19%
1989	$ 58,819	$ 22,863,900	0.26%
1990	$ 74,177	$ 26,198,100	0.28%
1991	$ 77,231	$ 25,797,600	0.30%
1992	$ 78,342	$ 23,901,000	0.33%

Sources: *New Zealand Official Yearbook* (1957 – 1988; 1990); *Inland Revenue Department Annual Report* (1986 – 1988; 1992); compiled by the author.

[20] Figures for both estate and total tax revenues are presented in thousands (000) in this table.
[21] From 1967, the NZOY published data in New Zealand dollars ($).

3.9.1.5 Opposition

Much of the political opposition to abolishing the estate duty in New Zealand related to tax equity. Labour's Richard Prebble particularly resisted the estate duty abolition. His primary concern was vertical equity. Overall, Prebble (1993) felt that where "a certain group [the wealthy] is let off paying $80,000,000 worth of taxes, the responsibility for paying that $80,000,000 will be put on someone else" (p. 11,465). In addition, Prebble (1993) believed that the $450,000 de minimis was significant, a figure "far out of reach for most New Zealanders" (p. 14,467). Therefore, he believed that most taxpayers with estates over $450,000 could easily afford the financial advice required to plan around the duty.

Whilst in agreement that inflation had been problematic, Prebble (1993) disagreed that the proportion of middle-income earners struggling to pay the estate duty had been abnormally high. In addition, whilst agreeing that the estate duty had withered in political importance, Prebble (1993), disregarded promise keeping as rational grounds for abolishing the regime, noting that such election promises were hollow, and politically insignificant. Prebble (1993) also asserted that "people plan for their deaths, but not many people would be so keen on the matter that they will vote on it" (p. 14,467). Prebble (1993) deemed the National Government's rationale for abolishing the estate duty shaky.

3.10 Estate Duty in a Contemporary Context

Since the abolition of the estate duty in 1992, little has been published regarding the possible re-introduction of the estate duty in New Zealand. The NZPD too have remained relatively silent. In more recent years (since the repeal of gift duty in 2011), only a handful of members have discussed estate duty in Parliament. In most cases, politicians have engaged in political jabbing, rather than a constructive assessment of the pros and cons of re-implementing an estate duty regime. Nonetheless, some contemporary views on estate duty have been recorded in the NZPD, of which key examples are presented below.

3.10.1 Opposition to Re-introducing the Estate Duty

In Volume 689 of Hansard, Colin King, National MP for Kaikoura, criticised wealth taxation as facilitating an anti-growth society. King (2013) claimed:

> [Labour] wishes to introduce a CGT. It sees that as being a sort of silver bullet … But what it will do is morph into death [duty] through intergenerational assets being passed on, and that will affect growth within the farming industry. (p. 9,656)

3.10.2 Support for Re-imposing the Estate Duty

By contrast, Jan Logie (2015), of the New Zealand Green Party, denounced the lack of wealth taxation in New Zealand (including estate duty), claiming that such gaps facilitate greater wealth inequalities among taxpayers:

> When we know that we have … no inheritance tax, no gift duty, no general CGT to tax wealth … We know the [National] Government is not taking up even a smidgeon of the options open to it to be able to [address] inequality. (p. 5,876)

In a 2021 debate evaluating the Coronavirus disease's (COVID-19) impact on tenants and landlords, Julie Anne Genter (2021), Associate Minister of Health and Transport for the New Zealand Green Party, disapproved of inheritances remaining tax-free in New Zealand:

> We [the Green Party] do think that things could go further to rebalance [wealth] in favour of the people, the working people, and the businesses, away from the feudalism and the moneyed property owners, who somehow think they are entitled to keep extracting … excessive rents. That is, fundamentally, a structurally unfair aspect of our economy. It is feudalism. It is the case that owners, who benefitted from [their] inheritance, [through] no work of their own … are able to profit, simply from owning property. (p. 5,766)

3.10.3 Hypothetical

In recent years, the Labour Government has occasionally been questioned (usually during political jabbing) as to whether an estate duty would return under its leadership. In Volume 746 of Hansard, Grant Robertson (2020), Minister of Finance, divulged that "[re-introducing estate duty] is definitely not on the coalition [Labour] Government's agenda" (p. 18,257). Whether Robertson's claims will hold true in the near (and distant) future remains to be seen, particularly given the enduring (media) pressures for the government to address wealth inequality in New Zealand (IRD, 2023).

3.11 Summary

This chapter has explored the complex history of death duties in New Zealand from 1866 (the introduction of succession duty) to 1992 (the abolition of the estate duty). This chapter has shown that the 126-year lifecycle of death duty in New Zealand was far from stagnant, with the regime(s) receiving numerous (and sometimes significant) amendments during its existence. Overall, this chapter confirms that while, over time, the total percentage of tax revenue collected via the estate duty progressively decreased, the exemption thresholds climbed substantially after 1979.

In addition, this chapter has provided political reasoning from the NZPD as to why the estate duty regime was significantly altered in 1979. It has also explained the political arguments for, and against, abolishing the estate duty in 1992. Lastly, whilst estate duty has generally received little attention in contemporary New Zealand, the NZPD show that conflicts surrounding the taxing of wealth continue.

It is imperative for policymakers to consider history when assessing the feasibility of re-introducing a tax regime (such as estate duty). However, it is equally important to acknowledge the theoretical concepts underpinning the views which support and challenge the re-imposition of the estate duty in New Zealand. Such notions are explored in greater detail in Chapter 4.

Chapter 4: Literature Review Part B – Conceptual Overview of the Estate Duty Regime

4.1 Introduction

This chapter provides an analysis of the concepts both endorsing and challenging the re-introduction of the estate duty in New Zealand. The chapter begins by presenting the rationales supporting the re-institution of the estate duty, followed by an array of hypothetical difficulties associated with levying such a regime in New Zealand.

4.2 Support for the Estate Duty

Conceptually, there are numerous reasons why taxpayers in New Zealand might support an estate duty. This section elaborates on some of those factors, first considering the principles of Equality of Opportunity and Social Justice, and then providing a discussion of inherited inequalities. Finally, this section evaluates how horizontal and vertical equity might be improved by imposing an estate duty.

4.2.1 Equality of Opportunity and Social Justice

Beckert (2008) has outlined several distinct value principles, each of which evaluates how inherited sums from deceased estates should be divided up. Of these, the Equality of Opportunity, and Social Justice Principles support an estate duty.

The *Equality of Opportunity Principle* recognises societal inequality as arising from generational transmissions of wealth in affluent families (Beckert, 2008). According to this principle, estate duty is reasonable, as it redistributes inheritances from the affluent and provides these sums to less advantaged members of society (Groenewegen, 1985). This process minimises the initial financial advantage held by wealthy individuals and provides financial support to those most in need (Powell, 2021).

The *Social Justice Principle* also justifies estate duty, as it corrects unequal (financial) taxpayer successes (Beckert, 2008). Taxing a wealthy individual's estate is rational, as these taxpayers have a greater financial ability to pay. The provided tax revenues can be used to help reduce poverty in less financially stable communities (Rashbrooke, 2021).

4.2.2 Inherited Inequalities

The estate duty also addresses inherited inequalities, and by doing so, aligns with the Equality of Opportunity Principle. Empirical evidence provided by Bowles and Gintis (2001) found that affluent parents can provide their children with competitive advantages that most middle and lower-income parents cannot. Advantages more affluent children may benefit from include receiving a higher quality of education and social group advantages. Enhanced cognitive abilities, genetically transmitted from parent to child, can also enhance these benefits in affluent families (Bowles & Gintis, 2001).

Bowles and Gintis (2001) found that children of all wealth levels usually have similar levels of cognitive ability at a young age. Educational opportunities and social environments are, therefore, key drivers of intergenerational wealth. Inherited intelligence influences a child's ability to learn. In a later study, Bowles and Gintis (2002) found that affluent children are more likely to attend private schools or high decile public schools. According to Rashbrooke (2021), "wealth opens up opportunities to live in certain areas and get one's children into certain kinds of schools" (p. iv). As such, affluent children may receive a higher quality of education, establishing a pathway to succeed at the tertiary level.

Many affluent parents also possess the tools necessary to hire private tutors, which also imparts an educational advantage (Coram, 2021). These privileges are supplemented by "similarities in [parent-offspring] traits [which influence] wealth accumulation, such as orientation towards the future, sense of personal efficacy, work ethic, schooling attainment, and risk-taking" (Bowles & Gintis, 2001, p. 4,137). Such parent-offspring similarities mean that affluent children may have a greater opportunity of obtaining a proportionately higher-paid job. From this viewpoint, "people with serious wealth can concentrate opportunities and goods around themselves, and pass these onto their children" (Rashbrooke, 2021, p. v).

In addition, Bowles and Gintis (2001) found that young individuals with affluent parents were more likely to associate with others of a similar class. Such groups might share relatable economic backgrounds and thus have parallel expectations placed upon them to succeed, both academically and financially (Bowles & Gintis, 2001). Those from middle and lower-income families may not associate with such groups. To fit in, youths of affluent families may feel obligated to succeed academically and career-wise, facilitating a greater concentration of wealth in such families (Rashbrooke, 2021).

4.2.3 Horizontal and Vertical Equity

In general, the estate duty should be viewed favourably as it satisfies Smith's (1991) maxim of *equality*[22] (generally referred to in present-day New Zealand as horizontal and vertical equity). According to Smith (1991), "the subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state" (p. 269). Those with greater wealth are (usually) taxed the most by an estate duty, fulfilling vertical equity. Those with similar wealth accumulations also generally face a similar estate duty burden, which satisfies horizontal equity.

Furthermore, the tax revenue generated by the estate duty lessens the revenue pressures on other tax forms (supporting vertical equity), as revenue generated from income tax or Goods and Services Tax (GST) (for example) can now be generated via the estate duty (O'Dwyer, 2001). The overall tax take from those less wealthy should also reduce proportionately (O'Dwyer, 2001), as the estate duty usually has a de minimis threshold (which income tax and GST do not).

4.3 Potential Challenges to Re-introducing an Estate Duty

Whilst the theories above endorse levying an estate duty in New Zealand, there are numerous factors which might challenge the re-implementation of such a tax, each of which are presented below.

4.3.1 Behavioural Variables of Tax Compliance

Jackson and Milliron (1986) have discussed several factors which can influence whether a taxpayer complies with their tax obligations. Each of these variables (presented below) outlines some of the behavioural issues a new estate duty could face if re-introduced.

[22] Smith (1991) has noted that there are four maxims (characteristics or qualities) that a *good* tax system should uphold; including equality, certainty, convenience, and economy. According to Smith (1991), a good tax system should incorporate taxes which are levied 1) based on a taxpayer's ability to pay (equality), 2) where the taxpayer has relevant certainty as to the amount he or she will pay (certainty), 3) where the tax is due at a time suited to the taxpayer (convenience), and 4) the amount of tax collected is sufficient for the administrative and compliance cost of raising such tax revenue (economy). In contemporary New Zealand, Smith's (1991) maxims have been modified and extended to include certainty, revenue integrity, efficiency, complexity, coherence, and equity (see the reports of the TWG (2010; 2019)). Each of these concepts is discussed in more detail in Chapter 5 but can be linked to Smith's (1991) initial maxims of a *good* tax system.

4.3.1.1 Perceptions of Fairness

All taxpayers are influenced by their perceptions of horizontal and vertical equity (Jackson & Milliron, 1986; Yong et al., 2019). When an individual views a tax regime as fair, they will be more likely to voluntarily comply with their tax obligations (Richardson & Sawyer, 2001). Fairness also relates to how well-regulated tax regimes are. An example of fairness is preventing wealthy taxpayers from shifting their incomes into low-tax jurisdictions (Tan & Braithwaite, 2018). Such loopholes reduce the tax burden on the wealthy and increase the financial burden on middle and lower-income individuals.

For an estate duty, fairness is particularly relevant. As noted in Chapter 3, an individual's final estate balance may be determined either by the domus of the taxpayer (the jurisdiction that a person treats as their permanent home), the location of the property (situs), or both (Littlewood, 2012). Only affluent taxpayers have the financial capacity to shift their capital offshore, which gives them greater (inherent) opportunities to avoid the estate duty (Advani & Tarrant, 2021).

4.3.1.2 Tax Law Complexity

Jackson and Milliron (1986) have noted that "the excessive detail in the law and the numerous computations required" (p. 138) may influence how complex a tax regime is perceived to be. A tax with clearly defined rules, few exceptions to the rules, and which is simple to compute, may be easier for taxpayers to understand. A taxpayer who understands tax laws is also more likely to view tax compliance as achievable. However, where there are uncertainties, some taxpayers may become frustrated and less willing to comply (Richardson & Sawyer, 2001).

Smith's (1991) maxim of *economy* relates to the concept of legislative complexity. Smith (1991) has argued that "every tax ought to be so contrived, as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury of the state" (p. 270). Smith (1991) has further stated that "by subjecting the people to the frequent visits and the odious examination of the tax-gatherers, it may expose them to much unnecessary trouble, vexation, and oppression" (p. 271). Finally, Smith (1991) concluded that "taxes are frequently so much more burdensome to the people than they are beneficial to the sovereign" (p. 272).

There are many variables to consider when regulating an estate duty. Which exemptions (if any) should apply? Is it necessary to include spousal or family exemptions, or discounted rates? Should the matrimonial home be exempt? There are also complexities relating to *when* the estate duty is due, whether exemptions should be provided for charitable bequests, and which scale of rates should be utilised. Such complexities may make administrative and compliance costs unnecessarily high (Sadiq & Sawyer, 2019).

4.3.1.3 Tax Law Education

Taxpayers are more likely to comply with their tax obligations if they have the necessary knowledge and resources and a moral incentive to comply (Richardson & Sawyer, 2001). Through education, taxpayers are more likely to understand the duty they have to society to pay taxes and know what societal infrastructures benefit from the tax regimes in place. Education can reduce negative feelings towards taxation and may make taxes appear less daunting to comply with (Tan & Braithwaite, 2018).

By contrast, while those well-educated in tax laws may know their obligations towards paying taxes, they may also have the capability to exploit tax loopholes (Richardson & Sawyer, 2001). As Bowles and Gintis (2001) have explained, wealthy taxpayers usually have access to better education. Therefore, due to being levied on affluent individuals, an estate duty may have inherently greater chances of being avoided.

4.3.1.4 Peer Influence

Jackson and Milliron (1986) found that voluntary compliance decreased when taxpayers had peers or were part of social groups who viewed non-compliance as acceptable. Conversely, taxpayers were more likely to voluntarily comply if their peers viewed paying taxes as a moral duty (Hasseldine et al., 1994; Yong et al., 2019). Richardson and Sawyer (2001) have also noted that peer influence may lead a taxpayer to rationalise non-compliance activities they previously viewed as unethical.

How an individual views bequests and inheritance can be significantly influenced by their peers (Coram, 2021). For some, family expectations can influence a testator to save as much as possible, whilst others such as politicians, and celebrities, may face reputational pressures to bequeath to charities (Wiepking et al., 2012). Peer influence may explain why there is, to this day, a vast range of opinions and beliefs surrounding the taxing of estates and inheritance.

4.3.1.5 Detection Risk

According to Yong et al. (2019), tax evasion has a strong association with perceived opportunity. In general, taxpayers are more likely to evade taxes when they view the cost of being detected and sanctioned as lower than the benefit of non-compliance (Tan & Braithwaite, 2018). By contrast, taxpayers who view tax systems as well-regulated should perceive the risk of being detected as greater, or the revenue authorities as capable of detecting withheld taxable income (Yong et al., 2019). For an estate duty, compliance would likely hinge on how well non-compliance was prevented (or perceived to be prevented) and how such prevention was publicised.

4.3.1.6 Wealth/Income Level

Overall, middle-income earners are more tax-compliant than high or low-income earners (Richardson & Sawyer, 2001). This is due to their lack of capability and opportunities to avoid taxes. Much of their income stems from sources (employment) easily monitored by revenue authorities and the tax is usually withheld at source (Hasseldine et al., 1994; Tan & Braithwaite, 2018). By contrast, high-income and high-net-wealth individuals often obtain their income from sources not subject to information reporting, so may have greater opportunities to evade their taxes (Jackson & Milliron, 1986). An individual's wealth/income level is particularly relevant for an estate duty, due to the regime (generally) targeting affluent taxpayers (Littlewood, 2012).

4.3.1.7 Tax Rate

Tax rates also influence tax compliance, with the latter also related to fairness and ethics (Jackson & Milliron, 1986). A top marginal tax rate is more likely to encourage non-compliance when the tax rate is viewed as unreasonable. The propensity not to comply will also vary based on the individual taxpayer's ethical stance. Taxpayers may have different moral viewpoints on what is ethical; this can influence how risk-averse the taxpayer is. As the marginal tax rate increases, some may view paying tax as good for society so will continue to pay, regardless of the financial costs. Others may be motivated to under-declare their incomes or arrange their affairs to gain personal benefits.

Richardson and Sawyer (2001) have discussed how attitudes toward tax rates vary depending on taxpayers' perceptions of horizontal equity. Where a taxpayer knows of others in a similar economic position paying less tax, they are more likely not to comply. For a new estate duty, the rate(s) of tax levied would require careful consideration. For example, what would be perceived as fair but would also collect adequate tax revenue?

4.3.2 Family Rights to Inheritance

4.3.2.1 Family Principle

In contrast to the Equality of Opportunity and Social Justice Principles, the *Family Principle* arguably contributes the strongest support for not levying estate duty on a deceased's estate, regardless of their net worth (Beckert, 2008). The Family Principle views the testator's wealth as belonging to the family, not the individual (Beckert, 2008). As such, estate duty should not be paid when an individual dies as the remaining family are still living and fully entitled to use the property. Thus, from this perspective, there is no deeming event (death) for the estate duty (Powell, 2021). The Family Principle also supports a parent's right to financially safeguard their children; if enacted, an estate duty would hinder their ability to do so (Pedersen & Bøyum, 2020).

4.3.2.2 Bequest Intention

Bequest intention might also challenge an estate duty. An *intentional bequest* is predetermined and often driven by altruistic reasons (Blumkin & Sadka, 2004). Via a will, the testator selects *who* the inheritors are and decides *what* portions of wealth each successor will receive upon their death. By contrast, an *accidental bequest* results from an unanticipated, early death (Fleurbaey et al., 2022).

There are generally two long-term reasons why individuals save their wealth; for retirement and/or altruistic purposes (such as saving for family or charity) (Leroux & Pestieau, 2022). The wealth saved is, therefore, kept for different motives. Many individuals die younger than anticipated (Fleurbaey et al., 2022). When a testator's wealth is distributed, inheritors will usually receive the intended bequest; however, they may also receive sums initially reserved for the testator's retirement (accidental bequest). A key question is whether the intended and accidental sums should be taxed differently.

It could be argued that the accidental wealth was never retained to bequeath to the deceased's beneficiaries. Therefore, inheritors should be no worse off if confiscatory taxes were levied, perhaps up to 100% on *accidental* wealth (Blumkin & Sadka, 2004). However, such a distinction would be difficult to administer, and the Family Principle may provide a barrier to its implementation (Coram, 2021). Whilst the focus behind wealth accumulation differs between wills and retirement, the testator's desire to look after their family remains paramount

(Beckert, 2008). A confiscatory tax would proportionately weaken the children's financial position, which contradicts a parent's altruistic motive (Fleurbaey et al., 2022).

4.3.2.3 Timing

In contrast to income tax and GST, the estate duty is triggered during periods of heightened emotion and stress. It is only upon the testator's death that such a regime becomes dutiable. As grief can intensify an individual's emotions (Sood et al., 2006), an adverse perception toward estate duty may be strengthened when (and if) a beneficiary views the estate duty as unjust. Lin et al. (2018) have also highlighted that compounding the deceased's family's grief with a death duty may increase the unpopularity of such a duty.

In the parliamentary debate evaluating the *Estate and Gift Duties Amendment Bill 1979*, Doug Kidd, MP for Marlborough, asserted that increasing the estate duty de minimis from $25,000 to $100,000 would save many families extra stress during their time of grief. As Kidd (1979) claimed: "Just over 6,500 families would be totally exempt under this [de minimis] provision, from the grief and strain imposed by [the estate duty] in the midst of the trying circumstances of a death in the family" (p. 1,199).

4.3.3 International Tax Competition–- Australia

As discussed in Chapter 3, Australia repealed its State estate duties during 1977 and 1978, and its Federal estate duty in 1979 (Duff, 2005). If New Zealand was to re-introduce an estate duty (in the absence of Australia also re-introducing its estate duties), adequate anti-avoidance provisions might be necessary to prevent wealthy individuals from migrating offshore to avoid paying the duty (Advani & Tarrant, 2021).

4.3.4 Relationship with Gift Duty

4.3.4.1 General

The *Estate and Gift Duties Act 1968* levied duties on both estates and inter vivos gifts. As noted in Chapter 3, gift duty was initially introduced by the *Deceased Persons' Estate Duties Amendment Act 1885* to prevent the avoidance of estate duty (Littlewood, 2012). The definition of *gift* was eventually changed by the *Taxation (Tax Administration and Remedial Matters) Act 2011*, which ensured that no gift duty was payable on gifts given in New Zealand after the 1st of October 2011. If an estate duty was re-introduced, it would be crucial to evaluate how gift duty might be utilised to mitigate avoidance (of the estate duty) through extensive inter-vivos gifting.

Like the estate duty, Section 63 of the *Estate and Gift Duties Act 1968* taxed a dutiable gift based on the domus of the taxpayer, and the location (situs) of the gift, at a rate of up to 25%. Section 71 provided a $200 exemption when gifts were “made by the same donor to the same donee in the same calendar year” (Estate and Gift Duties Act 1968, p. 275). This exemption was raised to $400 in 1974 (Estate and Gift Duties Amendment Act 1974), $1,000 in 1979 (Estate and Gift Duties Amendment Act 1979), and $2,000 in 1984 (Estate and Gift Duties Amendment Act 1983).

In addition, the *Estate and Gift Duties Act 1968* provided a gift duty de minimis, in which an individual could gift up to a total of $4,000 in any 12 months without paying gift duty. This exemption increased to $8,000 in 1976 (Estate and Gift Duties Amendment Act 1976), $15,000 in 1979 (Estate and Gift Duties Amendment Act 1979), and $27,000 in 1984 (Estate and Gift Duties Amendment Act 1983).

4.3.4.2 Behavioural Factors

Individuals may gift inter vivos for several reasons, including to mitigate the estate duty payable upon death (Advani & Tarrant, 2021). For example, a testator may give important property (such as family heirlooms) away whilst alive, so they can fully control who obtains these assets (Powell, 2021). In addition, gifting may occur for altruistic purposes, such as providing premature wealth to future successors. Such actions also enable the testator to experience the *joys of giving* (Powell, 2021). Nevertheless, inter vivos gifting is (usually) more likely to occur in affluent families due to greater volumes of expendable wealth (McGarry, 2000).

Whilst inter vivos gifting may provide a tax incentive, not all prosperous taxpayers will take advantage of inter vivos gifting to avoid their estate duty liabilities (McGarry, 2000). Some taxpayers are risk-averse, fearing that too much gifting would leave them with insufficient wealth to last their retirement. Others may simply refuse to give up authority over their property or believe their children to be less responsible investors.

Supporting McGarry (2000), Advani and Tarrant (2021) have claimed that “very wealthy individuals may be best placed to take advantage of the opportunity to gift, as they can maintain a high standard of living while sacrificing benefit and control over some of their assets” (p.

524). Furthermore, Joulfaian (2016) has stated that “lifetime gifts are highly responsive to changes in gift [duty] rates” (p. 852). Joulfaian (2016) found that, in the absence of estate duty, the practice of inter vivos gifting may decline substantially (up to 60%). This finding indicates the strong relationship between the estate and gift duty regimes.

4.3.4.3 Legislative Provisions

In the United Kingdom (UK), substantial gifts given within seven years of the testator’s death (with the exception of gifts to spouses) are subject to an inheritance tax (Advani & Tarrant, 2021). Before its abolition, Section 10 of the New Zealand *Estate and Gift Duties Act 1968* included any gifts made by the deceased (within three years of their death) as part of the dutiable estate. Without a similar gift duty mechanism, inter vivos gifting might “reduce the level of bequests chargeable to inheritance tax upon death” (Advani & Tarrant, 2021, p. 525), and diminish the revenue collection capacity of such taxes.

4.3.5 Other Policy Issues

4.3.5.1 Jurisdictional Scope

It is crucial to evaluate the jurisdictional scope of the estate duty. Tax rules should mitigate double taxation and prevent resident taxpayers from concealing their taxable incomes overseas. As discussed above, the *Estate and Gift Duties Act 1968* taxed the deceased based on domus and situs. Whether these rules should be reinstated or adapted would require thorough consideration.

4.3.5.2 Dutiable Rate(s)

Selecting the applicable rate(s) of the estate duty is also complex. For a CGT, Littlewood (2018) highlighted several potential rate options. These are relevant to estate duty, as both CGT and estate duty are wealth taxes. Firstly, capital gains could be added to the seller’s income in the year of sale and taxed at the appropriate income tax rate, or it could be varied depending on the length of time such capital had been held. The first method may reduce horizontal equity issues, as capital and income would be taxed at the same rate (Littlewood, 2018).

Taxing bequests as income could work if the duty was levied based on the beneficiary’s yearly revenue (a form of succession duty). In doing so, less well-off inheritors could be taxed at a lower rate than those who were wealthier, reflecting vertical equity. The rate could also vary based on the nature of the bequest and include whether it was accidental or intended, the age of the deceased, and/or whether it was for charitable purposes (Blumkin & Sadka, 2004; Leroux & Pestieau, 2022; Wiepking et al., 2012). Otherwise, flat rates might be levied. However, whilst this option would be simpler, it would be regressive. Thus, policymakers would have the critical task of choosing dutiable rates that were efficient but also perceived as fair by the wider public (Richardson & Sawyer, 2001).

4.3.5.3 Cash-flow Issues

The *convenience* of paying the estate duty (another of Smith's (1991) maxims) would also need considering. As stated by Smith (1991), "every tax ought to be levied at the time, or in the manner, in which it is most likely to be convenient for the contributor to pay it" (p. 270), and this should usually be "when he [or she] is most likely to have [the financial] wherewithal to pay [the tax]" (p. 270). From one perspective, the estate duty should be deemed a convenient tax as the duty is only collected upon the death of an individual with sufficient assets. Therefore, at no point in a person's life will they be inconvenienced by having to pay the estate duty.

However, cash-flow issues can often arise with estate duty, especially when the deceased's estate consists primarily of non-liquid assets. In such cases, the estate duty may be regarded as an inconvenient tax as the taxpayer may not have adequate cash available to pay it; hence, the question arises as to whether roll-over relief should be provided (Littlewood, 2018). In situations such as these, should the tax be postponed until successors sell the capital assets? Such policies may, however, encourage a *lock-in effect*; in other words, beneficiaries may choose to hold onto the capital asset to avoid paying the estate duty (Joulfaian, 2016). It would, therefore, be important to develop rules that prevented these behaviours, such as time limits for selling inherited assets (although such a provision would make the estate duty more complex in its design). Such issues reflect the challenge of levying a tax around a specific event (rather than routinely, e.g. income tax).

4.3.5.4 Asset Class

Policymakers would also need to clarify which asset classes were included within the estate duty's dutiable base. Littlewood (2018) has suggested that gains arising from land of all kinds (except the family home), shares in listed companies, other listed securities (debt instruments, derivatives, interests in collective investment vehicles), shares in unlisted companies, and collectables (works of art, antiques, etc) should be subject to a CGT. Should these asset forms also be considered under an estate duty?

4.3.5.5 Tax Form

It would also be necessary to consider the form of the tax. Should separate legislation be drafted, or would it be sufficient to incorporate the estate duty within the existing *Income Tax Act 2007*? As the estate duty has a history in New Zealand (McKay, 1978; Littlewood, 2012), there is the option to re-write legislation similar to the repealed *Estate and Gift Duties Act 1968*. Further considerations would relate to *whom* we were taxing. Would it be an inheritance or an estate tax (or both)? Regardless of the form of death duty, policymakers would need to provide concise and consistent tax rules to ensure that the new tax laws were perceived as fair by taxpayers (Jackson & Milliron, 1986; Richardson & Sawyer, 2001; TWG, 2010; Yong et al., 2019).

4.3.5.6 Coherence

During the late 1980s, New Zealand underwent extensive tax reforms (TWG, 2010). The excerpt below highlights and evaluates the impact such reforms had on the strategic direction of the New Zealand tax system. As the TWG (2010) stated:

> Through the late 1980s, reforms lowered personal and company tax rates, removed tax preferences for various sorts of activity like exports, eliminated taxes such as stamp and estate duties and widened the tax base. Most notably through the introduction of a single consumption tax, GST, that replaced sales taxes. These changes improved the efficiency and equity of the tax system relative to the comparatively narrow-based, high-rate system that preceded it. (p. 16)

The most notable change to the 1980s New Zealand tax system was a shift to a broad-based, low-rate system with few exemptions. In contrast, the estate duty is a narrow-based regime, as it only taxes affluent individuals (Coram, 2021), and usually offers numerous exemptions (Estate and Gift Duties Act 1968). If an estate duty was re-introduced in New Zealand, would a narrow-based tax work with the low-rate broad-based systems currently in place? It is worth noting that in the absence of a comprehensive CGT, an estate duty should broaden the tax-base in New Zealand by taxing wealth.

4.4 Summary

This chapter has presented an in-depth analysis of the theories both supporting and challenging the re-introduction of the estate duty in New Zealand. Whilst it is vital to consider tax history before making policy decisions (Chapter 3), it is also critical to recognise some of the benefits and difficulties associated with introducing a new tax. As this chapter has argued, an estate duty might reduce wealth inequality and improve the overall fairness of the New Zealand tax system. However, this chapter has also identified the numerous behavioural and technical challenges of imposing a new estate duty, each of which would require a thorough appraisal by policymakers.

Given that approximately 30 years have passed since the abolition of the estate duty in New Zealand, is now the right time to re-introduce an estate duty to help reduce current wealth inequalities? Are the factors which led to the 1992 estate duty abolition still relevant in present-day New Zealand? Finally, would the benefits of re-introduction outweigh the difficulties associated with doing so? Such questions are explored in Chapter 5 (the semi-structured interview results).

Chapter 5: Interview Results

5.1 Introduction

This chapter presents the findings of the semi-structured interviews conducted with the tax practitioners and tax academics outlined in Chapter 2. The chapter is divided into four sections, with each answering a separate research question (with the exception of Section 5.5). The research questions are furnished below and are restated in turn:

RQ 1: What were some of the factors which contributed to the estate duty being abolished in New Zealand in 1992?

RQ 2: To what extent do tax practitioners/academics support re-introducing the estate duty in contemporary New Zealand? Why? Why not?

RQ 3: If the estate duty was re-introduced, what issues would need to be considered?

The first section (5.2) of this chapter (historical analysis) presents interview data that provides additional background for the 1992 abolition of the estate duty. Section 5.2 also supplements and extends on the secondary data presented in Chapter 3. This section covers a range of subject matter including poor revenue raising, tax avoidance, inflationary troubles, farming, practical and psychological changes to taxing wealth in New Zealand, and politics.

Section 5.3 presents the participants' conceptual views, both in support of and in opposition to the re-introduction of estate duty. Key features elaborated on in this section include the function of estate duty, as well as matters of revenue raising and politics.

Section 5.4 provides a comprehensive examination of the practical issues which could potentially arise if an estate duty was re-introduced. This section covers a variety of topics, including the selection and valuation of assets, dutiable rate(s), liquidity concerns, possible exemptions and concessions, inter-vivos gifting, trusts, migration, and finally considerations of domicile and tax residency.

Lastly, Section 5.5 outlines an alternative proposition, made by Participants D, F, and I, to tax successors on inheritances received, rather than levy an estate duty on the deceased's estate. Although inheritance taxes were not the primary focus of this research, such findings are relevant and provide an additional option for policymakers to consider.

5.2 Section 1: Abolition Causes

5.2.1 Introduction

RQ 1: What were some of the factors which contributed to the estate duty being abolished in New Zealand in 1992?

This section (answering the first research question) furnishes primary data in relation to the key factors which contributed to the estate duty being abolished in New Zealand in 1992. Seven participants claimed to have previously worked with the estate duty regime in New Zealand. The author found that those without prior estate duty experience generally contributed little concerning why the estate duty was eventually abolished. In contrast, those with a significant estate planning background identified a range of different factors. The exceptions to this were Participants D, G, and I (tax academics), each of whom offered multiple abolition suggestions (as they had previously researched death duty in detail), though they had not worked with the regime themselves.

This section begins by highlighting the issues of poor revenue raising coupled with high administration and compliance costs. This is followed by a detailed discussion of several tax planning dilemmas, including inter vivos gifting, behavioural distortions, the voluntary nature of the estate duty, the tax rate, and a controversial *Matrimonial Property Act 1976* loophole. The section then elaborates on the matters of inflation and farming, followed by an overview of the 1980s tax reforms and the political ease with which the incumbent National Government abolished the estate duty in 1992.

5.2.2 Poor Revenue and High Costs

Several participants cited *poor tax collection* as the key grounds for the demise of the estate duty in New Zealand. In addition, some participants felt that the estate duty was excessively costly to administer and comply with, prompting efforts to abolish the regime in 1992. As Participant K claimed: "By 1992 [the estate duty] was collecting a tiny amount of revenue. I think it was about 0.2% of the total tax take at the time." Furthermore, Participant K maintained: "There were millions of dollars wasted by the IRD in terms of trying to police [the estate duty], all for the collection of a tiny amount of revenue."

5.2.2.1 Convoluted Process

Participant H noted that collecting the estate duty was often a convoluted exercise, which resulted in high compliance and administration costs, but low tax revenues:

> The estate duty caused the cost of estate administration to rise for virtually most estates. When somebody died, all of the assets were frozen and could not be touched until had been granted, which was the acknowledgement by the court that the wills were valid. And probate could not be granted until the IRD signed off that the estate duty was paid or not payable … This layer of taxing was a major problem.

5.2.2.2 Gifting Clawback

Participant H also held that high administration and compliance costs were typical, due to assets recently gifted being clawed back into the deceased's estate. According to Participant H:

> Any gifts made within three years of the date of death were aggregated back, so there was a need to check on gifts. [The IRD] used to also require bank statements for at least three years. So, you had to go to your banks to try and explain large transactions. And if people didn't keep track of their chequebooks that would be problematic and time-consuming.

In agreement, Participant J professed that the estate duty was costly to maintain, as taxpayers (and the IRD themselves) would expend significant funds furnishing (and approving) gift declarations:

> Inland Revenue had a whole office with staff stamping papers of gifting declarations, about three or four people. They never looked at [the declarations], they just stamped them. So, you had a massive industry of people doing gift declarations all over the place, and gifting programmes, which had a very high compliance cost, with no value in it whatsoever.

5.2.2.3 Share Market Crash

Whilst acknowledging that the estate duty collected little tax revenue in the early 1990s, Participant N believed the share market crash of 1987 was partially responsible for this decline. It was their view that several (wealthy) estates would have decreased in value as a result of the share market crash, contributing to less estate duty being collected. As Participant N noted: "There was a huge share market crash [in 1987], meaning that many people's assets would have gone down [in value] … So many [taxpayers] wouldn't have had to pay much [estate duty]."

5.2.3 Tax Planning

Concerning tax collections, several participants accredited the downfall of the estate duty in New Zealand to extensive (uncontrolled) tax planning. Most participants agreed that wealthy taxpayers found it easy to avoid the estate duty and that the financial incentive to engage in tax planning discouraged productive investment. Furthermore, some participants believed that the New Zealand courts' broad acceptance of tax planning contributed to only middle-wealth and stubborn taxpayers paying the duty. As Participant H declared, "avoidance of [the] estate [duty] was never subject to restriction. Estate planning, and therefore protecting your descendants by not having to pay as much estate duty, was seen as quite a legitimate activity."

5.2.3.1 Purpose

With many affluent individuals engaging in tax planning, Participant H maintained that the estate duty (during the 1980s) no longer achieved its purpose of breaking up wealthy estates: "[The estate duty] never actually changed the structure of wealth in New Zealand. The wealthy were still wealthy." As such, the abolition of the estate duty might have been justified on that basis.

5.2.3.2 Debt Forgiveness

Participants G and J claimed that "debt forgivenesses" were the key tax planning technique utilised to avoid the estate duty. Such debt forgiveness predominantly involved wealthy taxpayers prematurely shifting their assets into trusts to reduce their estate duty liabilities. As Participant G explained:

> What you would do is, as soon as you were affluent enough to think that you might have [an estate] duty liability, you would sell your appreciating capital assets to your family trust at market value, and you would leave the debt outstanding. You would then forgive the debt at $27,000 a year, which was the threshold beneath which no gift duty was payable. So, the debt would shrink over the years at $27,000 per year or $54,000 per year if you were married. Any increase in the value of the asset would be inside the trust and so not susceptible to the [estate] duty.

Participant J criticised this form of tax planning, arguing that the judiciary should have recognised such activities as gifting. In doing so, the estate duty regime might have been less susceptible to avoidance. As Participant J stated:

> The main technique was to set up a trust and then lend money to the trust, interest-free, repayable on demand … The court case *Re Marshall*[23] found that interest-free, repayable on demand was not a gift, even though it clearly was… So, the courts sanctioned this. Then, when the person retired, they would live off the repayment of the loan and they'd end up below the [estate duty] threshold … And this, of course, meant no tax.

5.2.3.3 Distortionary Behaviours

With regard to asset structuring, Participant K claimed that abolishing the estate duty was necessary to correct distortionary behaviours in the marketplace: "[The estate duty] was very inefficient because it was causing people to structure assets in a way that was done for estate duty reasons, not for commercial or rational business reasons." Participant L declared that distortionary behaviours were incentivised by the estate duty due to the triggering event being death (which could be planned around). As such, abolishing estate duty facilitated better economic decision-making on the part of the taxpayer:

> We had a range of deadweight costs (including estate duty, stamp duty, and gift duty) that were being imposed at certain times or upon the occurrence of certain events, and people were planning around that. This was driving individuals' behaviour in an unproductive way that wasn't making a contribution to the economic well-being of the country overall. (Participant L)

In agreement with Participants K and L, Participant E professed that estate duty was particularly distortionary for the farming community: "Estate duty, and its partner in crime [stamp duty], were entirely distortionary at a time when farmers were increasingly being asked to make high-quality economic choices. They were entirely distortionary and drove a fundamental misallocation of capital resources."

[23] *Re Marshall (Deceased), CIR v Public Trustee* [1965] NZLR 851 (CA). As noted above, the result of this case was that the failure to demand interest on a loan did not amount to a disposition of property. As such, an individual could engage in a *debt forgiveness* without being caught under the *Estate and Gift Duties Act 1968*.

Participant K further affirmed that by encouraging taxpayers to engage in tax planning, the estate duty triggered significant family disputes with respect to asset ownership:

> People who were incentivised to relinquish ownership of their assets inevitably ran the risk of that causing significant problems if there was a family bust-up. So, there were a number of jurisdictional cases over the years where there were family disputes, and the assets were owned by a trust. Who actually owned the assets?

5.2.3.4 Discretionary Nature

Participants H and K ascribed the discretionary nature of estate duty as another key reason for the regime being abolished. According to these participants, only affluent individuals could afford tax planning. Therefore, less wealthy taxpayers (still above the threshold) could do little (tax-free) to reduce their estate duty liabilities. Moreover, of those prosperous enough to engage in tax planning, some would choose not to structure their assets within a trust. Thus, they too would experience the full burden of the estate duty. As Participant H explained:

> The [estate duty] was unfair because it basically ended up being a [duty] on the stubborn and the ill-educated. If you were a bit more sophisticated, and listened to your accountant or lawyer, your family would pay less estate [duty].

Participant K also condemned the estate duty for confiscating the assets of ill-prepared taxpayers:

> I spent countless hours in front of distraught families who faced the reality that the business that had been in their family for 100 years was going to have to be sold, because they hadn't done their tax planning, and they faced a 40% liability which could only be paid by selling the business … [The] estate duty was effectively confiscating people's assets!

5.2.3.5 Gift Duty Rate

Participant G critiqued the comparative difference between the maximum estate duty (40%) and gift duty rates (25%). Participant G asserted that such a broad variance motivated greater inter vivos transfers of wealth, which further eroded the tax take of the estate duty regime: "The rate of gift duty was a lot less [than the estate duty] … Even if you did have to pay [gift duty], it was taxed at a much lower rate than the [estate duty], which was problematic."

5.2.3.6 Estate Duty Rate

Participant K criticised the maximum tax rate levied on deceased estates (40%), attesting that such scales were excessive and encouraged civil disobedience among wealthy taxpayers:

> The 40% rate actually was one of the key contributors to destroying the estate duty, because it was so vicious. Also, bear in mind that we were in an era where the maximum income tax rate was 66%. When you bought a car, you were paying 60% sales tax on the car … And then on top of that, they were going to impose 40% on your net worth when you died. "No, get lost!" That was the attitude. People would say "I will not do this, this is extreme legislative theft"… So, tax planning went berserk!

Participant K also alleged that high dutiable rates incentivised capital accumulators to migrate offshore: "With a 40% [estate] duty, it wasn't rational [for wealthy taxpayers] to remain living in New Zealand, so we lost a number of high-net-worth individuals." As such, abolishing the estate duty removed some of the incentive to emigrate.

5.2.3.7 Loophole in the Matrimonial Property Act 1976

In addition to trust structures, Participant H accredited a loophole in the *Matrimonial Property Act 1976* to significantly diminishing the efficiency of the estate duty. As Participant H explained:

> The transfer of property under an order of the court in the Matrimonial Property Act 1976 was exempt from estate duty, gift duty, and stamp duty… And a little section, in the beginning, said that the courts may approve a dissolution of marriage or other situations where they see fit and just … so, a clever lawyer [in the late 1970s], had a client with an estate planning problem. He and his wife had built up a successful business from very little … They were in their 60s and all of the assets were in his name … Under the clause in the Matrimonial Property Act 1976, he argued that the court should exercise discretion, that to be fair and proper, they should recognise her contribution to the marriage and that half of the assets were hers … And the court agreed![24]

[24] *Re E* [1978] 2 NZLR 40. In this case, both the husband and wife were found to have equally contributed towards the husband's financial (business) successes. Although the wife contributed little financially during their marriage, her extensive involvement in supporting her husband's business (via administrative duties and human resources), as well as her significant role in raising their children (often in the absence of her husband), led the courts to agree that the business' financial successes were due to the equal efforts of both spouses. As such, half of the company's assets were legally recognised under the wife's name.

Participant H also claimed that the loophole generated by the *Matrimonial Property Act 1976* was difficult to plug due to controversial arguments around marriage and women's rights:

> The government was unable to plug this loophole [in the Matrimonial Property Act 1976] as they faced moral problems … They had religious conservatives saying "Well, why aren't you holding the sanctity of marriage and are providing tax incentives for people to get divorced?" And then, of course, there was the women's vote… So, the government had to back off.

Lastly, according to Participant H, a voluntary order request would be approved with instantaneous effect, prompting many taxpayers to try to legally halve their assets, a practice which further eroded the estate duty's effectiveness:

> The courts would approve [the voluntary order] in about 10 minutes, with instantaneous effect. Huge savings in estate duty overnight. You could do it and make deathbed settlements. A lot of people were using it. A married couple would cut their estate in half overnight by using the Matrimonial Property Act 1976. Then both would settle a trust for each other on a cross basis. Suddenly, [the] estate duty started to affect a lot less people.

5.2.4 Inflation

From Participant N and E's perspectives, the inflationary pressures of the 1970s, 1980s, and early 1990s, coupled with irregular changes to the estate duty exemption threshold, facilitated an undesirable increase in the proportion of dutiable estates (resulting from a steep rise in the value of capital assets). As Participant N proposed: "In the 1970s, and 80s, [policymakers] didn't raise the threshold for a while and [the estate duty] started to affect upper-middle-sized estates. I think that could have laid some of the seeds for its destruction." Participant E, however, credited the incumbent Labour Government as largely responsible for the inflationary issues observed during the 1980s. As Participant E alleged:

> The attempts to change [the estate duty thresholds] were episodic, so the exemptions didn't keep pace with inflation … You also had a Labour Government [during the mid to late 1980s], so there was no incentive for them to lift the thresholds.

Participant E further stated that the popularity of the estate duty declined in the late 1980s as wealth creators progressively struggled to remain competitive:

> In 1990, farmers were paying between 24% and 27% interest rates on their mortgages … Those inflationary pressures were horrific, because our earners were having to compete on a world market … For example, the handicap of a farmer trying to get infant formula into Singapore, where the inflation rate was 2%, and they were paying [interest at] 27%, is mind-boggling … So, the inflationary pressures were crippling. [Inflation] was just killing the New Zealand economy by killing our competitiveness.

5.2.5 Farming Industry

As mentioned in Chapter 3, the farming industry was a significant force behind the 1992 estate duty abolition. In their interviews, Participants H and E emphasised the disproportionate impact that the estate duty imposed on farmers due to the capital nature of the farming occupation. These participants both claimed that during the 1970s, and the 1980s, farmers were often forced to sell their farms to pay the estate duty as they lacked the necessary liquidity. As Participant H claimed: "The estate duty was extremely unpopular with the farming community and the reason was that farmland was not readily divisible…"

In addition, Participant H emphasised that some farmers would borrow money to pay off the estate duty (rather than selling their assets), which also caused productivity issues: "The concern in the 1970s, and the 1980s, was that some farmers were borrowing huge amounts of money to retain the family farm, but it wasn't actually improving the farm in any way." Such necessities might have further contributed to the pressure, observed from the farming community, to abolish the estate duty.

Finally, Participant E attributed the sale of many farming assets in the 1980s to the dangerous nature of the occupation. According to Participant E, it was common practice for farmers to tax plan around the estate duty; however, the success of such structuring relied on the beneficiaries outliving the testator. In cases where the beneficiary died first, Participant E alleged that the entire farm would "cop" the estate duty:

> If a $10,000,000 dairy farm had been settled on the younger generation, and they died in the back paddock from an unfortunate tractor accident … then the whole of the estate copped the estate [duty]. So, what does that say in respect to the family who was left? Their ability to pay the tax and continue to run the operation was severely compromised. They often had to raise debt, which compromised their ability to continue farming, and so the asset was sold.

5.2.6 Practical Changes

Participant L noted that during the 1980s, New Zealand shifted its focus to more efficient, broader-based tax structures, which enabled easier tax collection. As a consequence, the estate duty (supposedly) became antiquated in design; it did not fit well with the broad-based, low-rate mantra. As Participant L proposed:

> For New Zealand, the big shift [during the 1980s] was a move away from a mishmash of duties and tariffs … and a movement to GST. [GST] is a simpler, broad-based, relatively low-rate, easy-to-understand regime, with few exemptions, that's very hard to plan around. So, the compliance costs are relatively standard and uniform, and the imposition is also relatively standard and uniform … So, the regime just works better.

In accord with Participant L, Participant C attested that "[the estate duty] became more of an irritant, particularly when you were looking at broader shifts to make the economy more efficient. Irritants to transactions were seen as something that should be taken away."

5.2.7 Psychological Changes

In contrast to Participants L and C, Participants I and D accredited the 1992 estate duty abolition to broad psychological shifts in how capital taxes were regarded by political parties (and taxpayers). In the views of these participants, in the 1980s, English-speaking countries such as England, the United States of America (USA), and New Zealand, increasingly began to value efficiency and economic performance at the expense of equity in the tax system. The abolition of the estate duty fit within that narrative.

5.2.7.1 Mobility of Capital

Concerning capital mobility, Participant I claimed that during the 1980s, strong narratives were politically woven to emphasise the value of wealth generation and the societal benefits that would follow. As Participant I stated:

> There was a move away from the heavy taxation of capital in the 1980s, towards economics, through law and through tax policy … That capital should be mobile and should go where it can be most efficiently used … So, this idea that if you allow the wealthy to get very wealthy, they will spend more, and these things would just trickle down to everyone else. That was very much the narrative … Whereas prior to that there was a much greater influence of what was equitable. It was that shift to the right that

> we experienced in the 1980s, both in New Zealand and around the English-speaking world.

5.2.7.2 Efficiency vs Equity

Participant D explained that whilst New Zealand undertook substantial tax reforms during the mid-1980s, such alterations made the tax system less equitable overall:

> There was a very comprehensive programme brought in, starting in 1984, in the Douglas-Lange Labour Government, that made some very large changes to New Zealand's economy [including the introduction of GST]. And what they described as in the interest of greater efficiency and economic performance etc. was much more successful in redistributing income and wealth upwards [towards wealthy taxpayers] than it was in improving economic performance.

Participant D further conveyed that New Zealand's strong focus on improving economic efficiency in the late 1980s was not limited to the tax system. Instead, it had wide ramifications for New Zealand as a whole:

> There was the commercialisation of government functions, major changes to the welfare system … There was an award system which guaranteed minimum wage rates for most people in the workforce which was abolished in 1991 in the Employment Contracts Act, which made it very difficult for unions to act. There were big changes made to the monetary system as the Reserve Bank was made independent ... Tariffs were removed from most imports, which had very large effects on a number of industries … It was all justified by this idea of greater economic efficiency. (Participant D)

5.2.8 Political Ease

All participants were united in their belief that the incumbent National Government faced little political opposition in its decision to abolish the estate duty; this was likely due to a combination of the above rationales.

5.2.8.1 Inexpensive to Abolish

Participant N proposed that due to the estate duty's low tax take, the National Government was able to abolish the regime easily, without opposition parties' disagreeing. Financially speaking, "National may have thought that there was not a lot of revenue being collected [by the estate duty], so it wasn't an expensive tax to abolish."

5.2.8.2 Gaining Political Support

Participant E claimed that the National Government received widespread support from capital accumulators to abolish the estate duty and that this was a token gesture to gain voter support: "[The estate duty abolition] crossed off one worry, […] particularly [for] farmers, but also businesses generally … It was a gesture, and one widely accepted by that section of the constituency."

5.2.8.3 Psychological Changes

Regarding the abolition of the estate duty, Participant G attributed the lack of political opposition to the psychological shifts elaborated above: "Public attitudes had changed and ramping up [estate duty] was no longer a way of winning votes … If the Labour Party at that point [1992] had made it an election issue then they would have continued to lose by a greater margin."

Participant I noted the role of influential narratives from the USA for the lack of political resistance to the abolition of estate duty in New Zealand:

> [Ronald] Reagan was great at storytelling, and it was around [the early 1980s] that he started referring to estate duties as "death taxes" in the United States. He often spun these narratives about small farmers losing their farms over it etc … So, these narratives I think crept into New Zealand and made it easy to label the estate duty as a "death tax" politically.

5.2.8.4 Lack of Publicity

By contrast, Participants K and J considered the estate duty easy to abolish due to its political insignificance during the early 1990s. As Participant K explained:

> I do not want to give the impression that [the] estate [duty was] a significant issue at the time [it was abolished] and that there were lots of arguments for and against the [estate duty] abolition. There were not. There was quiet lobbying behind the scenes that it was creating a lot of inefficiencies and that it needed to go.

In agreement, Participant J held, "there were other big things happening at the time. There was the 'Mother of all Budgets'[25], and the government was cutting benefits and putting tax on superannuation. So, estate duty got almost no publicity at the time."

5.2.8.5 Lack of Consultation

Lastly, with regards to publicity, Participant A queried whether the estate duty was easy to abolish due to a lack of public consultation (which would generally be required in present-day New Zealand under the Generic Tax Policy Process [GTPP]):[26] "At the time [1992] tax policy was made incredibly quickly. None of the consultation and the seeking advice of different interested stakeholders that we see today. It was really done on the fly a lot of the time." Thus, New Zealanders might have had limited opportunity to oppose the 1992 abolition of the estate duty.

5.2.9 Summary

To answer RQ 1, this section has provided an overview of the potential levers which contributed to the 1992 estate duty abolition in New Zealand. It appears that the estate duty was abolished for a number of reasons, namely avoidance concerns and issues of low tax take. This section has also shown that the incumbent National Government faced little opposition in its move to abolish the estate duty in 1992, reflecting a general lack of consultation and/or political significance.

[25] The 'Mother of all Budgets' was the nickname given to the 1991 New Zealand National Government budget, delivered by then Minister of Finance, Ruth Richardson. This budget (among other things) cut spending on many of New Zealand's welfare state institutions (Dean, 2015). For example, the unemployment, family, and sickness benefits each received notable cut-backs, whilst universal payments for families (receiving welfare payments) were fully abolished. Other changes involved New Zealand adopting a *user-pays* system in hospitals and schools, requiring taxpayers to bear most of the costs of such services (which to a large extent were previously subsidised by the government). The 'Mother of all Budgets' was intended to promote efficiency, entrepreneurship, and government saving, with Richardson (1991) claiming: "[New Zealanders] will be encouraged [as a result of the budget] to take greater responsibility for themselves where they had previously relied on the state" (p. 3,265). The 'Mother of all Budgets' was heavily criticised because most of the policy changes favoured wealthy New Zealanders (Dean, 2015).

[26] According to Sawyer (2017), the GTPP (introduced in 1994) is a process which "promotes consultation and transparency and features an almost unparalleled environment where officials and practitioners work together in the wider interest of better tax policy and legislation" (p. 1). Sawyer (2017) has further stated that "with the GTPP, the NZ Government and policy officials are able to draw upon the technical and practical expertise of the business community, along with incorporating the compliance and administrative effects of potential policy changes" (p. 4). Furthermore, "the GTPP provides a mechanism to communicate the rationale for policy changes which assists with educating taxpayers about the need for the change and its wider implications" (Sawyer, 2017, p. 4). Recently, Sawyer (2022) has questioned whether the (ideal) principle is being overridden by (political) pragmatism.

5.3 Section 2: Estate Duty Perspectives

5.3.1 Introduction

RQ 2: To what extent do tax practitioners/academics support re-introducing the estate duty in contemporary New Zealand? Why? Why not?

This section (answering the second research question) presents the arguments for, and against, the re-introduction of the estate duty in New Zealand as provided by the participants. Overall, the author found that while most of the tax academics interviewed were in favour of a new death duty (in some form), the majority of tax practitioners were against such an imposition. While Participant H was the only tax academic to resist a new estate duty, Participant N was the sole tax practitioner to openly advocate for a new estate duty regime. Participant C (tax practitioner), and Participant G (tax academic), were neutral parties, neither favouring nor disapproving estate duty in a New Zealand context.

This section is organised as follows. First, the section outlines the conceptual support for re-introducing the estate duty as provided by Participants A, C, D, F, I, and N. The section discusses key (supportive) topics including fairness and redistribution, inherited inequalities, meritocracy, and the capturing of historical capital gains. This discussion is followed by theoretical views, imparted by Participants B, E, J, K, L and M, opposing estate duty. Arguments here primarily concern the principles of a *good* tax system[27] (certainty, revenue integrity, efficiency, complexity, coherence, and equity) and how an estate duty might breach these core principles. The section then examines the participants' views on the revenue-raising capability of the estate duty, followed by a broad analysis of their views of the political reception of a re-imposed estate duty.

5.3.2 Conceptual Support for an Estate Duty

5.3.2.1 Fairness and Redistribution

As discussed above, five participants advocated for a new estate duty (in some form) in New Zealand. Overall, estate duty supporters generally felt that this new tax would contribute towards greater fairness and wealth redistribution in New Zealand's current tax system.

[27] As noted in Chapter 4, the principles of a good tax system discussed in this chapter (certainty, revenue integrity, efficiency, complexity, coherence, and equity) are based on Smith's (1991) maxims of a good tax system (equality, convenience, certainty, and economy).

5.3.2.1.1 Untaxed Bequests

Participant A claimed that estate duty is a necessary addition to the New Zealand tax system, as it would aid in preventing large (currently untaxed) bequests of wealth from passing generationally through wealthy families. As Participant A professed:

> The majority of wealth sits at the top echelon of society, and it moves down from generation to generation without being taxed a lot of the time because there is no mechanism to tax it. So, if there was a mechanism to tax it, then yes, I think it would be good.

Participant N also supported imposing an estate duty on the basis of greater wealth redistribution. According to Participant N: “[An estate duty is] a desirable component of a fair and balanced tax system. You’re primarily doing it for fairness and redistribution… I think inherited wealth is the least justifiable form of inequality!”

5.3.2.1.2 Wealth Gaps

In full agreement, Participant F anticipated that in the absence of a new capital tax, wealth inequality would continue to grow in New Zealand: “Unless you inherit, you’re never going to be able to get ahead. Things have just grown so far apart … And the way we’re structured at the moment, there’s no sign of anything being reversed.”

5.3.2.1.3 Government Spending

Participant I too held that a new death duty would enhance wealth equality in New Zealand, as the taxes collected (via the duty) would be redistributed through government spending:

> [Estate and inheritance taxes] open up money into government for other equitable purposes … A government can ring-fence that money, and put it into investment funds to promote things for the future … [For example, the money] can be used for investing in decent housing, to try and equate the position between somebody who owns [a house] and then somebody who has a long-term lease and decent housing.

5.3.2.2 Inherited Inequalities

With regard to fairness and redistribution, some participants referred to inheritances as *windfall* gains, providing beneficiaries of wealthy families with unfair advantages in life. Thus, these participants deemed death duty a vital addition to the tax system to help mitigate such preferential conditions.

5.3.2.2.1 Accident of Birth

Participant F was critical of bequests, viewing such settlements as an unearned accident of birth:

> I think the fact that, merely by accident of birth, I benefit from the assets of my parents and have zero tax liability … And yet, my wealth has increased beyond what I could have saved personally, it seems inequitable. I have freedoms that other people don't have. I could travel. I could leave my work if I wanted to. I could go and invest in property and get wealthier through that, through no effort of my own. It's just an accident of birth.

In accord, Participant D claimed that the children of poorer families will often face greater financial struggles in life than those from affluent families; struggles which might be alleviated by taxing deceased estates (in some form):

> You get families which have no inherited wealth and find it very hard. So, the children find it very hard to even buy a house, let alone other things. Then you have other families where the children have benefitted from their parent's wealth, through inheritance, or by gifts, and are able to get started in life much more easily, both in terms of housing and maybe starting up businesses etc. Then it becomes a snowball effect, where the wealth differences get bigger and bigger. (Participant D)

5.3.2.2.2 Risk Taking

In Participant D's view, taxing inherited wealth is justifiable as it would recognise the comparative ease by which wealthy individuals can take financial risks:

> [People who don't inherit much wealth] are less able to take risks … It might be investing, but it might also be studying, which costs you money … For many, that's a barrier, particularly for families where there's no history of doing tertiary education. People just don't know whether they're going to succeed, or whether they're going to mount up debt without any guarantee that they'll get a qualification out of it that ends in higher income. So again, it gives people with a bit of a nest egg the competence to study without that element of risk.

5.3.2.3 Meritocracy

Participant C affirmed that a new estate duty should be justified on a merit basis:

> Most people with assets think they got there on merit, right? So, if that's the case, then you should have no objection to your children having none of your assets, because they are going to get there on merit … If we are running a meritocracy, then you should be prepared to say "Yes, my children will be fine because they can get ahead without my help."

Participant F endorsed Participant C's meritocracy argument. In Participant F's view, inheritances are generally unearned assets (from the perspective of the beneficiary), so taxing such assets as they are received would recognise their unearned nature. As stated by Participant F, "I often hear this narrative of, 'but that's my hard-earned money' when actually, it's the complete opposite. Your hard-earned money [income] is taxed. It's the not hard-earned money [capital gains and inheritances] that's not taxed. It makes no sense whatsoever."

5.3.2.4 Capturing Historical Capital Gains

Finally, Participant N considered estate duty an effective tax as the regime would likely capture previously accumulated capital gains:

> The great thing about an estate duty is that it would catch all of those large [capital] accumulations from people above the threshold, so it is effective from day one. Whereas a typical problem with a CGT is that it can only apply to gains accruing on or after the date of introduction.

5.3.3 Conceptual Opposition to an Estate Duty

5.3.3.1 Principles of a 'Good' Tax

As mentioned above, seven participants opposed the re-introduction of estate duty in New Zealand. Overall, estate duty was predominantly maligned for failing to uphold the general principles of a *good* tax system and for being relatively outmoded in design. As Participant K asked: "Is [the estate duty] the best tool in terms of equity, fairness, efficiency, certainty, coherence, and revenue integrity? I would argue that an estate duty fails most of those tests!"[28]

[28] As of the 1st of July 2023, the Commissioner has an obligation under the *Taxation Principles Reporting Bill 2023* to report on New Zealand's current taxation settings in relation to the taxation principles specified in Schedule 1 of the Act. There are several principles against which the current taxation settings should be holistically compared, including horizontal and vertical equity, efficiency, revenue integrity, compliance and administration costs, certainty and predictability, and flexibility and adaptability. There is no expectation that all principles will be portrayed by each tax policy, rather that the tax policies should collectively uphold the above principles. Thus, the *Taxation Principles Reporting Bill 2023* is a tool intended to improve tax policy decision-making in New Zealand.

5.3.3.1.1 Certainty/Revenue Integrity

Participants E and B condemned the estate duty for lacking certainty and predictability. As Participant E explained:

> Tax should be certain, not discretionary. Estate duties, and with them gift duties … offend that principle of certainty[29] … If you have a good tax planner, and you die in the right order, you can certainly get around it. It is a discretionary tax.

In full agreement, Participant B claimed: "The truly wealthy will get good tax advice, and they will structure to the extent that they are permitted to. Therefore, in a lot of cases, you'll capture the uninformed or the unadvised and that's all you'll capture."

5.3.3.1.2 Efficiency/Behavioural Distortions

Efficiency

Several participants regarded the estate duty as inefficient, both in its structure and its inducement of unproductive tax behaviours. In Participant L's view:

> [Duties and Tariffs] tend to be one-off costs, dependent on certain events that tend to slow down economic activity. They create lock-in effects, and they create planning effects that can decrease the mobility of capital and decrease the likelihood of transactions occurring.

Participant M held that the estate duty was "clumsy" due to its triggering event (death) being uncontrollable:

> [The estate duty] is clumsy because you can't control death, and therefore what you're doing is you're putting a significant obligation on the next generation that may result in them having to undertake transactions or find funding that they wouldn't otherwise have done.

[29] Smith (1991) strongly endorsed *certainty* in the context of a good tax system. According to Smith (1991), "the tax which each individual is bound to pay, ought to be certain and not arbitrary" (p. 269). Smith (1991) has further claimed that "the time of payment, the manner of payment, [and] the quantity [of tax] to be paid, ought all to be clear and plain to the contributor, and to every other person" (p. 269) Finally, Smith (1991) has stated that "the certainty of what each individual ought to pay is, in taxation, a matter of so great importance, that a very considerable degree of inequality … is not near so great an evil as a very small degree of uncertainty" (p. 270). In other words, Smith (1991) appeared to value certainty in taxation above (relative) equality.

Finally, Participant B deemed the estate duty as significantly less efficient than a CGT due to its narrow base: "An estate duty is really a narrow form of a CGT … the CGT disposition event is death, rather than having a rollover … So, you only achieve a narrow form of a CGT."

Behavioural Distortions

Participants B, L, and E predicted that significant asset structuring would erupt if an estate duty was re-introduced, largely due to the trigger event being death (which could be planned around in advance). Participant B also thought that an estate duty would further incentivise tax planning by having a tax-free threshold: "People try to engineer around a threshold, and you'll create that behavioural aspect with an estate tax." With regard to unproductive structuring, Participant L cautioned:

> With [an] estate duty, you could end up with assets either being sold early to avoid the estate duty or put into structures which are only there for the estate duty. Those are not good reasons for undertaking transactional activities.

Participant E too denounced the estate duty on the grounds of distortion: "People should not arrange their affairs … primarily [driven] by the tax issues. Their affairs should be driven by good economics and good decision-making."

5.3.3.1.3 Complexity

Participants J, M, and E anticipated that a new estate duty would introduce a range of complexities in the tax system, leading to a significant increase in compliance and administration costs. As Participant J explained:

> To make [an estate duty] work, you'd have to have pretty comprehensive rules. You're not going to have a simple and clear tax at all … You'd have to be very serious about it because it means it's a whole new tax, a whole new set of rules, and a whole new set of compliance costs.

Participant M too proposed that estate duty would be complex to re-implement and would likely stall economic growth: "Bringing in an estate duty on top of what we have now is just going to create a whole raft of complexity that will probably take our eye off the ball of economic growth."

From Participant E's perspective, a new estate duty would also be highly likely to impose significant (unnecessary) administration costs on the IRD to mitigate non-compliance:

> [Estate duty would] be an Inland Revenue nightmare … You'd have to have a special forensic unit that would try and track particularly all of the farming transactions … Then they would have to look at the general edict of our tax law, which is, people can't undertake tax planning with a specific intent of defrauding the system … So, you'd have to gear up from an administrative point of view. Is that the biggest bang for your buck?

5.3.3.1.4 Coherence

Participant M asserted that the estate duty would lack coherence with the existing taxes in New Zealand due to its (probable) narrow base and extensive exemptions: "If you accept that our tax system has evolved into a broad-based, low-rate, comprehensive type of approach with few exemptions, then an estate duty doesn't make sense in that context."

5.3.3.1.5 Equity

In contrast to Participants A, D, F, I, and N, Participant E rejected estate duty on equity grounds, claiming that present-day New Zealand lacks the financial stability to further tax capital:

> You might argue from an equity ground that capital should be taxed, notwithstanding that New Zealand is a capital-starved land, with a capital-starved economy. That is why we have high interest rates and why the banks are making a mint because they have to access external savings, not New Zealand savings, to fund our capital requirements.

Furthermore, Participant E affirmed that estate duty is conceptually an "envy" tax, enforced primarily to tax wealth creators:

> I don't think that the motivation [for re-introducing the estate duty] is high-quality tax policy … I would say the motivation for [re-introducing the estate duty] is envy … "How dare people accumulate more wealth than others?!" It's the idea of dumbing everyone down, making people rich by making the people who've got the capacity to make the overall society rich, poorer … It really is envy.

5.3.3.2 Change in Asset Mix

Finally, Participant J referred to the estate duty as an "outmoded" tax which would not function well in present-day New Zealand due to an overall change in asset ownership:

> [The estate duty] is a tax designed for the Regency period and 19th century England where everything was land, and you had a handful of people owning all of that land …

> They, therefore, used that [land] to dominate politically. And you had a highly unequal society, with landowners who exploited that position … [The] estate duty was used at the end of the 19th century and early 20th century to break up those estates, as it was here in New Zealand. For that purpose, it worked perfectly because all of the assets were land which couldn't be moved. But things have changed since then.

5.3.4 Potential Tax Collections

In addition to conceptual rationales, participants were asked to appraise the potential tax take of a new estate duty. Most importantly, participants were questioned on whether an estate duty would likely contribute sufficient tax revenue to justify being re-imposed. Participants were broadly split in their estimates, with those resisting the estate duty generally providing more cynical evaluations.

5.3.4.1 Poor Collection

In Participant E, K, and J's view, the estate duty would be futile to re-introduce due to its (probable) low tax take. When compared to the anticipated cost (both administrative and compliance) of levying a new estate duty, Participant E claimed that "the cost of [estate duty] collections is just not worth the powder and shot." Participant K also criticised the estate duty for being (generally) a poor revenue raiser. Were Participant K to select a new tax to re-introduce, they professed that "an estate duty … would be way down the bottom of my list [financially]!" In accord with Participants E and K, Participant J alleged that the estate duty has historically been a poor revenue raiser: "As far as I'm aware, no one has managed to raise a significant amount of money from [the] estate [duty], apart from the English back in the move from land aristocracy to modern society."

5.3.4.2 Sufficient Collection

By contrast, Participants G and N were more optimistic, maintaining that an estate duty would likely provide adequate tax revenues to justify being re-imposed. Regarding administration costs, Participant G held: "[An estate duty] would produce far more than it would cost to administer … So, it would be economically advantageous for the government." In agreement, Participant N stated: "I see no reason why it couldn't bring in hundreds of millions, and the government can do worthwhile things with that. It is revenue that you can use for public purposes."

5.3.4.3 Other Objectives

In Participant D's view, an estate duty would ease the revenue burden of other tax forms (such as income tax and GST) via its duty collections, which should benefit most New Zealanders:

> There is resistance to increasing income tax rates … So, we need to look at other potential sources, and this is one of them … [Having an estate duty] also means that you'd have to do less in other forms of tax.

Lastly, whilst accepting the importance of revenue collection, Participant F attested that the contribution of an estate duty would be broader than just the tax take:

> I don't think it's all about revenue raising, it's about neutrality and equity … So, taking incentives away from investing in one activity over another to make things more even and fair and neutral … I think that's where massive wins could take place.

5.3.5 Political and Overall Reception of an Estate Duty

A key focus of the semi-structured interviews was the anticipated public reception of an estate duty in New Zealand. Most participants (especially Participants C, G, I, and M) regarded the *political willingness* of a government to re-introduce an estate duty as the strongest barrier to its re-imposition. Overall, it was the political factor which eroded the above participants' support for a new estate duty.

Participant G, for example, was initially in favour of re-imposing an estate duty in New Zealand, however, they shifted to a more neutral stance once the political difficulties of such an imposition had been discussed. Participants C and M agreed that capital assets ought to be taxed in New Zealand, but regarded an estate duty as a poor choice in isolation due to the politics involved. Finally, Participant I believed policymakers should adopt an inheritance-based tax instead of an estate duty, primarily due to the political challenge of taxing deceased estates (as noted in Section 5.5.3).

While some participants suspected that a new estate duty would cause a severe loss of political support (for political parties), others felt that taxpayers would be largely supportive if the purpose of the regime was well-framed and advertised. It is also worth noting that the tax practitioners were generally more cynical in their views than the tax academics; this was likely due to several tax practitioners personally having had (and observing their clients') poor experiences with the previous estate duty.

5.3.5.1 Political Parties

5.3.5.1.1 Low Willingness

Most participants theorised that the estate duty had low political viability and would easily be framed by opposing parties as an *envy* or a *death* tax. In Participant G's view, "any political party that proposes [estate duty] will lose [the next election] … I can't see it as being politically viable."

5.3.5.1.2 Emotional Framing

Participants K, A, and J similarly argued that the estate duty would be politically unpalatable due to the "emotional appeal." As Participant K claimed: "[Estate] duty is a very easy tax to argue in very emotional terms about and that would make it a political nightmare." Participant A agreed that an estate duty would be politically undesirable as "it's got that image of the Grim Reaper coming along with his hand out to take your money while you're on your deathbed!"

Participant J predicted that a government's reputation might be severely impacted by proposing a new estate duty, with those opposed to it likely to vocalise their discontent:

> To introduce [an estate duty] is going to cost you politically, big time, because of the emotional appeal … For some people, particularly retired people, [leaving their successors their wealth] is the most important goal in their life. They will go to the newspapers, the media, and they'll write articles etc. You've got to be very dedicated.

5.3.5.1.3 Politicians' Self-Interest

Whilst agreeing that political parties would likely be uninterested in an estate duty, Participant F contemplated whether political resistance would predominantly stem from self-interest:

> Many politicians own more than one house and they're generally wealthy these days. They're self-interested, and they're not objective or independent. So, whether we're talking about an estate duty, or an inheritance tax, [self-interest] is an underlying issue.

5.3.5.1.4 Political Point-Scoring

Participant B claimed that opposing political parties would resort to "political point-scoring," utilising taxpayer resistance as a tactic to gain voter popularity. Such initiatives might also hinder public support for an estate duty as taxpayers would begin to question the longevity of the regime. As Participant B expressed, "I think you can't divorce tax from politics … You are going to end up with political point scoring and the politics of it coming right through, especially when one party says, “I’ll repeal what the other party does.” Participant L speculated that opposing parties would be quick to reiterate the arguments for the 1992 estate duty abolition, which could be difficult for a government to negate or overcome:

> I think a lot of people would dust off the reasons why [the] estate duty was repealed in the first place, and recycle those arguments, particularly in light of GST. They may say “Well hang on a minute, this was the trade-off then, so why are we re-introducing [estate duty]?”

5.3.5.1.5 Distrust

Participant H suspected that introducing a new estate duty would be difficult for a political party to achieve as they would need to overcome general taxpayer distrust:

> To sell a new tax, you basically have to promise that voters aren’t going to pay for it, and also give them assurance that the threshold boundaries are not going to be shifted to make them pay it … A lot of people are very distrustful of that!

5.3.5.1.6 Feasibility

By contrast, Participant D saw no reason why a political party should hesitate to propose a new estate duty, given that similar regimes are utilised in numerous other jurisdictions: “The fact that many other OECD countries have maintained [their] estate [duty] one way or another shows that it’s quite feasible.” However, Participant L cautioned that tax regimes should only be implemented if they suit the economic and social climate of the respective country:

> I think you’ve got to ask what the best setting is for New Zealand, not what the best practice is globally … Otherwise, we bring in a new regime, it becomes a political football, and it either gets watered down or becomes the new favourite tool in the toolbox.

5.3.5.2 Taxpaying Public

5.3.5.2.1 Bequest Motive

Overall, Participant J anticipated a significant divide would be observed in how New Zealanders responded to a re-imposed estate duty. According to Participant J, such responses would (likely) hinge on a taxpayer’s bequest motive:

> A lot of people I know have no bequest motive. They save enough money for their retirement, and they give their kids a good education, but they are not interested in

> giving them anything substantial. That's quite a common view. Therefore, they don't mind estate duty. But the trouble is there's another group of people … and they will do anything to avoid this because their entire purpose is to hand the farm or business on … So, an estate duty can have massive effects or almost none.

5.3.5.2.2 Unsupportive

Several participants predicted that an estate duty would be unpopular as it would divide taxpayers into "winners and losers", contradicting existing tax and social policy in New Zealand. It was also believed that an estate duty would be poorly received by capital-intensive industries (such as farming), as well as other taxpayers focused on wealth creation.

Reputation

Participant E claimed that a new estate duty would encourage non-compliance among taxpayers who perceived the regime (and the tax system in general) as unjust. Participant E also suspected that non-compliance would increase in other tax areas as the estate duty would damage the reputation of New Zealand's existing public policy. As Participant E affirmed:

> New Zealand is a country that's got a really fine reputation for generally high-quality public policy. You govern by consent … But if your tax system falls into disrepute, tax planning will go berserk. People will react to what they see as inefficient or unfair tax systems.

Narrow-Banded

Participant L predicted that an estate duty would be largely unpopular as it would stir discussions of unequal treatment. Participant L also noted that such feelings of unfairness would be driven by the narrow-banded nature of the tax:

> In New Zealand [an estate duty] is not a very popular form of an impost. Whereas we kind of tolerate a progressive rate of income tax, and we tolerate a flat GST, because they [both] generally apply to everyone … [The] estate [duty] just doesn't fit in well with that [because it (usually) only taxes wealthy individuals].

Increased Consumption

Participant K anticipated that a new estate duty would be heavily resisted by wealthy individuals, many of whom would resort to unproductive spending to reduce the final balance of their estates:

> People will not be happy about [an estate duty] being payable, so they will be looking to legitimate ways of reducing their assets. So, spending money on consumables is a sensible thing to do if you're an older person. So, whereas you might not have been thinking of going out and buying a $250,000 boat, which probably depreciates to about $100,000 as soon as you take it out of the showroom, that's the kind of silly behaviour that [an estate] duty incentivises. Reduce the size of your estate, overseas travel, maybe a bit of gambling… Why not? Nothing to lose!

Productive and Business Sectors

Participants E and B envisaged severe estate duty opposition would erupt from taxpayers in capital-intensive sectors (such as farming), as well as businesses struggling to recover from the disruptive (and costly) impact of the COVID-19 pandemic. As Participant E explained:

> I think you would get an entirely negative reaction from people who are wealth creators and capital accumulators. It would send a real chill down their spine … People would be less likely to take risks and less likely to think about ventures that would allocate more capital.

Participant E partially attributed such estate duty resistance to increasing societal expectations for farmers to innovate:

> If you look now at the imperatives on the farming sector … You have to face markets, not ministers, and you have to be globally competitive and be able to innovate. How do you farm within planetary limits? What are the kind of investments you have to make in adjusting your farming operations so that you're carbon neutral? We have all of those new requirements … and they are capital-intensive activities … And for every dollar you spend on innovation on the farm, you are competing with what you spend on professional advisors. Do you really want to send farmers back into the arms of tax lawyers and planners?

In Participant B's view, an estate duty would likely be negatively received by businesses struggling to recover financially from COVID-19. As Participant B asserted:

> [During COVID-19] many businesses were burning cash, with no money coming in or not enough money coming in. And the feel is that a lot of these business owners have really been hanging on. Where they might have had a reasonable [savings] pot built up,

> that is no longer there … I suspect that if you throw another thing at business people, they're going to say "Why am I going to bother? I'm better off doing something else."

Participant E agreed that COVID-19 had been financially draining for businesses in several industries, claiming that "the last thing you want to do is pile more costs onto businesses. It would be toxic."

Inland Revenue Hesitation

Participant H was cynical that the IRD would support a new estate duty, particularly due to the emotive nature of the regime. According to Participant H:

> Towards the end [of the previous estate duty] the IRD lost its vigour in enforcing it. They found it distasteful, particularly the arguments over money with those who were grieving their deceased relatives. I think [the IRD] found that distasteful and began to wonder what they were trying to achieve … I think that would also be similar now.

5.3.5.2.3 Mixed

Participant B suspected that a new estate duty would receive a mixed response from the taxpaying public, largely contingent on *who* was taxed and *how* the regime was presented to taxpayers:

> I think the [public reception] will be mixed. If it doesn't apply to you, then you're not going to care … For those who are caught, it'll depend on how much they will be taxed. So, it comes down to the level of exemptions and thresholds and the rate of the tax. If it seems reasonable, the public would be on board.

5.3.5.2.4 Supportive to Unsupportive

Participant M thought that the public's attitude towards the estate duty would become increasingly negative over time:

> I think that an uninformed initial view, based on a soundbite, would be "Yeah, it's not me, go get them!" Then I think over time, as conversations evolve, it'll be quite negative … There'll be story after story in the media about the consequences on different families… It'll become personalised … And it will feel unfair.

5.3.5.2.5 Supportive

Wealth Inequality

By contrast, Participants D, A, and N anticipated that the estate duty would receive broad support from New Zealanders concerned with addressing wealth inequality. As Participant D suggested:

> I think currently there are a lot of people thinking about that issue of wealth inequality, and [an estate duty] will be very attractive to them … I think that a lot of people feel very uneasy about the passing on of generational wealth inequality … When people see it being passed on and on, just preserving that inequality, maybe to people who've done no more than to be children of the right people, then people start to see that as inequitable and unfair and a good reason to remediate that … So, the timing is good [to implement an estate duty or an inheritance tax].

Participant A claimed that the proposed opposition to the estate duty was likely exaggerated in the media and that many New Zealanders would be supportive of the regime:

> Everybody has just assumed that [estate duty] is something the public doesn't want. I feel like the public is a lot more aware of wealth inequality now than they were perhaps 10 - 15 years ago, and I think everybody understands that inequality is a huge problem … It may not be the vote-losing exercise that people always think it could be.

In addition, Participant A insisted that public views change over time (sometimes substantially), and that since the 1992 estate duty abolition New Zealand has evolved in its views towards inequality:

> If you think of the political situation in New Zealand at the end of the 80s, and early 90s … We were very much moving into that anti-welfare frame of thinking. There was a lot of talk about beneficiaries being lazy etc and that if you work hard you will be successful … Whereas I think we are a bit more sophisticated as a society now … Maybe we are in a position where we are better placed to have grown-up conversations about [inequality and estate duty].

Focus on Affluent

Finally, Participant N speculated that a new estate duty could arouse significant support if the tax was directed at affluent individuals. In Participant N's opinion, "if [the estate duty was] targeted at the top several per cent of estates, as that's where the money is, you could sell it politically."

5.3.5.2.6 Education/Framing

Several participants cautioned that the overall acceptance of the estate duty would hinge on how well it was framed and sold to the public. Some participants predicted that the estate duty would only be successfully re-imposed if taxpayers were well informed about *who* the duty would affect, *what* the purpose(s) of the duty was, and the probable *benefits* for New Zealand generally. Were the public to perceive unreasonable uncertainty, the estate duty would likely be negatively received.

Clear Communication

Participant A viewed good communication as vital to ensuring that taxpayers were well-informed that those with negligible wealth were less likely to pay the estate duty:

> I think people see new taxes as being exactly that. It's just another tax that *they* will have to pay … There is a real need to make sure that things are communicated really clearly, and people understand *who* is going to pay the tax and that there could be some benefit for those who don't have a lot of assets if other taxes can be reduced.

Fairness and National Need

Participant L suspected that the estate duty would be better received if it was framed as a matter of fairness and/or national need:

> I think that [an estate duty] could be spun in a way that presented it as a matter of fairness and of national need. They could say "We've got this massive problem. The government is going to have to pay for all the COVID-19 stuff, pay for the Canterbury earthquakes, Auckland and Hawke's Bay's flooding etc. That's a huge amount that someone has to fund, and money doesn't come from trees. It has to come from us."

Although agreeing that national need might be a useful framing option, Participant B cautioned against advertising the estate duty as improving redistribution:

> There would have to be a valid reason for [the estate duty] to be accepted. And I think it would have to be the needs of the country versus redistribution as [redistribution] would be a hard sell for someone that's worked very hard.

<u>Detailed Understanding</u>

Participant C thought that policymakers would require a detailed understanding of *how* the estate duty would function in order to frame the tax correctly (and counter any opposition):

> You'd have to think quite carefully about your positioning on answering the questions of *what* you're going to do with the revenue, *who* it is going to affect, and *how* you are going to deal with inflation if you have exemption thresholds … Big questions.

<u>Parliament</u>

Lastly, Participant L advised policymakers to weave a strong narrative to help defend the estate duty in Parliament, professing: "You have to remember that you're talking about a law change, so you've got to carry Parliament along with it, which means scrutiny!"

5.3.5.2.7 Package

Participants B and N recommended a package approach to ensure that taxpayers did not view the estate duty as an additional burden. As Participant B suggested:

> The balance here is how you sell [the estate duty] and what you're giving up to bring it in rather than it being a complete extra … It's a balance of how you do it, how you bring along the community for the ride, and what the narrative is … It's got to be perceived as fair by all.

Participant N suggested an income tax cut in response to re-introducing the estate duty:

> If [the estate duty] was brought in, you may want to do it as a package. You could say, "We'll bring back [the] estate duty and that will finance an income tax cut at one of the lower thresholds" so that everyone benefits.

However, whilst Participant A recognised the benefits of a package approach, they suspected that wealthy New Zealanders would be highly vocal if they felt unfairly impacted by the new estate duty, which could make such a re-imposition difficult for policymakers. As Participant A claimed: "The people whose voices we largely hear are those who are wealthier. So, because we hear the voice of the privileged, there will be so much more noise from the privileged about an extra tax on them."

5.3.5.2.8 Transition

In addition to framing and package concerns, Participant K deemed transition issues as equally significant. In Participant K's view, taxpayer acceptance of an estate duty might vary considerably depending on the haste of implementation:

> How do you transition into [an estate] duty? You could say that in order to ensure that the tax has integrity, and that people don't run around doing things to make sure they're not subject to it, you'd have to bring it in overnight. I think that would bring down a government. I think you'd have to bring it in slowly and progressively.

5.3.5.2.9 Future

Finally, although recognising that wealth inequality concerns had recently escalated in New Zealand, Participant G still felt that it was too soon for the estate duty to be re-introduced:

> I think as time goes on, and the inequitable distribution of wealth becomes more apparent to more people, it's possible that [the estate duty] might find its way back onto the political agenda again. But I think that's some way off at the moment.

5.3.6 Summary

This section (answering RQ 2) has presented primary evidence (through the lenses of tax practitioners and tax academics) which both supports and opposes the re-introduction of the estate duty in New Zealand. Participants varied significantly in their views, with some strongly for, and others staunchly against, the re-imposition of the estate duty. Nonetheless, it is clear that *political resistance* would likely be a considerable (and potentially infeasible) hurdle for a new estate duty to overcome.

5.4 Section 3: Estate Duty Structure and Features

5.4.1 Introduction

<u>RQ 3: If the estate duty was re-introduced, what issues would need to be considered?</u>

This section (answering the third research question) presents a comprehensive array of issues (as suggested by tax practitioners and tax academics) relating to the potential structuring (and future maintenance) of a new estate duty in New Zealand. This section begins by addressing the fundamental matters of asset selection and valuation. This debate centres on the challenge of selecting which asset forms to levy estate duty on, as well as the possible complexities of valuing such assets. The section then considers the topic of tax rate, primarily to decipher whether a flat or a progressive estate duty is (hypothetically) a better fit for present-day New Zealand. An appraisal of high, moderate, and low dutiable rates (as discussed by the participants) is also provided. The section then contemplates the concept of liquidity, focusing in particular on taxpayers with illiquid assets (such as farmers) who may struggle to pay their estate duty liabilities and investigates how policymakers might resolve such issues. The section then presents the participants' proposed de minimis threshold for a new estate duty, with the discussion supplemented by an analysis of the additional exemptions (and concessions) which might be necessary were estate duty re-imposed. The prospective estate duty exemptions elaborated on in this section include family homes, the surviving partner/spouse, disabled children, minors, farms, personal property, Māori assets, charities, and quick succession concessions.

The section also outlines non-compliance concerns (as raised by the participants), predominantly with regard to mitigating extensive inter-vivos gifting via trusts. This section concludes with propositions for preventing the migration of wealthy New Zealanders (and their assets) to other jurisdictions, coupled with arguments for, and against, a domicile or tax residency approach to taxing deceased estates.

5.4.1.1 Disclosure

While the arguments outlined in this section are primarily given through an estate duty lens, much of the debate presented in this section tailors to both the estate duty and an inheritance-based tax levied via income tax (as endorsed by Participants D, F, and I). As such, Section 5.5 of this chapter only covers subject matter which is less relevant to the estate duty argument (the spreading of income), or that should be recognised separately (political framing, de minimis threshold(s), tax rate(s), and gifting) with regard to a capital acquisitions tax.

5.4.2 Asset Selection and Valuation

The topics of asset selection and valuation were discussed in most interviews. Participants generally agreed that for it to be an effective regime, the estate duty should capture as many different asset forms as practicable. As Participant M claimed: "If you treat one asset class differently to another asset class, then you'll create distortions in the marketplace. So, you should be taxing nearly everything!" However, some participants advised against a broad approach, stating that some asset forms would be more difficult to value. Taxing such assets might result in higher administrative and compliance costs overall.

5.4.2.1 Asset Selection Process

Participants generally regarded *asset selection* a core component in the policy design of a new estate duty. In the view of several participants, the process of selecting which asset forms to tax would likely be complex, owing to wealthy New Zealanders often owning multiple different asset types. As such, it would be vital for policymakers to think critically to mitigate both behavioural distortions and compliance costs where practicable.

5.4.2.1.1 Usual Inclusions

To commence the asset selection process, Participant G recommended that policymakers review the repealed *Estate and Gift Duties Act 1968* as well as other death duty statutes utilised (currently or previously) worldwide. In doing so, policymakers could identify patterns and trends which would aid their policy design (particularly the selection of dutiable assets). As Participant G stated:

> Typically, in the English-speaking world, [the estate duty] is traditionally charged on property passing on death, so that is property of any kind. For example, real estate, listed shares, unlisted shares, securities etc. Also important is chattels, like valuable works of art, stamp collections etc.

5.4.2.1.2 Tax Working Group

In Participant D's view, a new estate duty should include a list of assets subject to the duty (for certainty reasons). To aid in formulating such a list, Participant D suggested that policymakers review the TWG's publications in relation to introducing a CGT:

> You probably want to have some kind of list of assets that are subject to the [estate duty], and you could look at the [TWG's] work on the CGT, as they have put some stuff there about what types of assets should be taxed [by a wealth tax].

5.4.2.2 Potential Asset Forms

Participants widely debated which asset forms should (and should not) be included within the dutiable base for estate duty purposes.

5.4.2.2.1 Cash

The participants agreed that cash should be taxed by the estate duty and that this would be easy to tax due to its liquid nature.

5.4.2.2.2 Listed Shares

Most of the participants agreed that it would be logical to tax listed shares via the estate duty owing to the (general) ease of valuing such assets. As Participant D professed: "Listed shares are easy because you can get an easy valuation, so it's easy to value them." In agreement, Participant C stated:

> My assumption is that [listed] shares would be inside the estate duty base. Ultimately there is an individual, either directly, or through a trust, who owns the shares. So that's where I see [listed] shares or companies as being within the [estate duty] base.

5.4.2.2.3 Land, Buildings, and Housing

In addition to cash, and listed shares, participants also deemed land, buildings, and housing as sensible assets to levy estate duty on due to the ease of valuing. As Participant J claimed: "Most of the real assets are land [buildings, and housing] in New Zealand, and that's reasonably easy to value."

5.4.2.2.4 Personal Property

Policymakers would also need to consider whether personal property (such as jewellery) was dutiable for estate duty purposes. In contrast to cash, listed shares, and land, the participants regarded personal property as more complex to tax due to the broad range of personal assets owned by New Zealanders and the inherent difficulties in valuing such assets. As Participant L inquired: "Are you going to tax personal effects, and if so, what are the personal effects?"

5.4.2.2.5 Trust Assets

Several participants explored whether trust assets should be captured if the deceased was the initial settlor and had gifted/sold assets to the trust. As Participant C probed: "What do you do with trusts? When the settlor dies, is that a deeming event for your estate duty?" Furthermore, in relation to trusts, Participant K queried: "Does [the estate duty] apply to existing assets? Should existing trusts be exempt from the estate duty?"

5.4.2.2.6 Company Assets

Participants J and H predicted that provisions would likely be required to deal with assets owned within companies (in addition to trusts) due to the separate legal identity of such structures. As Participant J debated: "If you have a company which owns land how do you deal with that?" They also questioned whether assets would be attributed to the deceased based on the share of ownership of the company. Participant H thought that provisions in relation to foreign-owned companies might be needed, noting: “If the foreign company owned a New Zealand asset, can you look through the foreign company?”

5.4.2.2.7 Collectors/Dealers

Participant L contemplated whether the estate duty should have different rules for assets of deceased collectors/dealers, predicting that such distinctions would significantly add to the complexity of the tax: “What about a motor vehicle collection? You’d probably say that’s in. But what if it’s someone who just has a lot of cars and they’re not actually a collector?”

5.4.2.2.8 Small Businesses/Unlisted Shares

Both Participants J and D were conscious that small family businesses and unlisted shares might be extremely challenging (and expensive) to value. However, in agreement with Participant M, these participants proposed that both asset forms should be included for estate duty purposes to mitigate market distortions. As Participant J declared:

> The major valuation problems are when you have family businesses … How do you judge the future profitability of a small family firm? You can never make [the estate duty] work properly with small businesses. But it’s not as if that’s a vast part of our wealth … But you also can’t create a distortion by taxing people who own land but not people who own businesses.

In agreement, Participant D stated: “Unlisted shares, like a private company, are more difficult [to value] … But they’re a source of quite considerable wealth, so you can’t just ignore them!”

5.4.2.3 Valuation Issues

As noted above, several participants cited *asset valuation* issues as a key barrier to the successful re-introduction of the estate duty. Whilst most participants considered cash, listed shares, and land and housing as reasonably easy to value, some predicted that, in the absence of clear valuation rules, hard-to-value assets (such as small businesses, unlisted shares, personal property, and collections) would be expensive (and time-consuming) to value.

5.4.2.3.1 Valuation Rules

Participants J and L particularly recognised the importance of clear valuation rules to mitigate both complexity and compliance costs. These participants also agreed that valuation rules would be particularly vital for difficult-to-value assets. In relation to small businesses, Participant J argued: “You’d have to have valuation rules … For small businesses, you could develop a rule … on net tangible assets [or] its profitability over the last three years etc.” Nonetheless, although Participant J viewed valuation provisions as necessary, they cautioned that “[the rules for valuing small businesses] would be very rough and ready and people would be able to show that, in some cases, it’s a ludicrous result.”

Participant L queried how the estate duty legislation might provide for valuing personal assets:

> What about a big firearms collection? How do you work out what they’re worth? You could put them up for auction and sell them, but what if the auction doesn’t sell the assets? Do you have a deemed value or some sort of historical book value? What if the auction takes three years because it’s a big collection? How do you deal with that?

5.4.2.3.2 Valuation Debates

Participants H and M were concerned that unproductive spending on legal fees would increase if the estate duty was re-implemented due to wealthy taxpayers (and their families) disputing their asset valuations. As Participant H cautioned: “I think today [arguments over the valuation of assets] would become much more litigated than it was in the past, especially for things like farms or commercial real estate.” In agreement, Participant M advised: “I think if you brought [an estate duty] in, you’d have a massive debate about asset values. Is that productive for society?”

In accord, Participant J, attributed such valuation disputes to the emotive appeal of taxing upon death. Participant J also anticipated that wide debates over asset values were inevitable, stating that taxpayers will often perceive their assets as being worth more than their actual market values: “You need a valuation if funds are going to be split between families. The challenge is that you don’t want to give too low a value because that upsets the whole family distribution.”

Participant M further proposed that a contemporary estate duty would face significant valuation debates due to the increased prevalence of blended families:

> You’ve got all of the implications of not just relationship property, but you’ve also got very complex family dynamics (for example, blended families). Our world today is very complex and creating a system that deals with that complexity is very hard.

5.4.2.3.3 Trigger Event

However, Participant B suspected that valuing assets for estate duty purposes might be easier than valuing for a CGT due to the deeming event being death:

> The beauty about having [an estate] duty is that there is a trigger event; the time of death. So, you don't get into the CGT arguments of valuation issues on day one or indexation because the trigger event is death.

5.4.2.3.4 Achievable

In contrast to the arguments presented above, Participants F and I viewed the valuing of assets for estate duty as a surmountable task, arguing that systems are already in place to value assets in present-day New Zealand. As Participant F alleged: "We [value assets] all the time for insurance purposes. There are people trained to value those things, so I don't see why it would be that challenging." In agreement, Participant I claimed: "Most viable businesses do have some way of valuing [assets]. You may get different valuation options, but that's fine. You take whichever is most plausible. But that's the problem with anything other than cash."

5.4.3 Rate Structure

5.4.3.1 Progressive vs Flat Rate

Regarding the rate structure of the estate duty, opinions varied significantly among participants. Whilst some participants recommended a flat rate, others endorsed a progressive scheme of rates. However, it was widely argued that the *objective* behind the estate duty should dictate whether the regime followed a flat or a progressive rate style. As Participant J proposed: "If your objective is to sting the very wealthy, you have a progressive rate. If your objective is just to have a tax on money passing through generations, you'd probably have a flat rate."

5.4.3.1.1 Flat Rate

<u>*Simplicity*</u>

Participant L endorsed a flat rate of estate duty on the basis of greater simplicity in the tax system:

> A flat rate is simple, it's hard to avoid, and if a person has twice as much money, then the amount of tax they pay is twice as high for whatever the relevant flat rate is. From that argument, it's actually fairer than a progressive rate.

Wealthy Taxpayer Support

Participant B argued that wealthy New Zealanders might be more accepting of a flat rate than a graduated scale of rates:

> The hard reality at the moment is that most of our tax, when taking into account the tax and transfer system, is really paid by quite a small group of people … How much can certain sectors of the population wear before they say, "There's no incentive for me to work harder or to have my business in New Zealand!"

Exemptions

In addition, Participant B felt a flat rate could be advantageous if the estate duty offered a wide array of exemptions, noting: "If you're excluding a pile of stuff upfront, then you could probably get away with a flatter rate system."

Criticism – Lower Collections

By contrast, Participant G criticised a flat rate of estate duty, predicting that the overall tax take of the regime would be lower with a flat rate than with a progressive scheme of rates: "If you have a single rate, it probably has to be a relatively low rate … That might very substantially reduce the revenue that [the estate duty] would raise."

5.4.3.1.2 Progressive Rates

Fairness and Redistribution

In general, supporters of a progressive estate duty advocated that such structuring would better reflect the general purpose of death duties; to contribute towards greater fairness and redistribution in the tax system. As Participant J expressed: "I think generally, the view is that you're really aiming to stop multi-millions of dollars going to undeserving children. Therefore, you go [for a] progressive [scheme of rates], as it's not as much of an issue at lower levels [of wealth]." Participant L proposed that a progressive rate scale might better reflect the initiatives of the OECD: "The OECD has done quite a lot of work … around progressive rates and has found that that's the fairest way of ensuring that a productive economy balances its need for taxation with the output of its citizens."

De Minimis Threshold

Participant N noted that the need for progressive rates would hinge on where the de minimis threshold was set: "I think if you are having a high de minimis, there's less of a case for the complexity of a progressive scale [of estate duty]."

<u>Criticism – Unfair</u>

Lastly, Participant L predicted a potential adverse reaction from taxpayers viewing the scale of dutiable rates as unfair: "If we introduce different [tax] rates, we're going to have different responses from our duty payers … So, a progressive rate [of estate duty] may not be so popular."

5.4.3.2 Tax Rate

In addition to the rate structure, participants also differed in what they deemed a suitable rate(s) for a new estate duty. In general, the participants tended to favour lower dutiable rates, viewing these as easier to sell politically.

5.4.3.2.1 High Rate

Participant N was the only participant to recommend a high rate of estate duty, and this was in response to their suggestion to limit the tax to the wealthiest 5% of New Zealanders. As Participant N stated: "I'd say [the estate duty rate should be] at least 40%. It could go as high as 50% or even 60%."

5.4.3.2.2 Moderate Rate

Participant C endorsed a moderate rate where the estate duty was re-introduced to address wealth inequality in New Zealand. In such scenarios, Participant C suggested that "you would … have a reasonably aggressive rate … 25-30% for example." Participant A similarly endorsed a progressive scale with low to moderate rates:

> Lower [rates of estate duty] would be better, just because you would avoid the behavioural responses that sit there. So, [from] $2,000,000 to $5,000,000 [the rate] could be 10%, $5,000,000 to $10,000,000 it could be 20%, over $10,000,000 [it] could be 30% … I think most people looking at that would go, "Well, if you've got more than $10,000,000 in your estate, perhaps it's fair to pay a third of that."

5.4.3.2.3 Low Rate

Participants K, G, and L predicted that a low rate of estate duty would help to mitigate overall taxpayer resistance (to the regime). As Participant K stated: "There are thresholds that once you get over, you will get civil disobedience … You couldn't look at a rate of anything as high as 40%." Also endorsing a low rate, Participant G claimed that "at a low rate, there would be less of an incentive for people to emigrate than at a high rate.” Finally, Participant L suggested that being a new tax, the estate duty should be introduced at a low rate:

> The typical historical policy response has been to introduce any new taxes at a relatively low rate … So, I think you’d bring [the estate duty] in at a low rate … There’s no point bringing in a tax if it’s not going to collect any money. On the other hand, there’s no point bringing it in if the rate is so high that nobody is going to pay it, and it’s going to be destructive.

5.4.3.2.4 Disclosure

Although these results appear to favour a single low rate, Participants D, F, and I (tax academics) supported taxing the successor rather than the estate (as mentioned above). All three participants favoured a progressive tax approach. Their views are discussed separately in Section 5.5 of this chapter.

5.4.4 Liquidity Issues

It was widely believed that a poorly constructed estate duty could impart significant unintended consequences on taxpayers with primarily illiquid assets.

5.4.4.1 Farming

Overall, most participants anticipated that capital-intensive industries (such as farming) would be considerably more likely to face liquidity troubles. As Participant M expressed:

> If you look at disproportionate assets to income, the farming sector is probably one that’s going to cause you some challenges. Because if you have got a farm worth $10,000,000 that’s passing from one generation to the next, and dad’s died … For the children to inherit the farm, they’ve got to find a lot of money … They may no longer be farmers … And then you precipitate a continuing shift to equity-funded farming, away from the traditional New Zealand farming base of families.

In full agreement, Participant F suspected that a new estate duty could lead to fewer family-owned businesses if adequate deferral options were not provided: “We don’t want to force people into selling businesses or family farms … A lot of family businesses are moving into corporate hands, and I don’t know if that is good for society.” Participant E claimed that farmers would be significantly burdened by the estate duty (as they were previously) due to the capital-intensive nature of farming activities:

> If you think of capital-intensive businesses in New Zealand, overwhelmingly they are farming. You don't need a lot of capital to be a tax lawyer, you don't need a lot of capital to be a tax accountant, and you don't need a lot of capital to be in IT [information technology]. But you do need a lot of capital to be a farmer. So, the impost would fall significantly on farmers.

5.4.4.2 Family Units

In addition to farmers, some participants predicted that testators owning one primary asset (such as the family home) might also struggle to pay their estate duty liabilities, which could have an adverse flow-on effect in family units. As Participant L noted:

> If a person dies, they might be asset-rich but cash poor, so there's no money available to pay the [estate] duty. So, do you force the sale if there's just one home? Do you force the sale of that home in order to pay the [estate duty]? If so, what effect does that have on individuals in that family unit?

5.4.4.3 Bank Issues

Participant L also recognised potential cash issues in relation to bank covenants:

> What if there's only one asset and it's secured, and you're forcing a sale … And the bank says "Well, that asset is worth $10,000,000, I'm owed $8,000,000, and the estate duty is 25% (for example)?" Who's going to cop the shortfall?

5.4.4.4 Solutions

5.4.4.4.1 Realisation Basis

To mitigate cashflow issues, Participant A suggested that policymakers allow taxpayers to pay their estate duty liabilities on a *realisation basis* (upon the legal disposal of the deceased's assets). As Participant A proposed:

> The liability would build up against the asset, almost like a reverse mortgage. So, if you have assets that are not going to be sold, you could essentially just use that as a guarantee … Just have that debt sit against that asset until some future date when it's realised.

However, Participant B suspected that realisation provisions might reduce the estate duty's initial tax take: "Once you start allowing realisation type events, which you do have on death, then the effectiveness and timeliness of that, at least initially, means that your tax take is less."

In agreement with Participant B, Participant A suggested that some of the estate duty should be paid at the time of the testator's death: "You'd probably have at least some part of the tax paid, even if it is only 10%. Otherwise, you could potentially end up with a huge debt against that [asset] that sits there in perpetuity." To encourage the realisation of assets, Participant F endorsed offering taxpayers a financial (dis)incentive:

> Maybe there could be an incentive if you meet your tax obligations earlier … Or perhaps a disincentive for waiting. Maybe some people can meet their tax obligations when they receive an unrealised asset but choose not to … For time-value of money reasons.

5.4.4.4.2 Time Allowance

To prevent family units from having to abruptly sell their homes to pay the estate duty, Participant D proposed an extended time limit during which families could re-arrange their affairs before paying the duty: "You need to have some provision and that may be a time-related one. That the family can continue to live in the house for 20 years (for example) before the [duty] comes in."

5.4.4.4.3 Life Insurance

Lastly, Participant I was sceptical that cashflow issues would be common in the farming community. In their view, a farmer should be able to predict their estate duty liability in advance and obtain adequate life insurance to cover it:

> So, let's say you own a farm, and it's worth $1,000,000 dollars. You anticipate that when you die, and you want to leave your farm to your kids, that you will have an estate duty liability of $200,000. You go to your insurance broker, and you insure your life for $250,000, as that covers the extra taxes as well … So, you get paid out on that, you pay the tax on the insurance policy, and then you have the cash available to pay the estate duty liability … You'd be very imprudent if you weren't doing that. (Participant I)

5.4.5 Exemptions and Concessions

Participants varied widely in what they deemed appropriate to exempt from the estate duty (if anything). Nonetheless, whilst the participants offered a broad array of possible exemptions, most agreed that the range of available exemptions should be mitigated to the furthest extent, for both compliance and administrative reasons.

Overall, Participants D, F, and I (who endorsed taxing inheritances via income tax) explored the theoretical support for exempting (or not exempting) surviving spouses, dependent children, family homes, and farmers. As the conceptual argument behind providing these exemptions is similar for both estate and inheritance taxes, the author felt it appropriate to consolidate the views of all participants (regarding such concessions) in this section. However, a separate section is provided (Section 5.5) concerning a de minimis threshold for taxing inheritances, as the approach suggested to tax successions (made by Participants D, F, and I) is significantly different in function to estate duty.

5.4.5.1 De Minimis/General Exemption

Participants varied considerably in their perspectives regarding where the de minimis (or general exemption) threshold for the estate duty should be set in New Zealand. A de minimis of $2,000,000 was most commonly cited and was suggested by Participants A, G, and K. Nevertheless, all participants agreed that setting the exemption threshold would be a difficult task for policymakers, regardless of whether a high, moderate, or low de minimis was adopted.

5.4.5.1.1 High De Minimis

Participants N and E endorsed a high de minimis threshold. In Participant N's view, an estate duty "should be targeting no more than 5% of estates." As such, the de minimis should be high enough to exempt approximately 95% of New Zealanders. By contrast, Participant E's reasoning for a high threshold was to protect productive assets from being captured: "To set the [estate duty] threshold, I'd look at what … [was] the average price of a typical, full-scale, family-owned New Zealand pastoral or dairy farm."

5.4.5.1.2 Low to Moderate De Minimis

As mentioned above, Participant A advocated for an estate duty de minimis of $2,000,000. In this participant's opinion, a $2,000,000 threshold could prevent unprepared taxpayers (who may not have conducted any tax planning) from being unexpectedly captured by the estate duty. As Participant A expressed:

> I would have thought something around $2,000,000. You want to make sure that if you have a property blip, where everybody's property values increase substantially overnight, they're not suddenly flung into a tax area where they didn't anticipate being.

Participant J too felt that the exemption threshold should reflect average housing prices in New Zealand: "What's a reasonable level for a family home … So, you can say to most people "You're not really affected." I would say $1,000,000 in New Zealand."

5.4.5.1.3 Potential Difficulties

Whilst some participants were quick to offer de minimis suggestions, others (such as Participants B and E) noted that the threshold selection (and maintenance) process would likely be more complex than simply selecting a figure.

Administration and Compliance Costs

From Participant B's perspective, the estate duty de minimis should be high enough to reduce unnecessary administration and compliance costs:

> You don't want to be mucking around with the really small minnows. The administrative cost would just be too high for the amount of tax collected … And you don't want unknowledgeable people trying to do this stuff [tax planning], especially if they've got very few assets.

Inflation

Participant A endorsed regular inflation adjustments to ensure that the de minimis threshold remained fit for purpose:

> I think you would have to [index for inflation] because otherwise, you end up in a situation where estate values are increasing, but people aren't gaining any wealth as such. I think you would have to have an inflation-adjusted threshold from a fairness perspective … Maybe every three to four years to minimise the complexity.

In full agreement, Participant E noted: "You'd have to recalibrate [the de minimis threshold] because what happens often is these things are left for a long time for political reasons and then suddenly you've got to do a big step."

Politics

Finally, whilst Participant G believed a $2,000,000 exemption would be sensible, they also stated: "I don't think [that setting the de minimis threshold] is a technical question. I think it's a political question." In Participant G's view, the estate duty exemption would have to be politically palatable to be accepted by New Zealanders.

5.4.5.2 Family Home

After the de minimis, the family home was the next most discussed potential exemption. Views varied between participants. While some opted for a partial exemption, others felt that no exemption was appropriate. Only Participant H proposed a full exemption for the family home. For those favouring an inheritance type tax, exempting the family home was generally less supported.

5.4.5.2.1 Fully Exempt

In Participant H's view, the family home would likely be fully exempt to prevent elderly taxpayers from having to sell their homes:

> [Policymakers would] fully exempt [family homes]. As you get older, your ability to handle change becomes diminished. And if grandma has been widowed, and she's 80 something, and she's in a very fancy house … And she has to sell up the house and move because of the estate duty exemption … A certain limit, I think, wouldn't wear. So, it's automatic.

5.4.5.2.2 Partially Exempt

By contrast, Participants B and D promoted a cap for exempting family homes. As Participant B claimed:

> [Exempting the family home] can be particularly unfair across different people because the rich will have a lot more expensive family homes … So, you'd almost have to put a dollar value on the family home so that only a certain amount of it could escape the wealth tax.

In agreement, Participant D advocated for a cap that reflected average housing prices in New Zealand:

> A fair way to do it would be to have a limit on how much could be exempted [of the family home]. Possibly you could use the average value of a home in New Zealand at the time, and index it.

However, Participant J critiqued this approach, suggesting: "It's all very difficult because a $1,000,000 house is nothing much in Auckland, but it's quite a lot in Kawerau." Therefore, setting an average threshold could be difficult due to regional differences in house prices.

5.4.5.2.3 Not Exempt

Participant F strongly opposed a concession for the family home. Participant F particularly viewed such assets as "windfall" gains to the beneficiaries, thus making any exemption unfair and inappropriate:

> As a recipient who inherits the benefits of that family home … it's not *their* family home, it's somebody else's family home who's now dead … It's just assets … So, it should definitely not be exempt from an estate or an inheritance tax.

Participant J also rejected an exemption for family homes, viewing such actions as distortionary: "If you have the family home exempt, you're encouraging people to put their money into expensive family homes (*mansion effect*) … So, that's highly distortionary and you don't want that!"

Participant A proposed including the family home within the de minimis threshold for the estate duty, rather than providing a separate home exemption:

> If you have a family home which is worth $300,000, and somebody else's family home is worth $5,000,000, it doesn't seem fair that they're both excluded ... I think the way to do it is to just have a $2,000,000 threshold with the family home as part of that.

Finally, Participant K criticised a housing exemption for discriminating against businesses:

> What I find very annoying is people who are quite happy to ensure that businesses are caught, but the family home is not. What's the logic in that? I can live in a $20,000,000 house in Auckland … No [estate] duty. If I've got a $20,000,000 widget manufacturing operation employing 100 people, that's caught? To me, that's policy nonsense … There's no basis for carving out the family home.

5.4.5.3 Surviving Spouse/Partner

It was widely agreed that surviving spouses/partners should be given some concessions when inheriting property from their domestic partners. A few participants recommended limiting spousal concessions to matrimonial homes, whilst others approved exempting all jointly-owned property. Finally, the general consensus was that the estate duty liability for both spouses/partners should be payable upon the death of the second partner (a deferral approach).

5.4.5.3.1 Purpose

Participant G was strongly in favour of providing spousal relief from the estate duty. In this participant's view, the objective of a spousal exemption is "to not cause the surviving spouse a significant deterioration in their quality of life." As such, an estate duty concession for the living spouse is necessary because "you don't want people tossed out of their home just on account of whomever they're married to dying." (Participant G)

5.4.5.3.2 Matrimonial Home Exemption

Being a significant family asset, Participant I agreed that family homes ought to be exempt to preserve the living partner's quality of life: "If a spouse or a domestic partner [inherits a house] an exemption for that is fine because they'd just be put out on the street." In accord, Participant D also advised: "You'd likely have an exemption for passing [homes] on to a spouse, particularly given that in most cases their [homes] are under joint ownership."

5.4.5.3.3 Full Exemption

By contrast, Participant H endorsed a full exemption for the estate duty (and not just the family home) for surviving spouses: "To make [the estate duty] work, you'd have to make all property left to a spouse exempt … Passing things from husband to wife or vice versa would be quite critical to exempt."

5.4.5.3.4 Deferral

Much of the support for a deferral approach stemmed from the argument that key relationship assets are often jointly-owned. Therefore, it might be tidier to administer the estate duty on jointly-owned assets when both owners were deceased. As Participant B queried: "The family home is typically jointly-owned, so should the disposition event get deferred until the [surviving] partner or spouse dies?" Participant D contemplated whether the estate duty liability (in relation to all jointly-owned property) should be deferred until the death of both partners: "Maybe we just say that any assets under joint ownership aren't subject to the [estate duty] and that when both partners die the [estate duty] comes in."

Although supportive of spousal exemptions, Participant G cautioned against permanent exemptions for spouses, particularly in relation to matrimonial homes. Instead, Participant G highlighted several alternative methods which policymakers could utilise to provide for spousal exemptions:

> One thing you could do is provide that the matrimonial home is exempt, which is an incentive for couples to put more money than they otherwise would into their matrimonial home … You can say [the home] is taxable, but the liability is deferred until the surviving spouse dies, at which point duty will be double … Or you can charge it at a lower rate … Or you could have the matrimonial home exempt up to a ceiling.

Finally, Participant B questioned a deferral approach, noting potential valuation issues:

> Do you pay half [of the estate duty] on the gain at that point in time based on the market value [of the house] at that point in time? What if the market values are incredibly high at that point in time? Do you allow the flexibility that you can average it out over three years etc to get a more realistic basis of what the house was worth?

5.4.5.4 Family Concession – Family Home

With regard to the family home, Participant D endorsed extending the matrimonial home exemption to family members residing within the property upon the testator's death. Participant D also proposed that such provisions might help to mitigate short-term liquidity concerns for families struggling to pay the estate duty:

> You may have situations where members of the family are living in the family home when a parent dies. So, you need to have some provision there that they can continue to live [in the house for a certain number of years] before the death [duty] comes in … You want to give them time to realise the asset and pay the tax … But you would probably want to tie any exemption for the family home to people actually living in it at the time [of the testator's death] because otherwise it just becomes an investment property.

5.4.5.5 Disabled Children

5.4.5.5.1 Exempt

Participants G and H advocated for an exemption for bequests to disabled children. In the view of these participants, disabled children would likely have an impaired ability to look after themselves financially during adulthood, so exempting their inheritances should facilitate a higher quality of living for these individuals. As Participant G claimed: "If you have a disabled child that is never going to be able to work, then the parents want to provide for that person … I think that's a pretty strong argument for not taxing it."

In full agreement, Participant H thought an exemption for disabled children (similar to the disability concession provided under the Social Security Act 2018)[30] would benefit New Zealand society as "[the parents] are providing their estates for [their disabled children] and indirectly relieving the state of the burden to look after these people." Participant H also considered the taxing of disabled children as overly harsh: "Under family law, parents would likely have a legal obligation to provide for a disabled child in adulthood under their wills. So why tax it? It's just being mean-spirited."

5.4.5.6 Minors

5.4.5.6.1 Exempt

Participants G and I also evaluated whether minors should be treated preferentially. In support of lower dutiable rates for minors, Participant G affirmed: "I think you can definitely make an argument as a matter of policy in favour of some kind of preferential treatment for assets inherited by dependent children. I think it'd be a pretty strong political imperative."

5.4.5.6.2 Not Exempt

However, Participant I strongly opposed exempting minors, claiming that "bequests (and gifts) to minors are just a minefield for tax avoidance."

5.4.5.7 Farms

Overall, most participants disagreed that the farming industry would warrant a separate exemption from the estate duty. As discussed above, Participant E (the most sympathetic towards farmers) recommended a de minimis threshold which reflected the average wealth of farmers in New Zealand. Thus, an additional exemption would be unnecessary if Participant E's approach was adopted.

5.4.5.7.1 Exempt

Participants M and H argued that a separate exemption for farmers might be justifiable. Participant M suspected that without such exemptions, the farming industry would be disproportionately affected by the estate duty (which could have wider societal ramifications). As Participant M suggested: "If I've got operating assets or fixed assets, then [an estate duty] could be disastrous, and that negative impact on the productive sector is probably undesirable

[30] Under Section 422 of the *Social Security Act 2018*, in calculating the rate of benefit, the Ministry of Social Development may disregard all or part of the beneficiary income of a severely disabled person.

from a New Zealand Inc. perspective." In agreement, Participant H claimed: "Farming needs increasing economies of scale to keep going." As such, without a separate concession, family-owned farms may struggle to remain productive; some farmers would need to either sell off their capital assets or take out substantial loans to pay their estate duty liabilities.

5.4.5.7.2 Potentially Exempt

Participant I, who was relatively reluctant to exempt farms, thought an in-depth investigation would be necessary to help ascertain the probable loss of family farms (caused by the estate duty). Participant I also felt that such investigations would establish whether a separate exemption for farmers was justifiable:

> There would have to be a really in-depth analysis of the possible problems that might arise, in terms of the possible loss of farms. But I think a lot of farming these days is done on a very large corporate basis … We'd have to investigate [the possible loss of family farms], and if necessary, make concessions.

Participant C noted that policymakers would have to think critically about the potential family conflicts that might arise if farms were not exempt from the estate duty:

> You could get the problem where the farm can't sustain all of the children. So [all of the children] will have to get off the farm except one. So why are you preferring one child over others? There are some family psychology dynamics in there that will make it hard to work out whether you do a [separate] exemption [for farms] or not ... And you couldn't exempt some farms and not others.

5.4.5.7.3 Not Exempt

However, Participants A, N, and C strongly opposed a separate concession for farmers. As Participant A declared:

> We have historically really privileged farming … But if you look at the contribution that agriculture makes to our economy now, it's not what it used to be. It's no longer the backbone of the country like everybody argues. So, we shouldn't really be privileging it the way we do … The economic arguments behind it don't stack up.

In agreement with Participant A, Participant N anticipated that a farming exemption would unfairly discriminate against other taxpayers and might facilitate greater complexity in the tax system: "I don't think there should be any exemption for farmers. You don't have an exemption for manufacturers etc. Where would you stop?" Finally, Participant C was sceptical that an exemption would be necessary, alleging that contemporary farms are less likely to be kept within farming families:

> I am a little bit jaundiced about farms. We have some experience with family farms that get passed onto the son and the son just flicks it on. So, I am a bit jaundiced about whether you need an exemption to keep it in the family business.

5.4.5.8 Personal Property/Chattels

Personal property was another asset class widely raised by the participants. Some participants viewed a full exemption for personal property as appropriate, primarily to ease administrative and valuation concerns. Others, however, advised against such a concession, citing that an exemption for personal assets might generate undesirable behavioural effects.

5.4.5.8.1 Exempt

Participant K advocated for a full personal property exemption, due principally to valuation issues. According to Participant K, "you would probably have an exemption for chattels [personal property] because they're just too hard to value … including pedigree dogs, jewellery etc … It's just too hard!"

5.4.5.8.2 Partially Exempt

By contrast, Participant B thought policymakers should cap the personal property exemption at $27,000, both to improve legislative fairness and to help balance the administrative costs of collections:

> Some people have more expensive personal items than others in terms of family heirlooms etc … I do think something like $27,000 … or something that drops out the majority of people … [should be used as the threshold] for personal assets … You've got to balance administrative costs with the revenue collected.

Participant F also promoted a partial exemption for personal property to mitigate issues of unrealised assets, stating: "It's very difficult [to pay estate and inheritance taxes] when you've got unrealised assets … Maybe up to a limit there might be an exemption [for personal property] just from a practical perspective."

5.4.5.8.3 Not Exempt

Participants D and L considered a personal property exemption unwise, noting that such a concession would encourage taxpayers to engage in *asset swapping* (the substitution of non-exempt for exempt assets). As Participant D cautioned:

> There's things like collections of paintings, or vintage cars, or wine etc. You've got all the things that people collect, some of which can be very valuable and can be very difficult to value. But you'd probably want to include them in some way. I'd make it as broad as practicable because you don't want to encourage people to swap into different types of assets to avoid paying the tax.

In agreement, Participant L advised that if personal property was exempt, "you may have people buying more jewellery, buying expensive watches, and selling real property to buy stuff that they can pass on without the duty etc." Hence, it might be simpler for policymakers to not exempt personal assets.

5.4.5.9 Māori Assets

When evaluating the potential estate duty exemptions, Participants J and K noted the complexity and political difficulty of taxing Māori-owned land. As Participant J conveyed:

> A lot of Māori own [an] interest in Māori land. You can't touch that, as that's confiscation … From an Iwi point of view, these assets don't pass. They always belong to the Iwi. The individual doesn't own it. It's Iwi property, and the Iwi never dies.

In agreement, Participant K claimed: "There are huge issues around Māori land and other assets, and there'd be calls for that to be exempt." However, Participant K suspected that such concessions would be challenged by small businesses and farmers.

5.4.5.10 Charities

Participants B and N debated whether wealth bequeathed to charities should be exempt from the estate duty. Participant B advocated for exempting charities, claiming that an estate duty would otherwise discourage philanthropy. In addition, this participant felt that many charities relied on bequests to fulfil societal needs:

> Some people don't want to give their money to their kids, and they give it to charity … You still have to allow for that in the design of an estate [duty]. You can't treat that necessarily as an avoidance mechanism if they're willing to give [their wealth] away to

> third parties. Is it appropriate to exempt [charitable bequests?] … And, at the moment, you've got a lot of charities probably surviving on that … So, I think somehow you still need to allow people to be giving in nature. (Participant B)

However, Participant N was concerned that a full charitable exemption would create loopholes for wealthy individuals, who might utilise such concessions to obtain a personal benefit: "You couldn't have an open-ended exemption for charitable bequests … You would allow some, but you would have to cap it."

5.4.5.11 Quick Succession Relief

Finally, to mitigate double taxation, Participant A endorsed providing concessions for assets bequeathed by the deceased shortly after they had inherited them: "Perhaps you would have a period of time where if the next person who owns [the inherited assets] dies within five years (for example), there is no subsequent or second taxing event that kicks in."

5.4.6 Inter Vivos Gifting

The participants strongly agreed that in the presence of estate duty, a gift duty regime would likely be required to capture inter vivos transfers of wealth. Left untreated, most participants claimed that the estate duty would be severely compromised due to affluent New Zealanders gifting most of their assets away tax-free prior to their deaths. Both tax practitioners and tax academics alike highlighted the matters of dutiable rate(s), possible exemptions, and potential revenue collections as particularly vital for policymakers to evaluate.

5.4.6.1 Conceptual Reasoning

Ultimately, gift duty was identified as the key tax to prevent inter vivos gifting. As Participant G proposed:

> If you don't have a gift [duty], then affluent people are going to avoid the [estate duty] by giving away their property, either to people who, in due course, are going to inherit anyway, or by transferring their property into trusts. If you have a gift [duty], then you can at least put some limit on the extent to which people can do that.

5.4.6.2 Rate of Duty

Few participants made recommendations regarding an appropriate rate of gift duty (nor whether a flat or progressive scheme of rates should be utilised). Participant G was the only individual to make a suggestion, advocating for estate and gift duties to share similar tax rates:

> The way [the UK and various European countries] work, is that you can't get out of the [death duty] by means of gifting your property away on account of the gift [duty] being charged at the same rate as the maximum rate of the death [duty].

Therefore, to reduce incentives to gift inter vivos, Participant G proposed: "From a design point of view, it'd be advantageous for [gift duty] to be a single rate and for the death [duty] to be the same single rate." Nonetheless, this participant suspected that such schemes would be difficult to sell politically.

5.4.6.3 De Minimis Threshold

5.4.6.3.1 Reason for Threshold

Participants were divided on what they perceived as an appropriate gift duty de minimis. However, it was widely agreed that a threshold would be necessary to reduce administration and compliance costs. As Participant J claimed: "You've got to have exemptions, because otherwise, every Christmas present becomes a gift that you have to pay tax on which is not going to work."

5.4.6.3.2 Threshold

Participant E endorsed a gift duty de minimis which reflected the life expectancy of a farmer: "What's the typical longevity of a farmer? How long would it take to have a gifting regime [for a farmer] to avoid the estate [duty]? Then you just calibrate your gift duty accordingly." By contrast, Participant J felt that the gift duty de minimis should be a percentage of the threshold for the estate duty, suggesting: "You can gift, every year, 10% of what the threshold is for estate duty." Participant G advocated for reinstating the previously utilised $27,000 gift duty exemption, noting: "$27,000 per year doesn't strike me as [an] unreasonable [threshold]." Lastly, Participant B advised that the gift duty threshold should reflect whether policymakers were focused on generating revenue or improving wealth redistribution: "Is the $27,000 still appropriate or not? That might come down to what the legislators are happy with and what they're trying to achieve."

5.4.6.4 Asset Selection and Valuation

Participants C and J maintained that the issues of asset selection and valuation were prevalent for gift duty as well as estate duty. With regard to asset selection and de minimis thresholds, Participant C asserted:

> You would need to look at [gift duty] as a package, not only what the threshold is but also what the exempt gifts are. If your exempt gifts are smaller [in total value], the threshold is higher, and vice versa. If you are able to gift a car or a home to your family, then the gift duty exemption should be quite low.

Regarding gift valuations, Participant J professed:

> You've got issues of valuations with gifts as well [as estates] … as people gift to small businesses etc. So, you've got to have rules. It's mainly the valuation and trust issues which are the killer, which have to be applied not only on death, but also on gifting.

Furthermore, in setting the provisions for dutiable gifts and valuations, Participant J advised: "You'd want to make [the rules] robust and not allow interest-free loans repayable on demand to be deemed not to be a gift [like we used to]."

5.4.6.5 Charitable Gifts

Participant B suspected that rules around charitable gifting could become complex with respect to boundary selection:

> Where are the boundaries in terms of some of these charities? Do they have to be a registered charity, or are you giving money to your local sports club to build a new facility … That just won't work under our current rules in any shape or form, because it won't be a registered charity with the Charities Commission, and it won't have that *donee* status with Inland Revenue.

In addition, Participant B favoured a full exemption for charitable gifts, due to their impact on minimising government expenditure: "If you're thinking about the wider good and the fact that charities are standing in place of government expenditure currently … I think it would be a full exemption [from gift duty]."

5.4.6.6 Asset Control

5.4.6.6.1 Loss of Control

According to Participant K, a key dilemma with the previous gift duty was the ease by which donors could gift without transferring economic wealth or control of their assets to the donee:

> People were gifting $54,000 as a couple a year to their kids, but the kids had no knowledge that they had this money because they weren't told… [The money] was

> never deposited into their bank account. It was just a book entry. It was in the family trust, or was in a current account in the parent's own name … That was the problem with gifting.

To mitigate this issue, Participant K endorsed stricter overall gifting provisions:

> I think you'd want to have a much more robust approach to gifting to ensure they were *genuine gifts*… A gift where there's an actual transfer of economic wealth or value to the donee and the asset is completely outside of the control of the donor … As opposed to just crediting a current account with no transfer of economic value until 20 or 30 years later.

Participant B agreed that donors should lose control of their gifted assets, suggesting: "It's *why* [the donors are] gifting that's important, and making sure that they lose control of what they're giving away … And that it's not just going into some foundation that they've created themselves where they've actually still got control."

5.4.6.6.2 Minors

Regarding minors, Participant K noted that *control* issues would likely arise due to minors not having legal authority to control their assets: "If a donee is a child, they don't have the legal right to be able to control the assets." Therefore, policymakers would have the difficult task of specifying *who* (under the gift duty regime) was able to control the assets gifted to minors.

5.4.6.7 Non-Compliance

Participant J suspected that unintended non-compliance would be prevalent (initially) with a new gift duty, primarily due to taxpayers being unaccustomed to declaring their gifting habits: "People make gifts, and they don't normally think about gift duty. It's common for parents to help their children buy a first home etc. Suddenly you'd have gift duty issues." Participant J also predicted that some taxpayers would underestimate the frequency of their gifting, creating further compliance issues:

> All of this [gifting] starts to become compliance-heavy with people having to declare all of their gifts every year. What happens if you give your kids $20,000 to pay off their student loan? Do you remember to declare it?

However, given the advanced nature of the IRD's data analysis software, following the Business Transformation Project, such non-compliance concerns should (with time) become easier to control.

5.4.6.7.1 Preventing Restructuring

In contrast, Participant B endorsed re-instating gift duty prior to the estate duty in order to prevent wealthy taxpayers from prematurely gifting their assets away: "If you were to bring [an estate duty] in quickly and re-establish the gift duty first, then that would knock out any ability to circumvent it."

5.4.6.8 Lack of Efficiency

Although recognising its necessity to buttress estate duty, some participants were sceptical of re-introducing gift duty due to its lack of administrative ease.

5.4.6.8.1 Unproductive

Participant L was particularly critical of gift duty, professing that it was inefficient and often unproductive: "I think gift duty is just a deadweight cost, which can distort economic activity and is ultimately not productive to the economy." In accord, Participant B recommended that policymakers draft simple gift duty provisions (where possible) to make the scheme more efficient:

> If a tax (like gift duty) is just a buttress for the rest of your tax system, you want to make it reasonably easy to comply with, with reasonably few exemptions and a rate set at what you want to achieve.

5.4.6.9 Clawback

Some tax practitioners favoured a clawback provision to capture gifts given prior to the testator's death. Participant N was particularly supportive of a seven-year clawback period, similar to that utilised by the UK's inheritance tax: "I'm more partial to doing what the UK does … They have longer clawback periods and clawback gifts made within seven years. I would probably prefer that rather than subjecting everyone to a gift duty regime." In Participant N's view, a seven-year clawback would be suitable as "people don't tend to hand all of their assets away much earlier than that." Participant C also favoured clawing gifts back to the deceased's estate but recommended a shorter clawback period: "You'd have to clawback [gifts] … But I think it should be a couple of years to make it simple." Lastly, Participant D noted that clawback provisions for gifting would likely be redundant were the estate and gift duty regimes to share similar rates: "Assuming that the gift duty was comparable to the estate duty [in terms of rate], then you probably wouldn't [clawback] because the tax has already been paid on it."

5.4.7 Trusts

Most participants argued that trust structures would significantly erode the *revenue integrity* (susceptibility to avoidance) of a contemporary estate duty due to the lifespan and separate tax treatment of such entities. In addition, Participant H predicted that the estate duty would be complex to re-introduce as it would force multiple trusts to wind up and resettle to avoid issues of "gifting with reservation."

5.4.7.1 Longevity

Participants J and B deemed trusts a formidable anti-avoidance mechanism due to the longevity of such structures. According to Participant J: "Trusts are the bane of estate duty because a trust doesn't die." [31] Regarding a trust's lifespan, Participant B advised: "There would never be a disposing event. So that would make your estate duty significantly ineffective."

5.4.7.2 Separate Tax Treatment

Participant A cautioned that thwarting efforts to tax plan via trusts would be challenging due to the legitimate nature of such arrangements:

> The courts in New Zealand have shown a complete lack of willingness to look through any trust arrangements … I think in a normal type of estate arrangement, where somebody has put their assets into a trust and those assets sit in [relative] perpetuity for the use of the beneficiaries … I can't see any court wanting to look through that. It's a legitimate arrangement.

5.4.7.3 Settlor Issues

Participant H predicted that several contemporary trusts would face clawback issues (in relation to gifting) due to the settlor also being a beneficiary:

> The Estate and Gift Duties Act 1968 had a provision against things called 'Gifts with Reservations.' So, if you made a gift which in some ways the donor retained a benefit in some way, then the gift was ineffective and treated as not occurring. The property

[31] Under Section 16 of the *Trusts Act 2019*, the maximum duration of a trust governed by New Zealand law is 125 years. Thus, in the absence of a suitable look-through provision, any assets held within a newly-settled trust would be non-dutiable for well over a century (which would significantly undermine the estate duty).

> would then be clawed back into the deceased's estate … All modern trusts allow the settlor to be a beneficiary. So, if the legislation is similar to the previous one, then all of those trusts are going to be in trouble. They would have to wind up and resettle and exclude the settlor from the trust. It basically means that the continuing existence of hundreds of thousands of recently settled trusts would have to be considered … I think that could be very problematic.

5.4.7.4 Look-through Provision

5.4.7.4.1 Support

To mitigate non-compliance issues, some participants recommended a look-through provision to capture assets held within trust structures. As Participant N suggested:

> Just say that the deceased, when they were alive, transferred investment properties worth $10,000,000 to a trust. They die two years later … Your estate duty would say "The estate duty is calculated on the value of the estate. Because the deceased settled that trust, the value of those trust assets will be attributed back to the estate."

Participant B similarly supported some form of clawback:

> You'd have to create some sort of deeming event that links the assets back to the settlor or the beneficiaries … You'd have to do something to capture those sorts of things if you were keen on creating a level playing field.

5.4.7.4.2 Opposition

However, Participant M criticised such look-through provisions. Participant M particularly felt that attributing assets to long-dead settlors would be very complex (and in some cases infeasible): "There are intergenerational trusts that exist … and the person who set it up is well gone. And the beneficiaries are the current generation, the next generation, and the generations after that. How do you deal with that?" Similarly, Participant K cautioned against attributing a trust's assets to its beneficiaries due to the complex nature of such processes:

> [Attributing a trust's assets to its beneficiaries is] hugely difficult because trusts will generally not have a fixed number of beneficiaries. They could have children, grandchildren, charities etc. So, you can't say, "Well, there are 10 beneficiaries, we'll divide the assets by 10." It just doesn't work like that.

5.4.8 Migration

Most participants anticipated that a new estate duty would encourage wealthy New Zealanders to emigrate both themselves and their wealth to other jurisdictions to avoid the tax. Australia was cited as especially problematic, due to its proximity and current lack of estate duty (although it does have a comprehensive CGT).

5.4.8.1 Business-Focused Taxpayers

Participant L thought that migration would especially occur amongst wealthy "business-oriented" New Zealanders. Having worked in jurisdictions with death duty regimes, Participant L cautioned:

> If you overshoot relative to other jurisdictions, then people will leave … It's not economically worth [wealthy people] staying in New Zealand just to feel good about themselves and the fact that they're making a contribution to society … These [wealthy] people think like business people and are better off saying, "I'd rather have that tax money invested in my business and do something with it than pay it to the New Zealand Government"… People will leave.

Whilst agreeing that migration would likely take place, Participant E advised that the prevalence of such movements should be tempered due to New Zealand's lack of proximity to most jurisdictions: "We live a long way from our markets … to switch to another jurisdiction is a really big deal." Participant E also noted that migration would be impracticable for capital-intensive industries, which would fuel perceptions of unfairness from such sectors: "With the agricultural sector, you can't take the land with you, which is why you'd get a severe backlash in the agribusiness sector."

5.4.8.2 Assets

Participants M and H too felt that migration would be hard to manage, contributing such difficulties to the mobility of assets owned by wealthy New Zealanders. As Participant M professed:

> In the old days, you had dad holding all of the assets, paternalistically looking after the family and passing it onto the oldest boy … [The estate duty] worked then because it was simple … Our world today is just so much more complex.

In agreement, Participant H stated:

> The fact that you can move money overseas and out of New Zealand with little restriction or control… I think [an estate duty] would strike problems as people would get up and leave … The population of money now is much more mobile than it was before.

5.4.8.3 Australia

Participant H was particularly concerned that affluent New Zealanders might obtain 'Temporary Resident' status in Australia on an indefinite basis to avoid their estate duty obligations:

> If a New Zealand citizen goes to Australia, they're granted a Special Category Visa (SCV) every time they arrive, which permits you to reside in Australia without restriction for an indefinite period … For tax purposes, you are regarded as a temporary resident of Australia. But you can be a temporary resident in Australia on an indefinite basis![32] And a temporary resident of Australia is not subject to Australian tax on foreign-sourced income. On certain types of Australian-sourced income, you're taxed as if you're a non-resident … So, basically you move to Australia.

Participant N agreed that migration to Australia could pose a problem as "there's a complete freedom of movement of people and capital between New Zealand and Australia."

5.4.8.4 Potential Solutions

Overall, participants found two potential solutions to mitigate migration issues. The first involved Australia re-introducing its own estate duty. However, the participants were unanimous that Australia would be *very* unlikely to do so (as they already tax capital through a comprehensive CGT). The second solution involved a clawback provision. As Participant N proposed:

> You could have some sort of exit tax to act as a deterrent. It could say, "If you go to Australia [or another jurisdiction], the estate duty will still apply if you are formally domiciled here." That's quite heavy, but you may have to do that as a deterrent.

[32] As of the 1st of July 2023, under Section 5(2) of the *Australian Citizenship Act 2007 (AUS),* any New Zealand citizen who has been living in Australia for four years or more is eligible to apply directly for Australian citizenship. This provision applies to New Zealand citizens holding a SCV who arrived in Australia after the 26th of February 2001.

5.4.9 Domicile or Residency

When re-introducing an estate duty in New Zealand, policymakers would also need to evaluate whether to levy the duty on a domicile or a tax residency basis. The participants widely debated such concepts, particularly in relation to migration.

5.4.9.1 Domicile

Overall, domicile was regarded as better suited to the estate duty. In addition to being utilised previously, some participants felt that domicile would be harder to lose than tax residency. As such, domicile could provide additional protection against migration efforts. Participant G was particularly supportive of domicile, suggesting:

> For [an estate duty], it has to be domicile. Because, so long as you sell your house, you can cease to be a New Zealand resident in 325 days. You could leave the country and go and sit on a beach for 326 days. At that point, you're no longer a resident of New Zealand, but would still be domiciled here… So, if the tax was based on residence, at 326 days you can shovel all of your assets into a trust with no restraint at all. No gift [duty]. That's why [estate duty] has to be based on domicile.

Nonetheless, Participant G suspected that domicile could be difficult to re-introduce, conceptually speaking: "Having removed domicile as a significant tax concept from our tax system, I think it might be technically challenging to re-introduce it."

5.4.9.2 Residency

In contrast, Participant C favoured a tax residency approach, specifically to reduce the complexity of the estate duty regime: "I would probably go with [tax] residency because that would be a simpler test than domicile… It's much easier to say, "You're a New Zealand resident, you've died, and you're in this place." However, Participant G rejected a residency approach, pointing out that while "you can be resident in more than one country […] you can't be domiciled in more than one jurisdiction." Lastly, in response to Participant G's concerns, Participant C suggested that the OECD's 'Multilateral Convention' may assist in mitigating occurrences of double taxation:

> The Multilateral Convention on administrative agreements might be a way [of mitigating double taxation]. I think information sharing has allowed more exchanges (not to breach privacy rules) and that would be a possible way of enforcing the [estate] duty on assets outside of New Zealand.

5.4.10 Summary

To answer RQ 3, this section has furnished a breadth of technical issues for policymakers to consider (as suggested by the participants) before re-introducing an estate duty in New Zealand. By and large, this section has shown that policymakers would have a range of matters to evaluate, likely making the re-introduction of the estate duty a convoluted process subject to much lobbying and marked by extensive complexity.

5.5 Section 4: Taxing Successors

5.5.1 Introduction

This section briefly presents an alternative proposition, made by Participants D, F, and I, to tax successors on inheritances received, rather than levying an estate duty on the deceased's estate. Whilst estate duty is the main focus of this research, inheritance taxes offer a potential substitute for policymakers to consider. As such, arguments to tax successors are material to, and worthwhile incorporating in, this chapter. Overall, Participants D, F, and I (tax academics) all perceived an inheritance-type tax as conceptually superior to estate duty, as it better recognises the *unearned* nature of bequests received by the beneficiaries. These academics also viewed an inheritance tax as being easier to frame politically than an estate duty.

This section elaborates on the key topics Participants D, F, and I discussed in relation to taxing successors on their inheritances. First, the section explains arguments in favour of broadening the concept of income in New Zealand, followed by hypothetical rationales underpinning why inheritance taxes are (usually) easier to frame politically than an estate duty. The section then conveys the participants' recommendations for setting an appropriate tax rate and de minimis threshold, trailed by notions both supporting and opposing the spreading of inherited wealth. Lastly, this section investigates the grounds for, and against, re-introducing gift duty to accompany an inheritance-type tax.

5.5.2 Broader Concept of Income

As expressed above, Participants D, F, and I all promoted broadening the concept of income in New Zealand to capture most forms of wealth (including inheritances). As Participant I professed:

> I support what's known as a capital acquisitions tax. You simply tax, as income, any capital receipts that a person receives. So, you shift the burden away from the deceased's estate, or the donor, and you put it in the hands of the person receiving it.

To assess sums of inherited wealth, both Participants I and F proposed that policymakers amend and extend the provisions under Section CA 1[33] of the *Income Tax Act 2007*. As Participant I suggested: "If you look at the Income Tax Act [2007] Section CA 1, all you need to do is add a paragraph to say, "Any gift, inter vivos or on death."

5.5.3 Political Framing

Regarding political framing, Participant I claimed that framing an inheritance-based tax might be an easier task for policymakers than framing an estate duty, as the regime would be more difficult to dispute on the basis of hard work:

> I don't support an estate duty because I think there's so much psychological opposition to it … That's another reason why I support a capital acquisitions tax because you're not digging up something from the past. This is something that's contemporary … I can just imagine what might be dragged up if you start saying "Let's have a death tax." But if you say, "Why is it fair for this person to receive that benefit when they have done nothing other than to be born into a particular family?" … If we want a fairly meritocratic society, then we should be evening that out.

In agreement, Participant D regarded an income-tax approach to taxing bequests as less contestable, believing that taxpayers would be more likely to accept paying the tax if their inheritances were framed as income:

> People may be able to see the logic if [the bequest is] seen as income. Because "I'm entitled to it" is the traditional view … Let's just make it clear that really it is another form of income that you inherited from your parents.

5.5.4 Rate of Tax

There was a broad consensus among participants that inheritances should be taxed using the same progressive rates utilised in the *Income Tax Act 2007*, due to such sums being considered

[33] Under Section CA 1(1) of the *Income Tax Act 2007*, an amount is income of a person if it is their income under a provision in Part C of the Act, or (2) it is their income under ordinary concepts (an amount that comes in periodically and with some notion of regularity). Section BD 1(5) notes that an amount of income of a person is assessable income in the calculation of their annual gross income if it is not income of any of the following kinds: (a) their exempt income, (b) their excluded income, or (c) their non-residents' foreign-sourced income.

a form of income. As Participant F suggested: “I would have [inheritances] in the Income Tax Act 2007 and taxed at the rates we use for income.”

5.5.5 De Minimis Threshold

The participants generally agreed that the de minimis threshold for taxing inheritances should be kept as low as practicable. Participant F strongly felt that a threshold (for taxing bequests) would be inappropriate as most income forms (currently) are taxed without such reliefs:

> The only reason for [an exemption] threshold would be because the regime was somehow complex, and you’d be doing it as a compliance concession. Conceptually, I can’t think of any reason why you would have a threshold … We don’t have a threshold for salary or wages.

Participant D, however, thought a threshold might be warranted to reduce administration and compliance costs: “You might have an exemption … I’d go for somewhere like $50,000 to $100,000 … You have to think about the practicality of collecting [the tax].”

5.5.6 Spreading Income

Participants disagreed on whether successors should be able to reduce their income tax rates by spreading their inherited wealth over multiple years. Participant F generally endorsed such provisions to prevent those with (usually) low-income tax rates (10% or 17.5%) from being propelled into higher dutiable rates during the year in which they received a substantial bequest: “If you have a fairly modest income and you suddenly come into money … It’s pretty tough to suddenly have a 39% tax rate.” Participant D also viewed income spreading as a potential necessity, suggesting that “[policymakers] might want to allow [an inheritance] to be spread over a period of years … Or maybe [they should] tax [the inheritance] at the top rate that the person would normally pay.” By contrast, Participant I regarded income spreading as a selective activity and one which should not be provided for inheritances:

> I am very much opposed to spreading [income]. Spreading income is so selective because you have to fall into one of the categories … We allow it for farmers, we allow it for people holding patents and copyright, but we don’t allow it for estate agents or sports people etc. It’s just so selective … Yet the people who’ve been making a lot of money, paying it at 39% income tax this year … We don’t say to them “You can spread [your income].”

5.5.7 Gift Duty

Whilst gift duty was widely viewed as an essential mechanism to buttress the estate duty, Participants D, F, and I rejected the need for gift duty to support a tax on inheritances. This was primarily due to these participants treating both inheritances and gifts as income. In Participant I's opinion: "Whether [the inheritance] was inter vivos or from a deceased's estate, they should both be taxed in the same way [as income]." These participants also endorsed taxing gifts using the same rates and thresholds as provided by the *Income Tax Act 2007*. Furthermore, regarding a de minimis threshold for gifting, Participant F suggested that "an exemption for gifting [should only be provided] for compliance concession reasons, not for reasons around fairness … Maybe $10,000." Participant D too endorsed a low gifting threshold, recommending the de minimis threshold be set at "$1,000 or $2,000."

5.5.8 Summary

This section has presented an alternative approach to taxing inherited wealth. Instead of re-introducing the estate duty, policymakers may instead choose to broaden the concept of income in New Zealand and tax successors (as income) on their inheritances received. However, whilst an inheritance-type tax might be an easier sell politically, as elaborated above, it would still confer an array of matters for policymakers to evaluate.

5.6 Chapter Summary

This chapter has presented a detailed overview of the findings of the semi-structured interviews conducted with tax practitioners and tax academics. Overall, it appears that the estate duty was relatively easy (politically speaking) to abolish by the incumbent National Government in 1992, with the regime collecting very little tax revenue and contributing towards a misallocation of capital resources (via widespread gifting and trust mechanisms). This chapter has also shown that issues of high inflation, coupled with both practical and psychological shifts in New Zealand (a movement away from narrow-based and high-rate systems), strengthened political views in the 1980s that the estate duty was antiquated in design and no longer fit for purpose.

Regarding the re-introduction of the estate duty in New Zealand, this chapter has conveyed a lack of participant consensus, with some participants perceiving an estate duty as a vital addition to the New Zealand tax system (to aid in reducing wealth inequality). Others opposed the regime on (primarily) efficiency and complexity grounds (as the estate duty might furnish low tax collections but impose significant compliance and administration costs). Furthermore, participants appeared to lack agreement in their expectations of political feasibility, with the tax academics notably more optimistic that the estate duty would be supported by New Zealanders.

This chapter has also reflected on the complex process of imposing a new (estate) tax regime in New Zealand. Were estate duty to be re-introduced, policymakers may find it necessary to factor in decisions relating to dutiable assets, rate and structure, liquidity, exemptions, gifting, trusts, migration, and jurisdiction (among other things). Finally, this chapter has communicated technical and conceptual arguments for incorporating an inheritance-type tax instead of an estate duty. Chapter 6 presents an analysis of the primary data, referencing the overarching research questions.

Chapter 6: Analysis/Discussion of Findings

6.1 Introduction

This chapter provides a discussion of the interview findings presented in Chapter 5. As noted in previous chapters, this research sought to explore the estate duty (in a New Zealand context) through both a historical (RQ 1), and a contemporary (RQ 2 and RQ 3) lens. Via semi-structured interviews with tax practitioners and tax academics, the author first aimed to identify the key factors which contributed to the estate duty being abolished in New Zealand in 1992. Second, the author endeavoured to establish whether (in present-day New Zealand) tax practitioners and tax academics supported re-introducing the estate duty (in some form). Finally, this research has explored potential issues associated with introducing and levying a new estate duty in New Zealand. As such, the following research questions were addressed in Chapter 5 and will be examined in greater depth in this chapter:

RQ 1: What were some of the factors which contributed to the estate duty being abolished in New Zealand in 1992?

RQ 2: To what extent do tax practitioners/academics support re-introducing the estate duty in contemporary New Zealand? Why? Why not?

RQ 3: If the estate duty was re-introduced, what issues would need to be considered?

The remainder of this chapter is structured as follows. First, the chapter discusses the findings from Sections 5.2 to 5.5 (Chapter 5) in turn. Second, the chapter provides a detailed analysis, combining the key patterns and trends established in Chapter 5. Given the possible policy implications of this research, this chapter furnishes several key factors (relating to estate duty) for the New Zealand Government, the IRD, and the voting public to assess and evaluate.

6.2 Research Question 1

Section 5.2 of Chapter 5 (answering research question one) provided a historical overview of the main factors which contributed to the estate duty being abolished in New Zealand in 1992. Table 6.1 below presents the key levers identified in Section 5.2:

Table 6.1
Factors Leading to the 1992 Estate Duty Abolition

Cause of Abolition	**Participant**														
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	**Total**
Political Ease to Abolish	+				+		+		+	+	+			+	**7**
Extensive Tax Planning/Distortionary Behaviours					+		+	+		+	+	+			**6**
Poor Tax Take										+	+			+	**3**
Tax Reforms			+	+								+			**3**
Expensive to Maintain								+		+					**2**
Farming Industry					+			+							**2**
Inflation					+									+	**2**
Psychological Shift (against) Taxing Capital				+					+						**2**
High Estate Duty Rate											+				**1**
Loophole in Matrimonial Property Act 1976								+							**1**
Share Market Crash of 1987														+	**1**
+ indicates the factor *was suggested* by the participant															
'Blank' indicates the factor *was not discussed* by the participant															

6.2.1 Poor Revenue Raiser/Expensive to Maintain

Overall, Section 5.2 affirmed that in the decades prior to being abolished, the estate duty was a relatively poor source of tax revenue (supporting the data presented in Table 3.4). Furthermore, it appears that the estate duty imposed significant administration and compliance costs during the tax-gathering process, with assets gifted within three years of the testator's death being clawed back into the deceased's estate. The exercise of collecting the estate duty was also complicated by the IRD delaying the granting of probate on a deceased's assets.

6.2.2 Tax Avoidance Issues

As shown in Table 6.1, six participants claimed that the demise of the estate duty was largely attributable to prolific and legal avoidance mechanisms (namely trusts and gifting) and the distortionary behaviours that accompanied such activities. According to these individuals, affluent New Zealanders would typically loan money, interest-free, to a trust and progressively forgive the debt at $27,000 per year per taxpayer ($54,000 per couple) (the de minimis for gift duty) until their estates fell below (or close to) the $450,000 tax-free estate duty threshold. The court case *Re Marshall (Deceased), CIR v Public Trustee* [1965] NZLR 851 (CA) held that such interest-free arrangements were not gifts for gift duty purposes, thereby encouraging widespread adoption of the debt forgiveness practice.

It was also felt that abolishing the estate duty was necessary as it "drove a fundamental misallocation of capital resources" (Participant E). Some participants claimed that the estate duty was highly inefficient as it encouraged New Zealanders to structure their affairs for estate duty purposes, rather than for rational business reasons. Section 5.2 also revealed that the ability to tax plan was largely restricted to affluent and/or knowledgeable taxpayers, which meant that less wealthy and/or ill-informed individuals bore the greatest estate duty burden.

Due to its discretionary nature, a few participants framed the estate duty as a confiscatory tax, as less-educated (and unprepared) taxpayers would often be forced to sell their capital assets to pay the duty. Some tax practitioners also affirmed that due to the financial incentive to adopt separate structures (primarily trusts), the estate duty facilitated a greater number of unnecessary (and costly) legal disputes. This was particularly observed among divorcing or separating couples, who would expend considerable financial resources to contest their trust's statutory entitlement to their assets.

One participant criticised the high maximum rate of the estate duty (40%), stating that such a tax rate was vicious and encouraged civil disobedience. Confirming Duff's (2005) findings, this participant noted that the 40% tax rate was largely responsible for facilitating the migration of wealthy New Zealanders to Australia (which levied no estate duty). As such, abolishing the estate duty removed such incentives to emigrate.

One academic deemed the court case *Re E* [1978] 2 NZLR 40 as partially responsible for the estate duty's demise. In this case, the judiciary held that under the *Matrimonial Property Act 1976*, spouses could legally divide their assets whilst remaining married. Consequently, in the late 1970s, and the 1980s, many wealthy individuals utilised this loophole to halve the value of their personal assets, which notably reduced the revenue integrity of the estate duty regime.

6.2.3 Inflationary Pressures

Section 5.2 also showed that the estate duty declined in popularity during the 1970s and the 1980s due to periods of high inflation. According to one tax practitioner, the estate duty suffered from episodic de minimis increases during the 1970s, and the 1980s, which, over time, caused a greater proportion of middle-class taxpayers to be caught by the regime. Such inflationary woes upset already irritated farmers, who often resorted to extensive (unproductive) borrowing to retain their capital assets.

6.2.4 Farming Industry

As shown in Table 6.1, two participants recognised the farming industry as a significant force behind the 1992 estate duty abolition. Due to the capital-intensive nature of farming, these participants claimed that the estate duty disproportionately affected farming families. With farmers facing interest rates of between 24% and 27% in the late 1980s, many farms struggled to remain competitive. Without the necessary liquidity, some farming families resorted to selling their farmlands to pay the estate duty. It was also noted that with farming being a particularly dangerous occupation, younger farmers sometimes died before their older relatives (due to farming-related accidents), which left the farming estate severely compromised and fully exposed to the estate duty.

6.2.5 Tax Reforms

Three participants attested that the practical shifts observed in the New Zealand tax system during the 1980s also eroded the popularity of the estate duty, contributing to its abolition. Similar to the TWG's (2010) findings, these individuals cited a practical shift away from duties and tariffs (during the 1980s) and a movement to consumption taxes in the form of GST. Participant L affirmed that the estate duty "became more of an irritant" during a time when the tax system was shifting to a broad-based, low-rate regime which was perceived as more efficient. Thus, from a coherence perspective, the estate duty did not fit well with that mantra.

6.2.6 Psychological Changes

In terms of psychological changes, two participants partially accredited the 1992 estate duty abolition to broad psychological shifts in how capital taxes were regarded by New Zealanders during the 1980s and the 1990s. According to these participants, the 1980s and the early 1990s were a period when capital mobility and efficiency were praised at the expense of equity. In other words, by allowing the wealthy to get very wealthy, they would spend more, and the benefits would "trickle down to everyone else" (Participant I).

6.2.7 Political Ease

Finally, there was a broad consensus that, due to a lack of political opposition (caused by the various levers explained above), the 1992 estate duty abolition was swiftly enacted by the incumbent National Government. In summary, the estate duty abolition was a political gesture well-received by the National Government's constituency, which required little sacrifice in tax revenue, and that fitted in practically and philosophically with the *efficiency* narrative of the time. Thus, the downfall of the estate duty was likely inevitable.

6.3 Research Question 2

Section 5.3 of Chapter 5 (answering research question two) provided an overview of the participants' perspectives toward re-introducing the estate duty in New Zealand. Table 6.2 below displays the key viewpoints presented in Section 5.3.

Table 6.2
Participants' Estate Duty Position

Topic	**Participant**														**Summary**			
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	+	+/-	-	**Total**
<u>Re-introduction</u>: Should an Estate Duty be Re-introduced in New Zealand?	+	-	+/-	+	-	+	+/-	-	-	-	-	-	-	+	4	2	8	**14**
<u>Reception</u>: How Would the New Zealand Public Likely React to a New Estate Duty?	+	+/-	+/-	+	-		+/-	-		+/-	-	-	-	+	3	4	5	**12**
<u>Tax Take</u>: Would Estate Duty Collect Enough Tax Revenues to Justify its Re-introduction?				+	-		+			-	-			+	3		3	**6**
+ indicates a *positive* perspective																		
+/- indicates a *neutral* perspective																		
- indicates an *adverse* perspective																		
'Blank' indicates the topic was *not discussed* by the participant																		

6.3.1 Stance on Re-introduction

As shown in Table 6.2, while four participants supported a new estate duty, eight participants opposed such an imposition. The remaining two individuals were neutral. Of those endorsing a new estate duty, most were academics. By contrast, the majority of tax practitioners opposed the regime.

6.3.1.1 Supportive

Those in favour of a new estate duty generally felt that it would contribute towards greater fairness and redistribution in the current New Zealand tax system. Advocates also claimed that an estate duty would address the unearned nature of inherited wealth and the inequitable benefits that such wealth bestows on its beneficiaries. There were also views that the estate duty would aid in reducing the existing wealth gap in New Zealand, by preventing large (currently untaxed) bequests from passing generationally through affluent families. Finally, some participants thought that an estate duty ought to be accepted on a meritocracy basis, stating that taxpayers should be prepared to accumulate wealth via their own dedication (rather than through inheritances).

6.3.1.2 Unsupportive

By contrast, those resisting a new estate duty primarily criticised the regime for failing to uphold the principles of a *good* tax system (certainty, revenue integrity, efficiency, complexity, and coherence). Some participants professed that estate duty would breach certainty, and revenue integrity, as the duty could be avoided by engaging in asset re-structuring (as was done previously on a large scale in New Zealand). Others felt that estate duty failed on efficiency grounds as its late triggering event (death) would incentivise unproductive estate planning at the expense of good economics and good decision-making. One tax practitioner regarded estate duty as a narrow (and inferior) CGT, as the regime (usually) targets only affluent individuals.

Moreover, three participants perceived the estate duty as excessively complex due to the need for comprehensive rules. One participant claimed that such complexities would likely cause a significant increase in compliance and administration costs, which would take New Zealand's "eye off the ball of economic growth" (Participant M). Another tax practitioner cautioned that the IRD would likely need to "gear up from an administrative point of view" (Participant E) to mitigate non-compliance. Finally, due to its narrow-banded nature, the estate duty was labelled an "envy tax" by one participant (Participant E) and criticised by another for lacking coherence with New Zealand's existing tax system.

6.3.2 Revenue Collected

As shown in Table 6.2, there was no consensus regarding the potential tax take of a new estate duty. While three participants accused the estate duty of being a historically poor revenue raiser, another three were optimistic that present-day New Zealand would financially benefit from such an imposition. One supporter further noted that estate duty would be worthwhile re-introducing as the taxes collected would decrease the relative revenue burden of other tax regimes (such as income tax).

6.3.3 Political and Public Reception

6.3.3.1 Political Parties

Lastly, the participants broadly regarded *political palatability* as the main barrier to re-imposing the estate duty. For four participants, it was the political factor which significantly eroded their support for a new estate duty (all of whom conceptually favoured taxing capital in some form). Overall, there was a wide consensus that the emotive nature of death duty would likely make it politically undesirable for a government to re-implement an estate duty in New Zealand, as such governments would risk losing political support. Some participants predicted that the new estate duty would be framed as a *death tax* by opposing political parties, who would reiterate the arguments behind the 1992 estate duty abolition to increase their popularity with voters. A few participants also suspected that political point-scoring would be driven by self-interest as many politicians in New Zealand are wealthy individuals.

6.3.3.2 New Zealand Public

As shown in Table 6.2, most participants were sceptical that an estate duty would be supported by New Zealanders. Only three participants were confident that such an imposition would be well received by New Zealanders. Five participants predicted an adverse taxpayer response. Four participants were neutral (adverse leaning), affirming that estate duty support would largely be contingent on the bequest motive of taxpayers and/or the government’s ability to frame and package the duty.

Of those anticipating a negative public response, one tax practitioner thought that a new estate duty would tarnish the reputation of New Zealand’s existing tax policy by encouraging non-compliance in other tax forms among taxpayers perceiving the regime (and the tax system more generally) as unjust. They also suggested that productive sectors would likely resist a new estate duty due to the capital nature of their industries and that those financially recovering from the COVID-19 pandemic might share similar feelings of unease. Participant E further claimed that the estate duty would "send a real chill down [the] spine" of capital accumulators and would facilitate fewer long-term investments of capital resources. Moreover, one participant advised that the IRD might resist the estate duty due to the emotive character of collecting taxes upon death.

In contrast, three participants felt that the estate duty would be broadly accepted by taxpayers concerned with addressing wealth inequality. One participant insisted that New Zealand has developed a greater awareness of (the harms of) wealth inequality since the estate duty was abolished in 1992, which should facilitate greater support for the regime. The participants further proposed that the media has previously exaggerated the resistance toward estate duty and that the typical New Zealander would be more receptive to it being re-imposed.

6.3.3.3 Framing/Communication

As noted above, the participants were unanimous that estate duty support would hinge on how well it was framed and promoted to New Zealanders. Clear communication was deemed essential, particularly in relation to *who* would be taxed, *why* they were being taxed, and *what* the proposed benefits were to society. Two participants cautioned against advertising the estate duty as improving redistribution, stating that national need would garner a more positive public response (particularly amongst wealthy taxpayers). Lastly, some participants recommended a package approach, with reductions offered in other tax types so that taxpayers did not consider the estate duty an extra burden.

6.4 Research Question 3

Section 5.4 of Chapter 5 (answering research question three) provided an overview of hypothetical matters related to the structuring and levying of a new estate duty in New Zealand. Table 6.3 below presents the key findings relating to the rate of an estate duty, while Table 6.4 outlines the participants' perspectives toward the various (possible) exemptions and concessions.

Table 6.3
Appropriate Rate and Structure of Estate Duty

Topic	Participant														Summary						
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	+	+/-	-	H	M	L	**Total**
Appropriate Rate of Estate Duty	M		M				L				L	L		H				1	2	3	**6**
Flat Rate of Estate Duty		+					-					+			2		1				**3**
Progressive Scale of Estate Duty Rates										+		+/-		+/-	1	2					**3**

+ indicates the participant was *supportive*
+/- indicates the participant was *neutral*
- indicates the participant was *unsupportive*
H indicates the participant endorsed a *high rate* of estate duty (30% or above)
M indicates the participant endorsed a *moderate rate* of estate duty (20% to 30%)
L indicates the participant endorsed a *low rate* of estate duty (less than 20%)
'Blank' indicates the topic was *not discussed* by the participant

Table 6.4
Potential Estate Duty Exemptions/Concessions

Exemption/Concession	Participant														Summary					
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	+	+/-	-	H	M	**Total**
Family Home	-	+/-		+/-		-		+		-	-				1	2	4			**7**
Appropriate De Minimis Threshold for Estate Duty	M				H		M			M	M			H				2	4	**6**
Farmland	-		-		+			+					+	-	3		3			**6**
Personal Property		+/-		-		+/-					+	-			1	2	2			**5**
Spousal/Partner				+/-			+/-	+	+/-						1	3				**4**
Charities		+												+/-	1	1				**2**
Disabled Children							+	+							2					**2**
Māori Assets										+	+				2					**2**
Minors							+/-		-							1	1			**2**
Quick Succession Relief	+/-															1				**1**

+ indicates support for a *full exemption*
+/- indicates support for a *partially exemption*
- indicates support for *not providing an exemption*
H indicates support for a *high de minimis threshold* (above New Zealand $2,000,000)
M indicates support for a *moderate de minimis threshold* (between New Zealand $1,000,000 - $2,000,000)
'Blank' indicates the exemption *was not discussed* by the participant

6.4.1 Asset Selection and Valuation

6.4.1.1 Assets Included

First, the participants deemed the matters of asset selection and valuation significant for policymakers to address. Overall, the participants broadly agreed that the range of different asset forms captured by the estate duty should be as wide as practicable, primarily to mitigate asset swapping. While one participant advised policymakers to provide a list of assets subject to the estate duty, another recommended a preliminary analysis of the typical asset classes included in various death duty regimes worldwide. Regarding potential asset forms, cash, listed shares, land, and housing were all perceived as easy to value (and thus sensible to levy estate duty on). By contrast, several tax practitioners were wary of including personal assets (including collectables) and trust assets within the dutiable base. One participant claimed that, due to the extensive range of personal assets owned by some New Zealanders, personal property would be complex to tax. Trust assets were also considered difficult (but likely necessary) to tax due to the separate tax status of trusts.

6.4.1.2 Valuation Issues

Furthermore, most participants saw clear valuation rules as essential. This was deemed particularly crucial for difficult-to-value assets (such as unlisted shares), which in the absence of clear valuation provisions might result in significant legal disputes. One participant further claimed that debates over asset values were inevitable due to the emotive appeal of taxing upon death and the fact that most taxpayers tend to overestimate the market value of their assets. Nonetheless, three participants considered the process of valuing assets a surmountable task, due namely to the presence of a trigger event (death).

6.4.2 Rate and Structure

As shown in Table 6.3, five participants cited a preference for a flat or a progressive estate duty. However, most participants regarded the rate structure of an estate duty as a vital consideration for policymakers. A flat rate was praised for its simplicity and was deemed better suited to an estate duty which provided many different exemptions. The participants also felt that wealthy taxpayers would be more supportive of an estate duty if the government adopted a flat rate. By contrast, some participants felt that a progressive estate duty would better reflect and promote vertical equity but recognised that it would be more difficult to sell politically (as affluent taxpayers would resist such mechanisms, as has been observed with income tax).

Table 6.3 further shows that most of the participants favoured a low to moderate rate of estate duty. Five participants considered a rate of less than 30% appropriate, with Participant K cautioning that a high rate would lead to "civil disobedience" and extensive taxpayer migration.

6.4.3 Liquidity Concerns

Several participants raised liquidity concerns. In general, the participants cautioned that a poorly constructed estate duty would have significant unintended consequences for taxpayers with primarily illiquid assets. Several participants noted that the farming industry is particularly vulnerable to cash-flow issues due to the capital-intensive nature of such entities. The participants also felt that, unless a realisation basis was adopted for the estate duty, the regime would facilitate a continuing shift to equity-funded farming.

Although a realisation basis was praised for alleviating liquidity issues, one participant predicted that the initial tax take of the estate duty would be lower as a result of such provisions (as the tax dollars would be collected at a later date). In addition, some participants felt that part of the estate duty should be paid at the date of death, with financial incentives offered for the remaining sums owed, to reduce lock-in effects. Finally, one participant believed that cash-flow issues would only be a minor barrier to the re-implementation of the estate duty as farming families could obtain adequate life insurance to pay such taxes.

6.4.4 Exemptions

6.4.4.1 De Minimis

Concerning exemptions, most participants advocated for as few exemptions as practicable, again to reduce administration and compliance costs. As shown in Table 6.4, there was no consensus regarding an appropriate de minimis for the estate duty. Of those who cited a threshold, most recommended a moderate de minimis of between $1,000,000 and $2,000,000. At this level, such participants were confident that poor and ill-prepared taxpayers would be removed from the dutiable base. By contrast, those suggesting a high de minimis (above $2,000,000) did so for contrasting reasons. While one participant stated that a high threshold would be necessary to protect productive assets from being captured by the estate duty, the other claimed that the threshold should be great enough to catch no more than 5% of estates. Lastly, two participants endorsed indexing the estate duty for inflation to ensure that the regime remained fit for purpose.

6.4.4.2 Family Home

As shown in Table 6.4, several participants were against a full exemption for family homes. They believed that a full family home exemption would encourage further unproductive investment in housing and land (*the mansion effect*). While two participants recommended a partial exemption for the family home, one participant cautioned that regional differences in housing prices would make it difficult for policymakers to establish a cap. Four individuals were against any form of housing exemption, with most noting that the family home was an unearned gain to the beneficiary and thus conceptually unfair to exempt. One participant further criticised a housing exemption for discriminating against business-related assets.

6.4.4.3 Spouses/Disabled Children

Participants were generally supportive of exempting both spouses and disabled children, viewing such parties as particularly vulnerable to a quality-of-life deterioration (in the absence of appropriate concessions). However, several participants advised policymakers to incorporate a deferral mechanism to capture the estate duty upon the death of the surviving spouse. For surviving spouses, the participants endorsed a deferral approach due to the jointly-owned nature of most relationship assets.

6.4.4.4 Farms

Three participants were critical of exempting farming estates from estate duty, with some suspecting that such concessions would tempt other taxpayers (such as manufacturers) to request an exemption. Those supporting a farming exemption did so primarily on a liquidity and/or a productivity basis. According to these participants, farming requires increasing economies of scale to keep functioning, thus an estate duty might contribute to farmlands (over time) declining in productivity, which could have wider adverse social ramifications. In contrast, those against a farming exemption claimed that in present-day New Zealand, farming is widely done on a corporate basis thus negating the need for such reliefs.

6.4.4.5 Personal Property

Whilst arguments for a full personal property exemption stemmed from the potential difficulties of valuing such assets (as elaborated above), opposing parties affirmed the behavioural risk of asset swapping. Thus, to improve legislative fairness and to help balance the administrative cost of collections, two participants advocated for an exemption cap for personal assets. The participants also noted that definition issues would likely arise unless policymakers clearly specified which personal assets (if any) were exempt for estate duty purposes.

6.4.4.6 Māori Assets

Two participants also raised the issue of taxing Māori assets. According to these tax practitioners, levying an estate duty on Māori assets would be exceptionally difficult due to the collectively-owned nature of such assets (which are held by the Iwi). Thus, levying estate duty on Māori assets would be practically and philosophically complex, as there would be no trigger event (as the Iwi never dies) and the taxing of such assets would likely be framed as confiscation.

6.4.4.7 Charities/Quick Succession

One participant encouraged policymakers to fully exempt charitable bequests, declaring that an estate duty would discourage philanthropy. By contrast, another participant advised against a full charitable exemption due to concerns that wealthy taxpayers would utilise such concessions to obtain a financial benefit. Finally, to mitigate double taxation, one individual queried whether concessions should be provided for quick successions.

6.4.5 Inter Vivos Gifting

All participants strongly agreed that a separate gift duty regime or an extensive clawback provision would be imperative to buttress a new estate duty. In the absence of gift duty, most participants felt that wealthy taxpayers would simply gift all of their assets away inter vivos to avoid the estate duty. As with the estate duty, the matters of dutiable rate(s), de minimis threshold, asset selection, asset valuation, exemptions, and potential revenue collection were regarded as vital gift duty considerations.

6.4.5.1 Dutiable Rate

Although no participant suggested a specific gift duty rate, one participant noted that it would be sensible for policymakers to levy both the estate and gift duties at the same (or similar) tax rate(s). This individual further anticipated that identical tax rates would reduce the incentive for wealthy taxpayers to gift inter vivos, which would, theoretically, make the estate duty more efficient at raising revenue. Nonetheless, the academic also predicted that such rates would likely be poorly received (politically) by wealthy New Zealanders.

6.4.5.2 Exemption Threshold

Participants also agreed that a de minimis threshold would be necessary for gift duty, to reduce administrative and compliance costs. However, there was no consensus as to where the threshold should be set. For example, while some participants advocated for the previously utilised $27,000 exemption to be re-instated, others felt that the threshold should be higher to enable family farms to be gifted over a lifetime.

6.4.5.3 Asset Selection and Valuation

Two participants maintained that the issues of asset selection and valuation were prevalent for gift duty as well as estate duty. As with the estate duty, participants generally held the view that gift duty should capture most, if not all, asset forms to mitigate asset swapping. In addition, one participant (Participant J) deemed it particularly vital for "interest-free loans repayable on demand" to be included within the dutiable base. Like the estate duty, one tax practitioner endorsed a charitable exemption for gifting, claiming that charities often stand in the place of government expenditure. As such, a concession for charities might both be necessary and appropriate. Nevertheless, this participant further stated that policymakers would need to mitigate uncertainty by clarifying *what* was deemed an exempt charity for gift duty purposes.

6.4.5.4 Loss of Control

The participants also raised the matter of *asset control*. According to one participant, a key dilemma with the previous estate duty was the ease with which donors could gift without transferring economic wealth or control of their assets to the donee. As such, some participants argued that stricter gifting provisions would be required to ensure that *genuine* gift giving took place and that the donor lost full control of their gifted assets. To mitigate non-compliance issues, one participant advised policymakers to reinstate gift duty before the estate duty. In doing so, this tax practitioner claimed that wealthy taxpayers would be prevented from gifting away their assets tax-free in anticipation of the estate duty.

6.4.5.5 Clawback Provision

Lastly, two tax practitioners endorsed a clawback provision to capture gifts given within a period before death. While one participant recommended that New Zealand follow the seven-year clawback period utilised by the UK, the other favoured a shorter period to reduce complexity.

6.4.6 Trusts

All participants recognised trusts as a major barrier to re-implementing the estate duty. As the estate duty is usually triggered upon the death of the testator (Littlewood, 2012), most participants felt that trusts (with their potential 125 year lives) would be widely utilised to avoid the duty. They also proposed that trusts would be difficult to thwart due to their separate tax status. As such, several participants recommended a *look-through provision* to trace the assets held within trust structures and attribute those assets to the settlor or the beneficiaries. However, some participants recognised that such provisions might be difficult to enact due to the inherent challenge of deciphering *who* actually owns the trust's assets, as well as the impracticality of taxing settlors who were deceased prior to the estate duty being re-imposed.

6.4.7 Migration

Regarding migration, most participants were concerned that wealthy New Zealanders would migrate themselves, and their assets, to another jurisdiction to avoid the estate duty. Australia was cited as particularly enticing due to its proximity and current lack of estate duties (although it does have a comprehensive CGT). While one participant claimed that wealthy business-oriented taxpayers would be most likely to emigrate (due to their focus on accumulating wealth), another advised that migration would be observed (generally) at a greater scale to the previous estate duty, as "the population of money now is much more mobile than it was before" (Participant H). Moreover, one participant anticipated a severe backlash in the agribusiness sector, as such taxpayers would be incapable of migrating their lands offshore. Lastly, to combat migration and act as a deterrent, one participant recommended a clawback of migrated assets.

6.4.8 Domicile vs Residency

Finally, two participants debated whether a new estate duty should be levied on a domicile or a tax residency basis. Although it would likely be more complex to administer, a domicile approach was deemed relatively effective in combating migration efforts due to being more difficult than tax residency for taxpayers to lose. Domicile was also considered less susceptible to double taxation as taxpayers could only be domiciled in one country at a time. By contrast, a tax residency approach was praised for its simplicity and for being relatively well-established in New Zealand's existing tax system (which domicile currently is not).

6.5 Taxing Successors

Section 5.5 of Chapter 5 presented an alternative approach to taxing wealth. Rather than re-introducing estate duty, three participants (as shown in Table 6.5 below) endorsed broadening the concept of income in New Zealand to tax (as income) successors on their inheritances received. Although not directly addressing a particular research question, these interview findings were deemed relevant due to the possible policy implications of this research.

Table 6.5
Participant Position on Taxing Successors

Topic	**Participant**														
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	**Total**
Taxing Successors via Income Tax				+		+			+						**3**
+ indicates the participant was *supportive*															
'Blank' indicates the topic *was not discussed* by the participant															

6.5.1 Key Findings

As the tax academics above claimed, taxing inheritances as income should be easier to sell politically than an estate duty, as bequests could be framed as *unearned* forms of income. As a type of income, the existing income tax rates would be utilised and no de minimis threshold would (likely) be provided. One academic argued that offering no exemption was appropriate as salary and wage earners were (usually) taxed on every dollar. However, another participant advised that a threshold might be necessary to reduce administration and compliance costs.

The tax academics also disagreed on whether taxpayers should be allowed to spread their inherited sums over several years to reduce their applicable tax rates. It was generally held that whilst income spreading should prevent large sums of wealth from being taxed at 39%, such provisions would discriminate against other forms of income (namely salary and wages), which would likely remain not spreadable.

Finally, whilst gift duty was widely regarded as essential to help buttress an estate duty, it was deemed largely irrelevant if inheritances were taxed as income. According to the participants, both inheritances and gifts should be treated equally as income and taxed at the appropriate rate under the *Income Tax Act 2007*. Thus, an exemption for gifting might only be necessary to mitigate administration and compliance costs.

6.6 Discussion

6.6.1 Political and Financial Feasibility

6.6.1.1 Political Feasibility

Overall, this research has shown that, when compared to other tax forms (such as income tax and GST), the estate duty is highly emotive in nature (Lin et al., 2018), making it politically and technically complex to impose and maintain. As a consequence, the estate duty is often side-lined during policy debates, and portrayed as an inefficient non-viable tax (hence the lack of recent New Zealand publications on this topic) (TWG, 2010; 2019). Nonetheless, with wealth inequality concerns becoming increasingly topical (IRD, 2023; New Zealand Green Party, 2020; Rashbrooke, 2021), a new capital tax might soon be considered to address wealth inequality in New Zealand. Thus, this research confers an overview of the potential key benefits and challenges of re-imposing an estate duty in contemporary New Zealand.

In general, there was no participant consensus as to whether the estate duty should be re-introduced in New Zealand. For primarily political reasons, eight of the participants were against re-introducing the estate duty. Due to the emotive nature of taxing the deceased (Sood et al., 2006), these participants were concerned that opposing political parties would frame the estate duty as a "death tax". Such negative framing could make estate duty very challenging to resurrect, particularly if it gained extensive traction in the media. There is also a possibility that the opposition would reiterate the reasons behind the 1992 estate duty abolition and claim that such factors were equally pertinent in present-day New Zealand. Nevertheless, since the 1990s, wealth inequality has increased considerably in relevance (Rashbrooke, 2021), a fact which should increase support for the regime. This research also indicates the importance of evaluating tax history, as the estate duty was abolished during a period where efficiency was favoured at the expense of equity, hence it was a different time period with a contrasting ideology.

It was also noted that due to the estate duty not being dutiable for over 30 years, most New Zealanders would lack a general understanding of how it might be levied. Thus, it would be essential for policymakers to outline *whom* the estate duty would affect (as taxpayers may overestimate their chances of being caught), *how* they could be affected, as well as the overall *purpose(s)* for re-introducing it. As one participant proposed, the estate duty might be better received if the tax was framed as a national need rather than purely for redistributive purposes. Although inherently challenging, such framing could also diminish arguments that estate duty is only utilised on an *envy* basis. Thus, the success of a new estate duty would likely hinge on how well it was framed and promoted to the taxpaying public (Krever & White, 2007).

It may be useful to conduct a poll to ascertain the extent to which a re-instated estate duty would be supported by New Zealanders. Again, such polling should be reserved until after the estate duty has been well outlined to the public, as a misunderstood tax would likely receive an adverse response from New Zealanders. As Krever and White (2007) have claimed, widespread education (and consultation) was key to establishing strong public backing for the introduction of GST in 1986. Moreover, these authors claimed that GST was predicted to experience considerable taxpayer resistance (particularly due to its regressive nature), but instead received widespread endorsement due to the way it was framed and promoted to New Zealanders. Thus, the imposition of GST provides a model for how policymakers might successfully gain both political and public support for a new estate duty.

6.6.1.2 Financial Feasibility

There is no denying that the estate duty (usually) lacks the revenue collection potential of income tax and GST (due to being narrow-banded). As such, policymakers are ill-advised to frame the estate duty as a revenue raiser. Nonetheless, if revenue were a consideration, the estate duty would need to generate sufficient revenue to satisfy the policymakers' objectives. Thus, non-compliance must be mitigated, where practicable. The previous estate duty suffered from extensive avoidance, which partially contributed to its low tax take in the 1980s and 1990s (Marriott, 2016; Littlewood, 2012). Whilst existing technologies in New Zealand would facilitate greater opportunities to avoid an estate duty (due to asset mobility), the IRD should equally have the resources to detect and mitigate efforts of non-compliance. Therefore, a contemporary (well-maintained) estate duty might be better positioned than its predecessor to financially target redistribution and/or national-need objectives.

6.6.2 Structural Considerations

This research has showcased a range of technical (estate duty) matters for the New Zealand Government and the IRD to evaluate. As for the political and financial feasibility, policymakers would be strongly advised to review the structural history of the estate duty in New Zealand. In doing so, policymakers could identify key improvements to help make the estate duty more efficient, less complex, and/or less avoidable than the previously abolished regime. In addition, a historical analysis would show whether the provisions utilised in the *Estate and Gift Duties Act 1968* were still relevant or would need modernising. Finally, as the author observed moderate participant resistance toward resurrecting the estate duty, the New Zealand Government would be wise to consult widely in their policy decision-making (via the GTPP) in order to increase public palatability.

6.6.2.1 Asset Selection and Valuation

Regarding asset selection, policymakers should include most asset types to prevent asset swapping. Clear rules would also be needed to facilitate greater taxpayer understanding of which asset forms were dutiable, as well as how such properties might be valued. Policymakers should also accept that, due to the emotive nature of taxing deceased estates, legal disputes over asset valuations are inevitable. It is also worth noting that assets are already valued for several purposes (including for insurance), indicating that valuation debates are not solely an estate duty concern.

6.6.2.2 Rate

Careful planning would be required when determining the dutiable rate of the estate duty. It appears that the 40% top tax rate imposed by the *Estate and Gift Duties Act 1968* played an active role in the eventual demise of the estate duty regime. Due to its perceived oppressiveness, the 40% rate facilitated extensive tax planning activities by wealthy New Zealanders who deemed the rate unfair (which undermined the regime’s effectiveness). Thus, the New Zealand Government should consider a (much) lower tax rate(s).

While most participants endorsed a dutiable rate of less than 30%, the adopted rate would likely hinge on several factors. Typically, for broad-based low-rate taxes, the fewer the exemptions and the lower the de minimis threshold, the lower the rate(s) utilised. However, being a mechanism to (primarily) improve legislative fairness, policymakers would likely set the rate(s) of the estate duty at a level which satisfies their redistributive and/or national need goals. It might also be preferable, politically speaking, to introduce the estate duty at a low rate and increase the rate over time (as was done with GST). In terms of structure, while a flat rate would aid in minimising complexity, a progressive scale of rates may better reflect vertical equity. Thus, from a redistributive standpoint, a progressive estate duty might be a better fit conceptually.

6.6.2.3 Liquidity Issues

To combat liquidity concerns, policymakers should consider adopting a realisation basis. This strategy could be useful in scenarios where a testator dies and owns one major asset (such as a family home). A realisation basis would give family members longer to realise the illiquid asset and pay the estate duty. Nonetheless, lock-in effects are inevitable and, where possible, would need to be mitigated. Policymakers could consider offering a financial incentive to those who pay the tax within a specific period, or a time limit for families to realise the testator's assets with use-of-money-interest charged if the estate duty liability is not paid on time. It would also be important to investigate the probable loss of family farms, or businesses (due to the estate duty), and, if necessary, make concessions for this.

6.6.2.4 Exemptions

Another key area to evaluate is exemptions. The New Zealand Government should consult widely on this topic as there are numerous possible exemptions. An estate duty may decline significantly in popularity if certain assets are included or excluded from the dutiable base without adequate consultation.

Regarding the de minimis, a threshold would almost certainly be necessary for administrative and compliance purposes. For political reasons, an aggressively high threshold may not be wise as this would provide greater traction for opposing parties to label the estate duty as an *envy* tax. By contrast, a low de minimis would risk capturing unprepared and ill-informed taxpayers. Thus, policymakers would need to establish both *how* much revenue they wished to collect from the estate duty (for redistributive and/or national need purposes), and *what* assets should be included within the dutiable base. It may also be worth considering whether the de minimis should be indexed for inflation, as such indexing was not utilised previously to the detriment of upper middle-wealth New Zealanders (and still is not for income tax!).

As with a CGT, there would likely be strong political resistance to taxing the family home in full as this is often the main asset a testator's beneficiaries inherit. Instead, policymakers could consider an exemption cap. However, such provisions would likely be difficult to impose as regional differences in land and housing values could lead to debates about fairness. Nonetheless, a full exemption would encourage further investment by potential testators in family homes, which would be undesirable from a policy perspective.

Deferral mechanisms might also be useful in cases where the beneficiary is the spouse of the deceased. It would likely be politically infeasible to fully tax the inheritance of a spouse (or a disabled child) due to such bequests protecting the surviving individual's quality of life. As such, a partial or a full exemption might instead be suitable, provided that the tax was collected upon the death of the spouse (to mitigate avoidance).

It would also be imperative to evaluate whether farming assets should receive a separate concession. Due to their capital nature and lack of mobility, farms would likely be significantly impacted by an estate duty. However, whilst a full or a partial farming exemption should alleviate estate duty concerns, such concessions may lead to calls to extend the exemption to other sectors (such as manufacturing). Therefore, from a political standpoint, a farming exemption may be unwise. In a practical sense, such exemptions might also be less relevant in present-day New Zealand, as two tax academics claimed that farming is often done on a corporate basis. Nevertheless, adequate mechanisms would still be required (if it was desired) to prevent farming families from selling their farms to pay the estate duty.

A capped exemption should also be considered for personal assets (including collectables). A full exemption is ill-advised as this would facilitate asset swapping among affluent New Zealanders. By contrast, providing no exemption would lead to extensive compliance and administration costs, particularly in relation to valuing personal assets. As such, the challenge (again) would be establishing an appropriate threshold.

Māori lands would likely be exempt due to (usually) being owned by the Iwi (which never dies). However, such concessions would stir further fairness debates and political pressures to exempt other taxpayer groups (e.g., farmers) from the estate duty. These considerations further highlight the political difficulty of preferencing certain taxpayer groups over others.

Finally, policymakers might wish to consider an exemption for charities. While such concessions should encourage philanthropy, they may equally motivate wealthy New Zealanders to voluntarily sell (or gift) their assets to an exempt charity for tax avoidance purposes. Thus, a capped exemption may be necessary to mitigate such behaviours. It would also be important for policymakers to specify *what* was deemed an exempt charity for estate duty purposes. For example, should the exemption (if provided) be restricted to charities registered with the Department of Internal Affairs under Section 13 of the *Charities Act 2005*?

6.6.2.5 Inter-Vivos Gifting

Based on this research's findings, a new estate duty's revenue integrity would be largely contingent on how policymakers controlled inter-vivos gifting. It is highly probable that, without gift duty, wealthy taxpayers would gift most of their assets away inter vivos to avoid the estate duty. Therefore, the estate duty must be buttressed by gift duty. As estate and gift duties were previously utilised together, policymakers have some evidence as to how a gift duty might be designed. Structurally, the rate(s) of the gift duty would need to be addressed, as would the level of progressivity. It is also necessary to ask whether an exemption threshold would be necessary to reduce administration and compliance costs, and what assets should be dutiable (and how might they be valued). Furthermore, what could be done to ensure that debt forgivenesses were captured by the gift duty and that donors lost full control over their gifted assets? The participants deemed both of these matters critical due to their adverse impact on the previous estate duty. Lastly, should charitable gifts be exempt to encourage genuine gifting and if so, should there be a cap?

As estate and gift duties have not been utilised together for over 30 years, most taxpayers would not be used to declaring their gifting activities. Hence, for education purposes, it might be necessary for policymakers to advertise to taxpayers that gifting over a certain threshold (if applicable) in any given period would be subject to the gift duty. Nonetheless, due to advancing technologies, the IRD should have the resources to monitor (and remedy) non-compliance.

Finally, adopting a clawback provision (as was previously utilised) may be sensible to capture wealth gifted close to a testator's death. However, such provisions would likely require a time limit to reduce complexity. Therefore, would the three-year gifting clawback utilised by the *Estate and Gift Duties Act 1968* be sufficient, or should another figure be adopted?

6.6.2.6 Trusts

It would also be necessary for policymakers to address trust structures. Overall, trusts were a key mechanism used to avoid the previous estate duty (via debt forgivenesses), and, unless dealt with appropriately, would likely undermine a new estate duty too. As such, a look-through provision might be useful to capture assets held within a trust and trace them back to the settlor or the beneficiaries. However, such provisions would be very complex due to trusts (generally) being treated as a separate entity for tax purposes. Encouraging the IRD to look through trusts for estate duty purposes might also lead to broader uncertainties surrounding the legal ownership of trust assets. The New Zealand judiciary may also be reluctant to deem such look-through provisions appropriate, as structuring assets within a trust is generally viewed as an acceptable practice.

6.6.2.7 Migration/Domicile

Lastly, in enacting a new estate duty, wealthy New Zealanders will be incentivised to shift themselves (and their mobile assets) to another jurisdiction (such as Australia) to avoid paying the duty. Thus, it might be necessary to enforce a clawback provision to deter such capital movements. A domicile approach too may be advisable, as it would be more difficult for taxpayers to lose than New Zealand tax residency. As domicile has largely been removed from New Zealand's current tax system, re-introducing such mechanisms may prove complex. Further considerations would also relate to the length of the clawback provision, and the basis for which an individual would be domiciled in New Zealand.

6.6.3 Alternative

As noted above, the *emotive* factor would likely drive the political and technical difficulties of re-imposing an estate duty in New Zealand. In part, due to the Family Principle (Beckert, 2008), New Zealanders may resist the redistributive benefits of a new estate duty, instead perceiving the regime as confiscating their assets. A possible remedy might be to instead tax the inheritor (either under income tax or as its own mechanism). This could be politically more palatable due to the unearned nature of the inheritance to the beneficiary. However, many of the above issues would still be relevant for policymakers to ponder, including asset selection, asset valuation, cashflow issues, possible tax rates and structure, exemptions, inter vivos gifting, trusts, and migration. Policymakers would also need to decide whether the inheritor could spread their inheritances over several years to reduce their overall tax rates (if levied under the Income Tax Act 2007). Such provisions, however, would discriminate against other forms of income (namely salary and wages).

6.7 Summary

In conclusion, this research has shown that, while re-introducing estate duty should aid in improving redistributive fairness in New Zealand's tax system, it may not be politically feasible. This research has acknowledged that estate duty by nature is an emotive tax which would likely stimulate significant avoidance attempts by those who perceived the regime as unfair. As such, policymakers would be required to furnish rigorous provisions to ensure that the duty was fit for purpose and capable of mitigating non-compliance. Whilst the intent of this research is not to directly endorse a new estate duty, it is clear that concerns about wealth inequality continue to endure in present-day New Zealand (IRD, 2023; Rashbrooke, 2021; New Zealand Green Party, 2020).

Thus, if the estate duty was deemed as appropriate to re-implement, it would be imperative for the New Zealand Government to acknowledge the key matters which led to the estate duty being abolished in 1992 and make an active effort to address these legislative and political weaknesses (if applicable). Policymakers should also be reminded of the importance of public consultation (via the GTPP), as without public support, the estate duty would likely fail.

Finally, political framing is a significant tool, and an inheritance-type tax might be a safer alternative for addressing wealth inequality in New Zealand.

Chapter 7: Conclusion, Research Limitations, and Potential Future Research

7.1 Conclusion

The aim of this research was to explore the estate duty, both from a tax practitioner's and a tax academic's perspective. Specifically, this research sought to ascertain why the estate duty was abolished in New Zealand in 1992, and whether a similar tax would suit re-implementation in contemporary New Zealand. The research answered the following questions:

RQ 1: What were some of the factors which contributed to the estate duty being abolished in New Zealand in 1992?

RQ 2: To what extent do tax practitioners/academics support re-introducing the estate duty in contemporary New Zealand? Why? Why not?

RQ 3: If the estate duty was re-introduced, what issues would need to be considered?

7.1.1 Question 1

Regarding RQ 1, most participants cited poor tax revenues and high administration costs as key factors behind the estate duty's demise. They also agreed that the estate duty had been susceptible to avoidance in New Zealand, as wealthy taxpayers (court-approved) gifted most of their assets away and/or sold their assets to (non-assessed) trusts. Such processes were highly distortionary, resulting in less wealthy and uninformed taxpayers paying a large proportion of the tax. Asset structuring was further encouraged by the maximum rate of estate duty being higher than the maximum rate of gift duty, and a loophole within the *Matrimonial Property Act 1976*.

Furthermore, the inflationary pressures of the 1980s contributed to fiscal drag, whereby upper middle-wealth taxpayers were increasingly captured by the estate duty, requiring many to borrow money or sell assets to pay the duty. These factors eroded the already dwindling reputation of the estate duty in New Zealand. Lastly, it was widely felt that the practical and psychological shift experienced in the mid-1980s (a movement to broad-based, low-rate taxes) resulted in the estate duty being viewed as primitive in design. As a result, the incumbent National Government faced little opposition in its move to fully abolish the estate duty in 1992.

7.1.2 Question 2

Concerning RQ 2, the semi-structured interviews produced mixed results. While most tax academics were in favour of a new estate duty in New Zealand, nearly all tax practitioners disapproved of such an imposition. Supporters of the estate duty generally felt that the regime would contribute towards greater fairness and redistribution in the tax system by reducing wealth inequalities in New Zealand. These participants also thought that the estate duty would recognise the unearned nature of inherited wealth (for successors) and should provide the New Zealand Government with additional funds to service societal infrastructures (such as health and education). Finally, those endorsing the estate duty deemed the regime justifiable on a merit basis.

In contrast, participants against estate duty criticised it for failing to uphold the principles of a *good* tax system (certainty, revenue integrity, efficiency, complexity, and coherence). Some participants claimed that an estate duty would lack certainty and revenue integrity as wealthy taxpayers would shift their assets into trusts and/or gift their assets away. As such, the estate duty might only affect the ill-advised and the stubborn. Those opposing an estate duty also professed that policing estate planning activities could be an expensive exercise for the IRD and would likely require complex legislative provisions to help reduce non-compliance. Furthermore, those opposing estate duty argued that the estate duty was obsolete in design due to contemporary (affluent) New Zealanders often owning a vast array of migratable assets.

The participants also disagreed on the political palatability of a new estate duty, with tax practitioners generally more negative in their views than the tax academics. Overall, it was felt that a political party would likely show little interest in re-introducing the estate duty in New Zealand due to the emotive nature of levying a tax solely at an individual's death. Nonetheless, the participants mostly agreed that with careful framing, and packaging, an estate duty might be successfully sold to the New Zealand public. Such success would also hinge on whether the regime was purely framed as an additional tax and what the purpose was for imposing the estate duty (as the primary purpose should not be to raise revenue, but rather to address wealth inequality/national need objectives).

7.1.3 Question 3

With respect to RQ 3, participants broadly agreed that policymakers would face a raft of issues were they to re-implement estate duty in present-day New Zealand. Firstly, decisions relating to dutiable assets would require thorough consideration, as some assets (such as personal property and unlisted shares) might be more difficult (and costly) to value. In addition, policymakers would need to consider whether the estate duty should be levied on a progressive or a flat basis, and determine an appropriate tax rate(s). Participants generally accepted that, while a flat rate would aid in simplifying the estate duty's design, a progressive scheme of rates would better complement wealth redistribution efforts. Also of importance, what provisions might be required (if any) to mitigate liquidity concerns for those with primarily illiquid assets? While some participants endorsed collecting estate duty on a realisation basis, others advocated for a time limit to realise inherited assets and pay the duty. However, such preferencing might facilitate lock-in effects and encourage taxpayers to invest in illiquid assets, at a greater scale, to delay estate duty payments.

With regard to exemptions, should there be a de minimis threshold for the estate duty and if so where should this be set? Participants broadly advocated for a low-ish threshold ($1,000,000 - $2,000,000), but one high enough to alleviate unnecessary administrative and compliance costs. Moreover, if there was a threshold, should this be regularly adjusted for inflation? The participants also debated whether family homes, surviving partners/spouses, disabled children, minors, farms, personal property, Māori assets, or charities should be exempt from the estate duty, and whether deferral options should be provided for certain assets/taxpayers.

It was also widely agreed that an estate duty would be severely compromised without a gift duty to buttress it. Therefore, if policymakers were to also re-implement gift duty, what would be an appropriate rate to tax gifts? Should there be a de minimis threshold? As with the estate duty, participants felt that a de minimis for gift duty should be set high enough to mitigate unnecessary administrative and compliance costs. Also of relevance, what would be included as a dutiable gift? Would policymakers tax gifts given to charities, and if so, which charities? Lastly, how might policymakers ensure that donors lost full control over their gifted assets?

Most participants also considered trusts a vital issue to consider, due to their lifespan and separate tax treatment. Could there be a look-through provision to trace the trust's assets to the settlor or the beneficiaries? How could policymakers mitigate migration efforts? With Australia currently having no estate duty, several participants were wary that wealthy New Zealanders would simply migrate to Australia to avoid paying the duty. Could New Zealand implement a clawback provision to capture the migrated assets of deceased testators? Finally, should a domicile or a tax residency approach be utilised to tax deceased estates? While domicile would arguably be harder for a taxpayer to lose, it might be more complex to determine and enforce.

7.1.4 Additional Findings

Although not directly addressed by the research questions, a couple of additional findings arose from this research. The first (more significant) finding related to three participants' suggestion to tax instead the inheritances received by an individual (a succession-type tax) via income tax. According to these individuals, an inheritance-type tax might be easier to frame politically than an estate duty due to the unearned nature of the inherited sums to the recipient. Nonetheless, policymakers would still have to consider if a de minimis threshold should be provided and whether any asset forms should be exempt. Being taxed as income, it is likely that neither of these would be conceptually necessary. A further consideration would relate to the spreading of inherited income.

The second finding concerned the ease by which the estate duty was abolished in 1992. Some participants claimed that due to the GTPP, an estate duty would likely be widely evaluated in contemporary New Zealand if suggested for re-introduction. Thus, policymakers should be prepared to involve multiple stakeholder groups in their decision-making. This finding also reflects that the lack of consultation might have contributed (albeit to a small degree) to the ease by which the incumbent National Government abolished the estate duty in 1992.

7.2 Policymaker Suggestions

7.2.1 Educate Taxpayers

The insights provided by this research enable the author to offer some recommendations to policymakers. The first highlights the importance of educating taxpayers on *what* an estate duty regime would look like and also *who* the tax would likely affect. Several participants advised that the *emotive appeal* could significantly hinder the successful re-introduction of the estate duty in New Zealand. Thus, it would be vital for policymakers to educate poorer members of society that they would likely be unaffected (and may actually benefit) from the re-imposition of the estate duty in New Zealand due to the redistributive effect. As noted above, GST received widespread public support when it was introduced in 1986 (Krever & White, 2007). This fact highlights the importance of educating and consulting with taxpayers, as without this GST would likely have observed much greater resistance.

7.2.2 Political Framing

As discussed above, participants widely felt that the estate duty would only be accepted by the New Zealand public if the regime was framed and packaged correctly by policymakers. As such, it would be vital for the New Zealand Government to frame the estate duty as a national requirement rather than a tax on the rich (an *envy* tax). Whilst the estate duty should aid in reducing wealth inequality, it is vital that the regime is not presented in a manner which creates an *us* versus *them* mentality. Without sufficient public backing, the estate duty will have little chance of thriving.

7.3 Contribution

This research has contributed to knowledge in several ways. As far as the author is aware, since 1992, no other research has comprehensively evaluated how tax academics and tax practitioners view the potential re-introduction of the estate duty in New Zealand. As such, the results of this research may assist policymakers in predicting the general reception the estate duty would receive if re-implemented.

In addition, this research contributes to the limited body of knowledge on the estate duty in a contemporary New Zealand context. As much of the existing literature is historical, this research adds a *current* perspective.

Finally, this research may remind policymakers to consider the value of tax history when making policy decisions. Other previously repealed tax regimes might too be considered for re-implementation.

7.4 Limitations

7.4.1 Research Scope

One limitation of this research relates to its scope. This research was completed as part of the requirements for a Master of Commerce and thus had to be fulfilled within a specific time period. As such, some potentially fruitful topics were either left out or covered in less detail. An example of this was whether Māori Assets should be included within the estate duty's dutiable base. Whilst this was briefly discussed in Chapters 5 and 6, the taxing of Māori Assets is deeply controversial in nature and could easily have been elaborated in greater depth.

The author also chose to omit a separate section recognising the benefits of comprehensively taxing capital gains. Although two participants strongly advocated for a CGT, such arguments would likely have detracted from the core focus of this research (estate duty). By contrast, an inheritance-type tax conducted via income tax conceptually taxes the same wealth (inherited assets) but levies the tax on the successor rather than on the estate. Therefore, it was appropriate for such distinctions to be presented in Chapter 5.

7.5 Future Research Opportunities

7.5.1 Interviews/Surveys

This research confers several research opportunities for future researchers. Due to time and resource constraints, the author was unable to interview a broad range of New Zealanders to help answer the research questions. Consequently, in the future, researchers may instead choose to gather primary data from a different range of individuals or groups.

7.5.1.1 Farming

Regarding the farming community, probing how farming families experienced and/or viewed the estate duty previously in New Zealand would be enlightening. It could also be worthwhile interviewing Federated Farmers to garner their response to a new estate duty (or other wealth tax). Whilst some participants predicted that farmers would react negatively to an estate duty, interviewing Federated Farmers would help to reinforce (or possibly challenge) these claims.

7.5.1.2 Inland Revenue

It would be useful to establish the extent to which the IRD supported (or did not support) a new estate duty, as well as ascertain the hypothetical challenges the revenue authority could face if an estate duty was re-introduced. Such interviews would be particularly useful in evaluating the trade-off between estate duty incomes and expenditures.

7.5.1.3 Taxpaying Public

Although tax academics and tax practitioners were logical participants to answer the research questions, the interview results are not generalisable (as is consistent with qualitative exploratory research). In particular, the topic of taxpayer reception towards an estate duty could have benefitted significantly from surveying or interviewing members of the general public (those without extensive tax knowledge). In the future, researchers could potentially separate participants into bands (e.g., based on net wealth) and explore whether accumulated capital influenced an individual's perception or behaviour towards an estate duty. Such data collection could assist policymakers in evaluating the feasibility of re-introducing an estate duty in New

Zealand. It might also be worth establishing the effect of political and media framing on the overall acceptance of an estate duty by the taxpaying public.

7.5.2 Australia

As noted above, Australia partially contributed towards the abolition of the estate duty in New Zealand in 1992. As such, a researcher may choose instead to investigate how Australian taxpayers would perceive the re-introduction of estate duty in Australia. This topic could be fruitful and enlighten Australian policymakers as to whether an estate duty might be successfully re-imposed in Australia. This information should also help guide New Zealand policymakers as migration risks would likely be reduced if both jurisdictions (New Zealand and Australia) levied a similar estate duty.

7.5.3 Charitable Bequests

Another potential avenue of research would be investigating the behavioural effect of the estate duty on the tendency of testators to bequeath their wealth to charities. In the presence of an estate duty, will individuals in New Zealand bequeath greater wealth to charities if such sums are tax exempt? Alternatively, how do beneficiaries (family members) view charitable bequests in New Zealand?

7.5.4 Inheritance Tax

Lastly, to probe further into the suggestion to tax inheritances via income tax on successors as opposed to estates at point of death, a researcher could interview or survey an array of individuals (including tax practitioners, tax academics, the IRD, and/or the taxpaying public) to ascertain whether an inheritance tax might be superior (both administratively and in terms of facilitating cooperative compliance) to an estate duty. Whilst Section 5.5 noted some of the proposed benefits of broadening New Zealand's concept of income, such interview findings were incidental and not driven by the author. Thus, a researcher in the future may choose to centre their interview questions on the benefits and challenges of imposing an inheritance-type tax.

8.0 Appendices

Appendix 1 – Human Research Ethics Approval

UNIVERSITY OF CANTERBURY
Te Whare Wānanga o Waitaha
CHRISTCHURCH NEW ZEALAND

HUMAN RESEARCH ETHICS COMMITTEE

Secretary, Rebecca Robinson
Telephone: +64 03 369 4588, Extn 94588
Email: human-ethics@canterbury.ac.nz

Ref: HREC 2022/63/LR-

29 August 2022

Matthew Shivas
Accounting and Information Systems
UNIVERSITY OF CANTERBURY

Dear Matthew

Thank you for submitting your low risk application to the Human Research Ethics Committee for the research proposal titled "Would an Estate Tax Regime be Worthwhile in Contemporary New Zealand?".

I am pleased to advise that this application has been reviewed and approved.

With best wishes for your project.

Yours sincerely

Dr Dean Sutherland
Chair, Human Research Ethics Committee

Appendix 2 – Human Research Ethics Amendment

UC UNIVERSITY OF CANTERBURY
Te Whare Wānanga o Waitaha
CHRISTCHURCH NEW ZEALAND

HUMAN RESEARCH ETHICS COMMITTEE

Secretary, Rebecca Robinson
Telephone: +64 03 369 4588, Extn 94588
Email: human-ethics@canterbury.ac.nz

Ref: HREC 2022/63/LR Amendment 1

26 April 2023

Matthew Shivas
Accounting and Information Systems
UNIVERSITY OF CANTERBURY

Dear Matthew

Thank you for your request for an amendment to your research proposal "The Resurrection of Estate Duties in Contemporary New Zealand" as outlined in your emails dated 15th February and 18th April 2023.

I am pleased to advise that this request has been considered and approved by the Human Research Ethics Committee.

Yours sincerely

Dr Dean Sutherland
Chair, Human Research Ethics Committee

University of Canterbury Private Bag 4800, Christchurch 8140, New Zealand. www.canterbury.ac.nz

Appendix 3 – Semi-Structured Interview Questions

General Questions

1. Where do you work?
2. What is your role in this organisation? Type of work? Hierarchy?
3. How long have you been there?

Experience

4. What experience have you had with the estate duty's regime? What do you know about estate duties?
5. What is your opinion of estate duties? OR the estate duty's regime?

Estate Duty

Abolition

6. What do you think were the factors contributing to the abolition of estate duty in 1992?
7. Do you think it was the right decision to abolish estate duty? Why/Why not?
8. **IF NO** - What sorts of things or activities might have made it so estate duty could have continued at that time?

Re-introduction

9. Would you recommend that the Government re-introduce an estate duty in NZ? Why/Why not?

IF NO

- Why do you think estate duty should not be re-introduced?

IF YES

- Why do you think estate duty should be re-introduced?

IF UNDECIDED

- Why are you undecided?

Hypothetical

Benefits

10. What would some of the benefits be of re-introduction?
11. How could estate duty complement existing tax policies in place?

Challenges

12. What would be some of the barriers/challenges to re-introducing an estate duty’s regime?
13. If we were to re-introduce estate duty, what policy (structural) issues would we need to consider?
14. If we were to re-introduce estate duty, what exemptions (if any) would we need to include?

Public

15. What do you think the general public would think about the re-introduction of estate duty?
16. How would you prevent avoidance? What policies are already in place to do this?

Gift Duty

17. Would it be necessary to re-introduce gift duty too? Why? How?

Other

18. Finally, is there anything else we have not discussed that you would like to add?

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