

12 January 2017

Internal approach to managing changes or perceived changes of interpretation or practice

Purpose

1. The purpose of this document is to record Inland Revenue's approach to changes to, or **perceived** changes to, our tax/social policy technical **interpretation or practice** of administering tax legislation and to provide guidance for deciding what action to take in such circumstances. This document seeks to deal with a wider **set of circumstances than those addressed by the Commissioner's** statement on advice.¹
2. Much of what is set out here already happens in Inland Revenue. However, the aim is to make our internal process more transparent; that is, for there to be a more overt process we all adopt and for the process to be clearer as to who is responsible for what aspects of it. The successful adoption of this approach will be the collective responsibility of everyone in the technical areas of Inland Revenue. Although this document sets out a process, and provides some guidance, it does not proscribe what course of action to take in an individual case. In any case involving change or perceived change, Inland Revenue has a variety of options. The point of this document is to better ensure we are aware of the issues early and follow a consistent process to manage them effectively and transparently.
3. Changes in interpretation or practice are by definition potentially problematic for Inland Revenue because they can affect taxpayers' and their advisors' ability to understand and ultimately comply with their legal (tax) obligations. (Examples of such changes include: **a change in the Commissioner's view in a published** statement, a change in position because of an adjudication or a private ruling decision, a change through a court case, or a perceived change where taxpayers assume Inland Revenue holds a particular view because this has never been challenged on audit.) At times Inland Revenue has been criticised for how we have managed situations involving change or perceived change in position. Many of these situations are, or become, sensitive, in terms of possible public, key stakeholder or industry-specific reaction, lobby or interest group comment, and so on. By having a process that is more overt, consistent and broader in scope² to identify change situations early, and to address and communicate our decisions on these situations more effectively, we will better maintain the integrity of the tax system and, ultimately, taxpayer compliance. This is consistent with providing greater predictability of outcomes for Inland Revenue and taxpayers.

Current environment

Parliament makes the law; the Commissioner must apply it correctly

4. Parliament, not the Commissioner, or Inland Revenue, makes taxation laws. We acknowledge that, as a matter of principle and good tax administration, taxpayers should generally be able to rely on advice the Commissioner gives and practices

¹ Status of Commissioner's advice (TIB Vol 24 No 10 - December 2012).

² Although in many respects building on existing processes, such as the TIG network, the escalation policy and the provision of interim operational positions by LTS Technical Standards. This document is also broader in scope because it deals expressly with technical practice and issues of perceived change.

the Commissioner has considered and applied over time. This ability to rely on advice or practice assists taxpayers with their compliance obligations in a self-assessment environment. However, the Commissioner is under an obligation to apply the law correctly. With the exception of the binding rulings regime (which is the only way to bind the Commissioner interpretively under the law), the law is not effectively changed merely by the Commissioner giving or taking a different view (whether published or otherwise), or adopting a practice that is inconsistent with the law.³

5. That said, as a matter of good tax administration, Inland Revenue will generally stand behind its public statements and acknowledged policies or practices.

Application of a change of view from a published statement or specific advice

6. The Commissioner recently clarified her position in cases where a published public statement has changed or where a taxpayer has received specific advice (which the Commissioner has specifically communicated to that taxpayer) that has subsequently changed: see ***Status of Commissioner's advice*** (Tax Information Bulletin Vol 24, No 10, December 2012). Generally, the default position is that where the change results in a position less favourable to taxpayers the position will be applied prospectively. Where the change results in a position that is more favourable to taxpayers, the Commissioner may apply the change retrospectively subject to the exercise of her discretion under section 113 of the Tax Administration Act 1994 (TAA). Prior settlements and time-barred periods are unaffected by subsequent changes in position in either direction.
7. In exceptional cases, the Commissioner may apply a new position that is less favourable to one or more taxpayers immediately (ie, without advance warning), or retrospectively (including to current disputes or cases). In deciding whether to use section 113 to apply a new position retrospectively, the Commissioner will apply the care and management principles in sections 6 and 6A of the TAA. Factors the Commissioner will consider include (but are not limited to):
 - The amount of revenue at stake;
 - The number of taxpayers affected, including the extent to which some taxpayers have been following the earlier incorrect position while others have been taking the correct position;
 - The resources necessary to identify, audit and reassess the relevant taxpayers;
 - Whether retrospective application is likely to undermine or support taxpayer perceptions of the integrity of the tax system; and
 - Whether retrospective application is likely to promote or adversely affect taxpayer compliance.

[It is also relevant to this context that **the item on the Status of Commissioner's Advice** provides that Standard Practice Statements are only guidelines to how the Commissioner will exercise her discretions. This is particularly because she

³ *CIR v Ti Toki Cabarets (1989) Ltd* (2000) 19 NZTC 15,874; *Lemington Holdings Ltd (No 2) v CIR* (1983) 6 NZTC 61,576 and *Westpac Banking Corporation v CIR* (2008) 23 NZTC 21,694.

always needs to exercise her discretion properly in any particular situation.⁴ In addition, that item provides that from time to time the Commissioner may decide not to follow a court or tribunal decision. In these cases it follows that a position or practice may not actually change.]

Application to a wider set of change circumstances

8. This document seeks to deal with a set of possible circumstances that may involve changes or perceived changes **in the Commissioner's interpretation or practice of the law that is wider than circumstances addressed in the Commissioner's statement on advice**; in particular where there has not been a previous public position taken. This document sets out a process to better ensure we more routinely identify potential change situations early so we can handle them effectively.

Relationship with the Escalation Policy

9. The process set out in this document has a relationship with the Escalation Policy insofar as, when identifying and dealing with change situations, it might be necessary to ensure that a position is correct. However, broadly this process is about dealing with change and perceptions of change, whereas the Escalation Policy is about testing positions. An escalation decision could lead to an overt change in a position. This process may establish that we have no formal position or that we have inconsistent positions. This might require a position to be determined and communicated.

When does a change or perceived change situation arise?

10. Change issues can arise in a number of situations – not just when Inland Revenue overtly moves to adopt a change as occurs, for example, with a public statement.⁵ In thinking about this wider category of situations, it is perhaps useful to divide the situations into two broad categories – (i) where there has been a change in position and (ii) where there has not been a change in position but this is perceived as being the case. Some common examples of each are indicated below.

There has been a change in position:

- An explicit change of view in a published public statement (interpretative or operational);
- A decision from a superior court means CIR's position must change⁶;
- An Escalation & Advising (E & A) decision overturns an existing position;
- An adjudication report overturns an existing position⁷;

⁴ However, from an internal perspective any specific departure from an SPS would need approval from the Group Tax Counsel (GTC).

⁵ More "change situations" may have occurred in recent years because of the escalation process providing greater certainty about Inland Revenue's technical positions.

⁶ With the exception of cases where Inland Revenue has communicated it is not following the decision because of an appeal or an intention to contest its reasoning in another case.

⁷ This may require an escalation to decide whether the position taken in the adjudication is a new Inland Revenue position. Before escalation, the existence of the decision may cause externals to see this as indicative of a wider change in position.

- A private or product ruling overturns an existing position⁸; or
- An overt change to our internal policies or practice.

There has not been a change in position but this is perceived as being the case:

- Self-assessment has led taxpayers to consider Inland Revenue has accepted a position that it has never formally considered or perhaps was not even aware of;
- Inland Revenue has not pursued a dispute for reasons other than the technical correctness of the position taken (eg, because of limited resources or a missed NOPA/SOP deadline leading to deemed acceptance), and the taxpayer interprets this as condoning the position more generally;
- Externals consider the position Inland Revenue holds is "X", but we consider the position is, and always has been "Y" (hence externals perceive a change). Sometimes this can arise when we issue a public statement confirming or clarifying or providing more examples of IR's position on an issue.
- A taxpayer says Inland Revenue has changed its position because we have not followed something said in an Inland Revenue publication or on the website, whereas we think there is an obvious error in the publication or website so that it is reasonable to maintain that there is no change in our underlying or substantive established technical position;
- A taxpayer is aware of another taxpayer being treated in a different way, in what they perceive are like circumstances, and assumes Inland Revenue has changed its position, when in fact the situations are distinguishable [but Inland Revenue staff cannot discuss the differences without breaching secrecy];
- Inconsistent practice across Inland Revenue means we do not have a consistent or singular position but externals, aware of different practices, perceive it as a change in position;
- The Commissioner overtly withdraws a public statement but does not replace it, and externals continue to follow the public statement.

11. The approach to "change" outlined below applies across all these circumstances because even in cases when the change is only perceived, it potentially raises issues for us. However, the extent to which each step in the approach applies will depend on the nature of a particular case, whether there is in fact any change in position, and in particular, how the matter arose and who raised it.

⁸ This may require an escalation to decide whether the position taken in the private or product ruling is a new Inland Revenue position. Before escalation, the existence of the ruling may cause externals to see this as a wider change in position.

Our approach to dealing with change or perceived change in position:

12. The broad approach to dealing with change or perceived change situations has four steps. The steps are essentially sequential but may overlap to some degree⁹:
 1. **Identify** a *potential* change or perceived change situation.
 2. **Establish** whether the position being proposed is actually a change from the Commissioner's earlier position or could be seen as a change.
 3. Determine how to **apply** that "new" position if there is a change, or perceived change in position.
 4. Determine how (when and in what format) to **communicate** the Commissioner's approach to the matter internally and externally.

Step 1: Identify a potential¹⁰ change or perceived change situation.

13. Where there is an overt and deliberate change in position (eg, a new position in a public statement) identification is straightforward.
14. However, part of the problem for Inland Revenue in the past has been its inability to identify early enough (or at all) that a situation involves a change or that taxpayers perceive it as such. Under this new approach, Inland Revenue staff would be required to raise these situations, when they arise, through the Tax Intelligence Group (TIG) and identify them as having change elements.¹¹ Examples of situations that should be raised would include cases where an agent is arguing that the Commissioner is changing her position; a taxpayer is relying on old advice; and new legislation causes an outcome not overtly dealt with in its introduction that appears to create a change to past treatment. Where possible, those raising issues should identify the source of the position that is being suggested has changed.¹² Importantly, at this stage there is no need to decide definitively whether there has been an actual change or simply a perceived one (this is done at step 2). The point is to bring such matters to a central place for consideration and oversight and to manage any required next steps. TIG, in conjunction with Legal & Technical Services (LTS) Technical Standards, will be responsible for prioritising issues, deciding the next steps, the relevant people to be involved and reasonable time frames for dealing with the matter.
15. Judgements will need to be made about whether an issue involves one or a limited number of taxpayers such that it can be effectively dealt with in that context or whether **the issue has broader "change" implications. The process set out here is directed at the latter situation, but issues arising with a single or small number of taxpayers could be the beginning of a wider issue.** Therefore, some issues may need to be monitored for wider implications. The intention is to have these issues raised so they can be monitored. For example, should a taxpayer or their adviser raise an argument that a position Inland Revenue is taking represents a change in position from our treatment of them in the past (because

⁹ In particular, communication considerations (step 4) may arise through the life of an issue.

¹⁰ Potential in the sense that the identification process might throw up some issues that are found to not involve any change at all.

¹¹ Exceptions to this are discussed at paragraph 18.

¹² **If a taxpayer or taxpayer's agent is asserting a change issue, it would be generally reasonable to expect the taxpayer or agent to specify the source of the position they maintain Inland Revenue is no longer adopting.**

of past advice or practice), **then this should be brought to TIG's attention.** However, this may not warrant further action if it is an isolated matter.

16. It is important to acknowledge that not every case where Inland Revenue and a taxpayer (or their advisors) disagree on the correct tax position involves a potential change in position. For example, many technical queries, binding ruling applications, indicative view requests, investigations, and disputes relate to issues that are factual in nature, raise new or novel considerations, or involve situations where the law is unclear and untested and we have no position or no clear position. In these cases, the matter should be resolved through normal processes.¹³

Time frames

17. At this stage in the process some thought should be given to identifying time frames for resolution of the matter. At times we have been too slow to identify and then act on information in order to plan for a successful resolution of issues, involving changes in position. Without putting hard and fast rules in place, the general position should be to aim for a preferred solution within 3 months of identifying a problem, and to have taken action within 6 months. [Straightforward matters should obviously be dealt with in shorter timeframes than this]. It is not possible to set absolute time frames as some matters will be easier to resolve than others. However, we should be mindful of the time taken and the effect on taxpayers and aim to provide finality as soon as practicable. (As discussed at step 2, sometimes we will need to establish and communicate an interim operational position (which may include confirming the status quo) while we identify and implement a preferred solution.)

Exceptions

18. This document discusses change or potential change issues being raised through the TIG network. There may be exceptions to this approach. For example, situations where it is already apparent that there has been a change (eg, an overt change in position in a public item or through an escalation) would not need to be referred to TIG **and go through this "identification" step**. Another exception would be where the matter is especially urgent or specialised.¹⁴

Step 2: Establish whether the position being proposed is actually a change in position or could be seen as a change.

19. Step 2 is an exercise in comparing positions – to see whether there has been any change or perceived change. In some cases this exercise will be straightforward; in others less so.
20. Where it is not clear whether there has been any change or perceived change:
 - First, we need to establish the current position (ie, the position Inland Revenue is currently applying).

In some cases this will be clear; in other cases we will need to establish this. (In some cases, having confirmed what we are currently doing, we may want to test this thinking to ensure this view is in fact correct.

¹³ For example, local LTS advice, TIG and escalation processes, the binding rulings process, disputes, indicative views etc.

¹⁴ This mirrors a similar exception in the Escalation Policy.

Internally we already have a process for determining the Commissioner's position – this usually involves a referral to LTS for an opinion or, in some cases, ultimately to E & A. In other cases it may be more desirable to consult externally on a potential position through a draft public statement or issues paper. This process of confirming the correctness of a position may itself lead to a different position and hence an identified change in view.)

- Having determined the position we are currently applying, we need to determine whether there has been a change or a perceived change from a past position (interpretation or practice).

In some cases this will be straightforward. In other situations it will require an assessment of some or all of the following:

- Did Inland Revenue have a clear existing position?
- How different is the new position from the previous one?
- Even if it is not clear that there has been a change in position, would some taxpayers think so and why?
- **Given Inland Revenue's past actions, what would be seen as a reasonably predictable response from Inland Revenue?**
- And, importantly, has Inland Revenue overtly contributed to **taxpayers' behaviour** or understanding such that it might be seen to be reasonable to argue that there has been some kind of change?

21. It has not always been easy to identify what has been happening (ie, what have taxpayers been doing or what has Inland Revenue been saying, doing or permitting). However, this information is vital to assess both the level of change (if any) and the likely taxpayer reaction to that change. The TIG process will be used to ascertain this, the likely impact on taxpayers and Inland Revenue and any potential external reaction to a change in position.

Interim operational position

22. Assuming that there is a change or perceived change situation, we also need to determine, at this step, whether Inland Revenue needs an **interim operational position** while we decide how the matter will be resolved ie, how taxpayers should be treated in the meantime given that actual or perceived uncertainty.
23. The need for an interim operational position will depend on the level of awareness (both internally and externally) of the issue. Where there is little internal or external knowledge, no interim position may be needed; in other cases it might be necessary to confirm internally that the status quo should prevail and at other times it will be necessary to give more guidance. This may involve practical guidance to Service Delivery personnel on what to do with existing cases and/or any new cases identified. It might also include guidance about the application of resources (or otherwise) on issues while the matter is being resolved.
24. In many cases, the interim operational **position may involve "holding" a position** even if there are now reservations about its correctness. In other cases it may **need to reflect the "reality" of inconsistent practice to date and/or to anticipate the likely "final position"**, possible legislative solutions and transitional problems.

25. It may be necessary to identify which periods an interim position applies from and to. This will need to be communicated – in most cases both internally and externally (see also step 4 below which is applicable here too).¹⁵ It will likely be important to emphasise that the position is only interim.

Step 3: Determine how to apply that “new” position if there is a change, or perceived change in position.

26. Having determined that there is a change or perceived change, the next step is to decide whether the new position will be applied. This will usually involve discussions with Policy & Strategy (PAS) to determine whether the new position is in accordance with the requisite policy settings (ie, what the law should be in policy terms). In deciding this, PAS may need to provide advice to the Minister. In some cases, a decision may be made not to adopt the new position pending legislative change. This will likely involve care and management decisions.

In cases of perceived change it may be that there is no new position to apply, in which case move to step 4. In such cases, however, issues of policy and/or taxpayers taking incorrect positions may still need to be worked through.

27. Where the new position is in accordance with policy, decisions will be needed about when the new position applies from – whether it is prospective or retrospective. As set out above, this will most likely involve similar care and management considerations to those already acknowledged by Inland Revenue in the statement on the **Status of the Commissioner’s Advice**. In that statement, we differentiated between situations where the change is to a position more favourable to taxpayers, and situations where the change is less favourable. We said that where the position was more favourable, we would apply the principles set out in the statement on the application of section 113 of the TAA about whether or not we would agree to reopen past assessments. Where a position is less favourable to taxpayers, we would generally apply the new position prospectively. However, in exceptional cases, a prospective application will be inappropriate, and immediate or retrospective application will be necessary or desirable (subject to the operation of the time bar).¹⁶

28. In deciding whether to apply a new position retrospectively, the Commissioner will apply the care and management principles in sections 6 and 6A of the TAA. Generally, the Group Tax Counsel will formally exercise these principles and communicate decisions taken. Questions to consider include the following:

- Is the new position less or more favourable to taxpayers? [As with incorrect public statements, where the position is less favourable to taxpayers we will likely have a bias towards only applying the change prospectively, but this needs to be carefully weighed along with the following considerations set out here. Where the position is more favourable, then section 113 considerations apply to determine retrospective changes.]

¹⁵ In cases involving a single adjudication or private/product ruling, the internal interim position may simply tell staff not to follow that decision while it is being escalated or other action is being taken (communicated through a memo from the Group Tax Counsel). Externals should generally be informed that an adjudication or ruling is based on the specific facts and does not of itself result in a change to the Commissioner’s view until we release a public statement of some kind.

¹⁶ This would generally have no impact on the imposition of penalties or use of money interest if there has been reliance on a Commissioner’s official opinion: s 120W of the TAA.

- Has Inland Revenue contributed to any past uncertainty? [If we have overtly contributed to past uncertainty, and this has led to taxpayers being disadvantaged, then we would likely take this into account to preserve the integrity of the tax system and not enforce a position for a period affected by that uncertainty. If Inland Revenue did not know about a position taken, so took no action, for example by not challenging a tax return, then this should not be seen as contributing to uncertainty.]
- How long has Inland Revenue known about the position taxpayers have adopted? [The longer Inland Revenue has known about the position taken (in the sense of more than simply receiving returns), the more likely we should act now to minimise as far as possible any disadvantage to taxpayers.]
- How long has Inland Revenue taken to resolve this issue? [If we have taken a long time to resolve an issue it may be unfair to then apply it to past periods that (through our own delays) have been periods of uncertainty for taxpayers.]
- Is it reasonable that taxpayers considered the past position to be correct at law? [The more reasonable it was for taxpayers to have relied on the past position, the less likely we are to apply the new position in a way to disadvantage them. Reasonableness of the position will likely be considered in terms of the words of the legislation, the state of the relevant case law, and taxpayers' reasons for their reliance.]
- How many taxpayers are affected? [This question goes to the impact of the issue on taxpayers and on Inland Revenue – where large numbers of taxpayers are involved we will, in particular, need to consider compliance costs for them and resourcing issues for us in terms of deciding how the new position will be applied. That said, there can still be cases where the number of taxpayers affected is relatively small, but the impact on those taxpayers is significant.]
- What type of taxpayer is involved – ie, do they understand tax matters and/or have access to legal/tax technical advice? [This question may be relevant when assessing the reasonableness of the reliance on the past position and the potential impact of the timing of the application of the new position. For example, does this type of taxpayer have tax expertise themselves or in-house, or ready access to affordable advice or is the opposite true?]
- What impact will the decision about the application date have on taxpayers' ability to comply? [In selecting an application date, consider the ability for taxpayers to comply within and for that period. If compliance would be difficult for taxpayers, then this might suggest another option would be preferable.]
- What impact will the decision about the application date have on Inland Revenue's resources? [Taking all considerations into account, if the impact on the application date selected will have a significant effect on Inland Revenue's resources, then consider adjusting the date. Said another way, we need to take into account the overarching integrity of the change and whether this would likely be compromised by the selection of a certain date (over another date) because we could not implement the change effectively.]

- How much revenue is at stake? [If the revenue at stake is considerable this may weigh against adopting a prospective approach for less favourable positions, or permitting reassessments retrospectively where the position is more favourable.]
 - What has Inland Revenue done in similar situations in the past? [This is important in terms of testing whether we are being consistent in our approaches in like situations.]
29. Having decided from when the new position should be applied, consider any **transitional issues** for taxpayers moving to that position from their past treatment or from any interim position. Any positions adopted to deal with transitional issues need to be robust enough such that if taxpayers do not comply we are prepared to follow up with audit action.
30. Where the new position is **not** in accordance with intended or desired policy, PAS will generally consider whether to recommend to government to change the law. At this point further consideration will be needed about whether any interim operational position can and will remain in place while the new legislation is formulated, consulted on and enacted (which is likely to take some time). A new interim operational position may be needed depending on when the new legislation is likely to be enacted. (PAS would be considering from a legislative position whether savings provisions and/or transitional rules need to feature as part of the legislative amendments.)
- Step 4: Determine how (when and in what format) to communicate the Commissioner's approach to the matter both internally and externally.**
31. Those responsible for considering the relevant issues and identifying the plan for moving forward on an issue will also need to overtly decide on a communication plan. It is likely it will be necessary to first communicate to Service Delivery that the matter has been identified and is being looked into – this may also involve requiring staff to report any similar issues to a central issues group to ensure consistency. **Careful** consideration needs to be given to when and how best to provide external information. Staff from our communications area will need to be **informed early and kept "in the loop" as the matter progresses**. Thought should especially be given to how the message will likely be received - given the background to the matter, will there be a negative reaction, and if so, by whom and to what degree? The answer to this will also inform how the delivery of information should be handled.
32. In many cases, there will also be a need to set an **operational position** and to communicate that position. Internally, this will usually be done through an OpInfo item or a memo from the Group Tax Counsel or Group Manager, Investigations & Advice (I & A). Externally, the most likely vehicle is through a **Commissioner's Operational Position**. A central issues group or, in exceptional circumstances, an email address, may need to be established through which those internally or externally uncertain about what to do about a matter can raise **issues**. **"Frequently asked questions"** or a media statement may also be needed. It will be important to ensure, as far as possible, that any advice available on the website and through the call centre (the IR Knowledge Base) is consistent with any operational position.
33. Once a **final position** has been reached, the necessary communications will need to be reconsidered – how can Inland Revenue best ensure taxpayers and their advisors are fully informed about the nature and timing of any change and the implications for them? Working closely with relevant stakeholders (eg, Chartered

Accountants Australia and New Zealand, New Zealand Law Society, Corporate Taxpayers Group, and industry bodies) will be important. It will usually be necessary to tailor the communication to the situation – possible approaches could include – media statements, one-on-one meetings, a **Commissioner's** Operational Position to accompany a final interpretative statement, webinars or seminars. Again, it will be important to ensure all advice is consistent no matter where it is found – the website, call centre and printed publications will need to be updated.

Responsibilities under this approach

34. Much of what is set out above is already happening within Inland Revenue. However, the purpose of this document is to ensure that the approach is more transparent and it is clearer who is responsible and accountable, and the authorised decision-maker for different aspects of any matter. This document also sets out a clear process and principles to consider in terms of possible actions, unless a specified case requires a modified approach.
35. As explored above, one key aspect is to ensure issues are identified **early** and steps are taken to decide what we should do about them. This suggests some kind of committee or group with representatives from LTS, PAS, Investigations and the Office of the Chief Tax Counsel (OCTC) at the least. TIG already exists and includes attendees from all those areas. Given this, it is thought desirable, in the first instance, to continue to use TIG (and the network underpinning it) for the referral of potential change issues for consideration and identification. One modification to existing processes would be to ensure any issues potentially involving change or perceived change are **"flagged"** and, if significant, or potentially significant, reported on to the Technical Governance Committee (TGC) to maximise awareness and oversight.
36. Where issues are reported to TGC they will be noted as potentially raising **"change" concerns**. In this way, TGC will be able to monitor the progress of an issue and where necessary provide direction on its handling and resolution.
37. When an issue is identified as involving a change or perceived change and being significant enough to warrant it, a core issues group (with a lead person) of representatives from LTS, PAS, I & A and/or OCTC (as appropriate depending on the issue) would be established. TGC will nominate these representatives. This issues group would be responsible for considering the matter as it progresses through the steps and ensuring timely resolution. For significant issues, this issue group might sometimes update TGC in person on the handling of the matter.
38. A further aspect of the approach set out above is the need to establish and communicate interim operational positions (clearly and as early as possible). Under existing processes, LTS Technical Standards, in conjunction with the Group Tax Counsel as sign-off, are responsible for setting any interim operational positions in conjunction with consultation with the issues group (and in some cases TGC). This is another aspect TGC will oversee.

Summary

39. So to summarise, the key points of this approach are as follows:
 - Change of position situations arise in a wide variety of ways;

- The approach set out in this document should be used as a basis for working through change of position situations, unless a specified case requires a modified approach;
- TIG networks will assist with the early identification of issues and refer issues to TIG for consideration;
- TIG will act as a filter and monitor of potential issues;
- TIG, with LTS Technical Standards' assistance where needed, will identify **what, if any, is Inland Revenue's current** interpretation or practice (ie, what we are currently doing on an issue) and recommend whether any **"new" position is a change in the Commissioner's position;**
- LTS Technical Standards (as convenor of TIG) will manage issues through TIG and be responsible for flagging any significant, or potentially significant, **"change"** issues to TGC;
- LTS Technical Standards, in conjunction with the GTC, will be responsible for any interim or final operational positions (including those dealing with any transitional issues);
- TGC will oversee sensitive change issues and provide direction for their handling and resolution;
- Where needed, a representative issue group (with a lead person) formed to deal with a particular issue will have responsibility for advancing and implementing the resolution of that issue.