

Submission

by

Business|NZ

to the

Education and Science Select Committee

on the

**Education (Export Education Levy)
Amendment Bill**

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1. INTRODUCTION

- 1.1 Encompassing five regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, Canterbury Manufacturers' Association, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 53-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations (including the Independent Tertiary Institutes of New Zealand), Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.
- 1.2 In addition to advocacy on behalf of enterprise, Business New Zealand contributes to Governmental and tripartite working parties and international bodies including the ILO, the International Organisation of Employers and the Business and Industry Advisory Council to the OECD.
- 1.3 Business New Zealand's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD (a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services). It is widely acknowledged that consistent, sustainable growth well in excess of 4% per capita per year would be required to achieve this goal in the medium term.
- 1.4 The export education sector has been one of New Zealand's fastest growing high-value service export sectors. The growth and dynamism of this sector has been remarkable, and it is critical that any measures the Government imposes to maintain and enhance quality do not undermine this dynamism.
- 1.5 Business New Zealand welcomes the opportunity to comment on the Education (Export Education Levy) Amendment Bill ('the Bill'). We recognise the importance of protecting the reputation of New Zealand export education and the interests of international students studying in New Zealand. In many areas, Business NZ has supported legislation designed to enhance the quality and relevance of tertiary education and workplace learning in New Zealand. We have, however, serious reservations about the proposals in the Bill to selectively increase a tax on a particular segment of the export education sector. We do not believe that such a selective tax increase will foster higher quality service to international students, and will unfairly penalise better performing private sector providers.

2. SUMMARY OF RECOMMENDATIONS

1. That the Bill not proceed.

3. Key Issues

The original levy was imposed on the industry

- 3.1. Unlike other industry development levies, the Export Education Levy was imposed by the Government, rather than by the industry itself. The process for setting the level of the levy and for its distribution remains outside the control of a truly representative industry body.
- 3.2. Unless there is valid industry input and involvement in the setting of the level of such a levy, and in the management of its expenditure, there is little likelihood of the development of a cohesive strategic approach to industry development by those involved in the industry.
- 3.3. In essence, the external imposition of a levy amounts to a selective tax on a critical industry, rather than a true industry development levy. Until this issue is rectified, Business NZ opposes any increase in the levy, and any changes to the purposes for which funds raised can be used.

The Bill retrospectively alters and validates Regulations

- 3.4. Business NZ is extremely concerned at the highly retrospective nature of this Bill. Not only does it retrospectively raise the level of a tax, but even more insidiously, it retrospectively validates poorly drafted regulation. It was argued by many that the 2003 levy was invalid by virtue of this poor drafting, and the proposed amendments only confirm this view.
- 3.5. This sets a very poor precedent. Although these matters are referred to in the Explanatory Note as “minor technical matters”, they in fact go to the heart of the problem identified above – the lack of clear industry involvement in the setting and management of this levy.
- 3.6. The ‘minor technical matters’ omitted from the regulations related to the use to which the funds collected by the levy could be put. This is a critical issue which should be the core concern of the export education industry. The failure to include this in the regulations as Gazetted is indicative of the whole manner in which this levy was introduced.

The measures are being applied selectively

- 3.7. The Government is arbitrarily determining which export education providers should bear the cost of this levy. It is imposing this increased levy solely on the private tertiary education sector. If this is truly a public good measure, designed to protect the whole industry, then the whole industry should pay for it.
- 3.8. The selective imposition of a tax increase on private providers of export education, for no other reason than that they are privately owned, will provide the Government’s own providers with an unfair commercial advantage. This is a serious attack on the principles of competition law, and for this reason

Business NZ opposes the setting of a differential levy on private as opposed to public providers.

The Government must share responsibility for failures

- 3.9. The Government, through its agencies, including the New Zealand Qualifications Authority, regulated and sought to assure the quality of the services offered by both Modern Age Institute and Carich Training Centre. The Government also provided Carich Training Centre with significant amounts of public funds over a significant number of years.
- 3.10. Business NZ has a good working relationship with the NZ Qualifications Authority and with the Tertiary Education Commission, and for the most part believes that they carry out their functions effectively. It seems clear, however, that in these cases, a number of long standing concerns have been left unresolved, and it is possible that swifter, more decisive action at an earlier date may have minimised the eventual cost.
- 3.11. It therefore seems unreasonable for all of the cost of the failure of these institutions to be passed on to other, innocent, members of the industry. Business NZ believes it is reasonable for the Crown to bear some of the cost of these failures.

Other measures, such as stricter quality assurance are more likely to provide real assurance

- 3.12. This selective tax increase will not address the critical issue facing the export education industry - poor performance by export education providers, whether public or private.
- 3.13. Business NZ's preferred approach to ensuring and maintaining the reputation of New Zealand's export education sector is rigorous and robust quality assurance of providers. Business NZ would prefer that charges for quality assurance were increased to fund such a rigorous approach, rather than impose a selective tax increase to clean up the mess after the fact. A more robust quality assurance system, with higher user-charges, would sheet home the cost to the poorer performers, not the better performing private providers who will be heavily penalised by this Bill.

4. Conclusion

- 4.1 Business NZ believes that there are serious flaws in the regime which establishes the Levy which this Bill seeks to amend. Until such time as this regime is improved so that the whole export education industry has a real and genuine input into the setting and management of that levy, Business NZ opposes any increase in the levy and any changes to the uses to which the funds raised may be put.
- 4.2 Business NZ therefore recommends that the Bill not proceed.