Dear Mr Logan

Your email to Hon John Carter, regarding the tax treatment of local council businesses, has been referred to me, as Minister of Revenue, for reply. In particular, you have asked about the taxable position of profit-making assets owned directly by local Government, such as a parking building, compared with council controlled organisations like Metrowater.

Inland Revenue has advised that local authorities are able to run their operations either as part of the local authority itself or through separate entities, such as council controlled organisations. In each case, there will be differing consequences for income tax purposes. If a local authority operates profit-making assets as part of the authority, the income from those assets would be exempt from income tax because of the local authority income tax exemption. However, if the same assets were held by a council controlled organisation, the income from that organisation would be taxed in the hands of the local authority.

The separate trading activities of a local authority first became subject to tax in 1989. This change was significant, as it attempted to ensure that local authority commercial trading activities did not enjoy a competitive advantage (via local authority income tax exemption) over private sector entities. Put another way, the separate trading activities and their local authority owners were to be subject to the same tax framework, including structural options and concessions, as other taxpayers.

I am aware that there are anomalies and uncertainties that arise under the current tax legislation in this area. I also accept that there is a need to improve consistency, coherence and certainty in the taxation of local authorities and their trading activities. Officials are currently monitoring this area, and it is envisaged that any policy work here will begin once resources and priorities permit.

Thank you for writing. I trust that my comments are of assistance to you.

Yours sincerely

Hon Peter Dunne
Minister of Revenue