

Tax Working Group Public Submissions Information Release

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Key to sections of the Official Information Act 1982 under which information has been withheld.

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people;
- [2] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage.

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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

To deliver a tax system that is fair to the tax payer, an office needs to be established to provide independent oversight of Inland Revenue and the ability to provide guidance with tax legislation. I will cite examples of current practices and conclude that a trustworthy tax system must have checks and balances to protect the rights of tax payers.

A better tax system is not just about what is taxed and how it is taxed, it also needs to consider the processes that administer taxation. Administration of the tax act is undertaken by Inland Revenue which is a government department reporting to the Minister of Revenue. Like the police, it has wide-ranging powers. Unlike the police it can use those powers without accountability to an independent authority. We are concerned that Inland Revenue has no accountability for its actions, and if it trespasses the act it operates under, there are no consequences to Inland Revenue. In an increasing age of digital surveillance and reliance on "big data" we believe that tax systems of the future must provide checks and balances for tax payers, and must allow freedom from the fear of persecution, and protection from statistical discrimination.

When I started working in the tax industry over 15 years ago the Inland Revenue slogan was "*It's our job to be fair*". And they were fair. The agency account managers were accessible, helpful and empowered. Call centre staff were also helpful and across the department if there was a problem or an issue, it got resolved then and there.

Nowadays the attitude is very different. There are no agency account managers, instead there are community compliance officers who have no decision-making authority. Phoning the call centre is a risk - the longer serving staff try to be helpful, however the newer staff are often unhelpful and wilfully obstructive. In a recent conversation a call centre representative, when asked on the procedure for refunds, relayed the following.

"If a refund is over \$1,500 definitely, or maybe \$500, it will be put into review..."

"It remains in review until someone contacts the call centre, and then we can refer it on to be released..."

Our experience now (and this certainly never was the case in the past), if we call Inland Revenue will most likely request further information, such as a breakdown of costs, or breakdown of details. This is obtrusive behaviour designed to slow down the refund process. This now appears to be a deliberate policy introduced by Inland Revenue management. It ignores two basic principles of the Income Tax Act - namely our tax system is a self-assessment system, and section 6A of the act requires Inland Revenue to minimise compliance costs.

The principles behind a self-assessment system make the tax system easy to operate, the mechanism works and those who flout the system will get caught. This allows most tax payers to file returns and receive refunds, in what used to be a couple of weeks. Now the principle is one that challenges every refund over \$500. The reason people get refunds is because they have overpaid their tax, so what has happened to the fairness? The fairness in the system has evaporated, so why has this happened? We have seen a change in attitude which is focused on internal cost reduction and revenue maximisation.

Cases where business proprietors are prosecuted for failing to pay PAYE, GST or Income tax are not uncommon, and we expect Inland Revenue to follow these through. However, it is not uncommon for Inland Revenue to only act seven years after the first offence. Why? Inland Revenue has the resources to track these payments, yet because the need to keep records expires after seven years and other time barred provisions, Inland Revenue leave this

until the last minute. If it is a crime not to comply with the Income Tax Act, why is it left so long? Either the department is under-resourced, or it is a policy that allows it to maximise the penalties and interest that can be charged.

Another action we have seen is the issuing of deduction notices. This is where a letter is sent to an employer, requiring the employer to take tax payment deductions from an employee's pay. This process is "*An automatic process generated by the computer*", without notification to the tax payer or the tax agent. In several cases we have dealt with, the deduction notice was incorrectly issued, often as a result of Inland Revenue errors or oversight. In the case of deduction notices which are incorrectly issued, there is a breach of privacy. It is also embarrassing for employees to be accused of owing tax in front of their employers. If the information Inland Revenue is sharing outside the organisation is incorrect, what rights does an individual have?

Inland Revenue is driven by legislation, mainly the Income Tax Act. This means if parts of the act are ill considered, ambiguous or discriminatory, then the process to correct this is difficult. Tax legislation is mostly driven by Inland Revenue, whose recommendations are rarely challenged. The select committee process relies on representations, and these are made by those who have the resources to make representation. This means that legislation is passed without understanding how that might affect individuals, groups of individuals or small business.

What the tax system lacks is oversight of the system which is independent of Inland Revenue. Section 6A of the Tax Administration Act has the requirement of the department to consider the "*compliance costs incurred by tax payers*" yet when this is not adhered to there are no obligations on the department or remedy for those affected by such action. Because of this, the department can act as it wishes as there is no consequence to them when they get it wrong. They act with disregard to the self-assessment system, knowingly withhold refunds, take months to process enquiries or act unreasonably.

What is needed is an independent office that has the power to review the actions of Inland Revenue - to direct Inland Revenue to act in a certain manner and the ability to provide remedy when Inland Revenue has acted unfairly. This office would act to protect the rights of those affected by the actions of Inland Revenue, review legislation before it proceeds, and recommend actions that ensure the department has the resources it needs to deliver its services in accordance with set parameters.

I believe, by and large, New Zealand has good tax system, and we all have to pay tax. However as there is no oversight given to Inland Revenue, the rights of those interacting with the department can be ignored. To have a system that is fair to all tax payers it is of vital importance to ensure that they have the right to have their cases reviewed independently. This I believe will put "*fairness*" back into the system and protect the trust that is required between those who pay the tax and those who collect it.