

Hon Simon Watts, Minister of Revenue

Information Release

Consultation on the proposed approved information sharing agreement between Inland Revenue and the Ministry of Business, Innovation and Employment

December 2024

Availability

This information release is available on Inland Revenue's tax policy website at:
<https://www.taxpolicy.ird.govt.nz/publications/2024/ir-eco-24-sub-0232>

Documents in this information release

#	Reference	Type	Title	Date
1	IR2024/224 MBIE: 2324-3720	Report	Cabinet paper – Consultation on the proposed approved information sharing agreement between Inland Revenue and the Ministry of Business, Innovation and Employment	11 September 2024
2	n/a	Cabinet Paper	Consultation on the proposed approved information sharing agreement between Inland Revenue and the Ministry of Business, Innovation and Employment	23 October 2024
3	ECO-24-MIN-0232	Minute	Approved Information Sharing Agreement Between Inland Revenue and the Ministry of Business, Innovation and Employment: Approval to Consult	23 October 2024
4	CAB-24-MIN-0413	Minute	Report of the Cabinet Economic Policy Committee: Period Ended 25 October 2024	29 October 2024

Additional information

The Cabinet paper was considered by the Cabinet Economic Policy Committee on 23 October 2024 and confirmed by Cabinet on 29 October 2024.

One attachment to the Cabinet paper is not included in this information release as it is publicly available:

- Information sharing between Inland Revenue and the Ministry of Business, Innovation and Employment – A Government discussion document¹

¹ [Information sharing between Inland Revenue and the Ministry of Business, Innovation and Employment](#)

Information withheld

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply are identified. Where information is withheld, no public interest was identified that would outweigh the reasons for withholding it.

Sections of the Act under which information was withheld:

- 9(2)(a) to protect the privacy of natural persons, including deceased people
- Not in scope

Accessibility

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**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI

POLICY

Policy report: **Cabinet paper – Consultation on the proposed approved information sharing agreement between Inland Revenue and the Ministry of Business, Innovation and Employment**

Date:	11 September 2024	Priority:	Medium
Security level:	In Confidence	Report number:	IR2024/224 MBIE: 2324-3720

Action sought

	Action sought	Deadline
Minister of Revenue	Agree to recommendation Authorise the lodgement of the attached Cabinet paper Refer a copy of this report to the Minister of Finance	10am Thursday 10 October 2024
Minister of Commerce and Consumer Affairs	Agree to recommendation Authorise the lodgement of the attached Cabinet paper	10am Thursday 10 October 2024

Contact for telephone discussion (if required)

Name	Position	Telephone
Martin Neylan	Policy Lead (acting), Inland Revenue	s 9(2)(a)
Kaitlyn Saunders	Policy Advisor, Inland Revenue	s 9(2)(a)
Nadia Thompson	Senior Advisor, Operational Policy and Regulatory Systems, Ministry of Business, Innovation and Employment	s 9(2)(a)

11 September 2024

Minister of Revenue
Minister of Commerce and Consumer Affairs

Cabinet paper – Consultation on the proposed approved information sharing agreement between Inland Revenue and the Ministry of Business, Innovation and Employment

1. This report seeks your agreement for Inland Revenue and the Ministry of Business, Innovation, and Employment (MBIE) to conduct public consultation on the proposed approved information sharing agreement (AISA) between the agencies.
2. This report also asks you to authorise the lodgement of the attached Cabinet paper to the Cabinet office by 10am Thursday 10 October 2024 so that it may be considered by the Cabinet Economic Policy Committee (ECO) at its meeting on Wednesday 16 October 2024.
3. The Cabinet paper seeks approval for the discussion document *Information sharing between Inland Revenue and the Ministry of Business, Innovation, and Employment* to be released for public consultation, in accordance with the Privacy Act 2020.
4. The discussion document functions as an interim Regulatory Impact Assessment. Inland Revenue's Quality Assurance panel have reviewed the discussion document and confirms that it is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to inform subsequent decisions.
5. The regulatory impact statement for this project will be prepared during the public consultation period with the signed off statement to be provided to ECO when the final post-consultation version of the AISA is considered.
6. The draft discussion document and its attachments, including the proposed AISA, are attached to the Cabinet paper.
7. Speaking notes will be provided for your use at the Committee's meeting on Wednesday 16 October 2024.

Proactive release

8. We propose to proactively release the Cabinet paper, Cabinet minutes, and key advice papers with appropriate redactions within 30 working days of Cabinet making final decisions.

Consultation

9. The Office of the Privacy Commissioner has been consulted on the contents of the proposed AISA and the draft discussion document. It has been informed on the contents of the Cabinet paper.
10. The Ministry of Justice and the Department of Internal Affairs have been consulted on the parts of the proposed AISA and draft discussion document that relate to the Incorporated Charitable Trust Boards Register (Charitable Trusts Act 1957).
11. The Treasury and the Department of Prime Minister and Cabinet have been informed on the contents of the Cabinet paper.

Risks

12. Although the proposed AISA includes a range of safeguards to minimise any risks of loss, misuse, or improper disclosure of the information that is shared, some members of the public may not be supportive due to privacy concerns.

Next steps

13. If you agree with the draft Cabinet paper attached to this report, the next step is to authorise lodgement of the Cabinet paper with the Cabinet Office for the ECO meeting on 16 October 2024. Your authorisation is required before 10am on Thursday 10 October 2024 to meet this timeframe.
14. If the Committee approve the release of the discussion document, Inland Revenue and MBIE plan to commence public consultation on the draft AISA for a period of at least six weeks beginning in late October 2024.
15. Officials will report back to Ministers on the outcome of the consultation and any proposed changes to be made to the draft AISA before the Committee consider the final proposed AISA. This is expected to be in early 2025.

Recommended action

We recommend that you:

1. **agree** for Inland Revenue and the Ministry of Business, Innovation and Employment to publicly consult on the attached discussion document;

Agreed/Not agreed

Minister of Revenue

Agreed/Not agreed

Minister of Commerce and Consumer Affairs

2. **authorise** the lodgement of the attached Cabinet paper with the Cabinet Office by 10 am Thursday 10 October 2024 for the Cabinet Economic Policy Committee to consider at its meeting on 16 October 2024;

Authorised/Not authorised

Minister of Revenue

Authorised/Not authorised

Minister of Commerce and Consumer Affairs

3. **note** that the discussion document has been approved as an interim regulatory impact statement and is attached to the Cabinet paper;

Noted

Minister of Revenue

Noted

Minister of Commerce and Consumer Affairs

4. **note** that speaking notes will be provided for your use at the Cabinet Economic Policy Committee's meeting on 16 October 2024; and

Noted

Minister of Revenue

Noted

Minister of Commerce and Consumer Affairs

5. **refer** a copy of this report to the Minister of Finance.

Referred/Not referred

Minister of Revenue

s 9(2)(a)

s 9(2)(a)

Martin Neylan

Policy Lead (acting)
Policy, Inland Revenue

Sanjai Raj

General Manager
Market Integrity, Te Whakatairanga Service
Delivery, Ministry of Business, Innovation
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s 9(2)(a)

Ross Van Der Schyff

General Manager
Business & Consumer, Te Whakatairanga
Service Delivery, Ministry of Business,
Innovation and Employment

Hon Simon Watts

Minister of Revenue
/ /2024

Hon Andrew Bayly

Minister of Commerce and Consumer Affairs
/ /2024

In Confidence

Office of the Minister of Revenue

Office of the Minister of Commerce and Consumer Affairs

Chair, Cabinet Economic Policy Committee

CONSULTATION ON THE PROPOSED APPROVED INFORMATION SHARING AGREEMENT BETWEEN INLAND REVENUE AND THE MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT

Proposal

- 1 This paper seeks the Cabinet Economic Policy Committee's agreement to the release of a discussion document, *Information sharing between Inland Revenue and the Ministry of Business, Innovation and Employment*.

Relation to Government priorities

- 2 The proposed approved information sharing agreement (AISA) between Inland Revenue and the Ministry of Business, Innovation and Employment (MBIE) will increase compliance in the tax system and improve the efficiency of a range of services and functions administered by both agencies.

Executive summary

- 3 A proposed AISA has been drafted and is expected to help with some current issues faced by the agencies if it comes into force. The proposed AISA would consolidate three existing memorandums of understanding and incorporate additional shares of information.
- 4 The proposed AISA is expected to deliver the following benefits:
 - Detecting the "phoenixing" of companies;
 - Ensuring that directors who are prosecuted for non-compliance cannot continue their activities;
 - Improving the administration and governance of the insolvency regime, the criminal proceeds regime, and some registers¹;
 - Enabling the provision of relevant information to New Zealand businesses (e.g. compliance obligations and understanding of available government support);

¹ See Appendix A.

- Enabling potential costings and impact modelling for public policy proposals; and
 - Improved administration and governance of tax system.
- 5 The Privacy Act requires that agencies proposing to enter into an AISA consult and invite submissions on the proposed agreement. This paper therefore seeks the Cabinet Economic Policy Committee's agreement for the agencies to undertake consultation on the proposed AISA.
 - 6 If the Cabinet Economic Policy Committee agrees, Inland Revenue and MBIE will release the discussion document *Information sharing between Inland Revenue and the Ministry of Business, Innovation, and Employment* and its attachments, including the proposed AISA, for public consultation for a period of at least six weeks.

Background

- 7 Inland Revenue, and two branches of MBIE, the Market Integrity Branch and the Business and Consumer Branch (the agencies) have been working together for several years to deliver quality services and outcomes for New Zealanders.
- 8 One of the ways the agencies work together is by sharing information through three memorandums of understanding. These memorandums of understanding allow the agencies to work together to manage removals from the New Zealand Companies Register and the Limited Partnerships Register, investigate specific offences under the Companies Act 1993, and manage insolvencies.
- 9 Currently, the Tax Administration Act 1994 and the Privacy Act 2020 do not allow further information sharing between the agencies beyond the scope of the memorandums of understanding.
- 10 The tax system must keep taxpayers' information confidential to encourage voluntary compliance with tax rules. The Tax Administration Act 1994 requires Inland Revenue staff to keep all "sensitive revenue information" confidential, including information that is reasonably capable of identifying a person or entity. Inland Revenue can share such information with agencies such as MBIE only where an exception in the Act applies.
- 11 The Privacy Act 2020 ensures responsible information sharing between the agencies. They are typically unable to share much of the personal information they hold about individuals with each other.
- 12 The agencies have identified that if they could share some additional information, they would be able to better discharge their functions and duties. They have carefully considered what information would be needed and defined the purposes of the sharing. They have also considered what sharing would require the authority of an AISA, as opposed to what can already be shared under the Tax Administration Act 1994 or the Privacy Act 2020.

- 13 Furthermore, despite existing measures some poor and illegal business practices, including phoenixing, are occurring which is causing financial harm and distress to other businesses and individuals. 'Phoenixing' or 'phoenix companies' includes where a company director transfers the assets of a company to a new company at under market value, or simply leave the debts of the old company behind, with the intention of defeating the interests of creditors of the old company. The proposed information sharing would help both agencies address this issue by sharing information relating to the poor and illegal business practices carried out by some company directors.
- 14 Alongside this work, the Minister of Commerce and Consumer Affairs is progressing a suite of changes to the Companies Act 1993 that include introducing unique identifiers for directors and general partners, to help identify poor and illegal business practices including harmful 'phoenixing', to increase the integrity and transparency of directors' identities and corporate histories for use by law enforcement, customers and creditors.
- 15 The Privacy Act 2020 requires consultation on an AISA before it is given final approval by Cabinet. The agencies have prepared a discussion document for this purpose.
- 16 We recommend that Cabinet authorise the release of the discussion document to the public, the Office of the Privacy Commissioner, and other persons or organisations that represent the interests of the classes of individuals whose information will be shared under the proposed agreement.
- 17 Feedback from the consultation will inform the final drafting of the AISA. We propose to report back to Cabinet on the findings from the consultation and provide a final version of the proposed AISA for Cabinet's consideration in early 2025.

Analysis

Approved information sharing agreements (AISAs)

- 18 An AISA authorises the sharing of personal information between agencies for the purpose of delivering public services. Agencies may enter an AISA following consultation, subject to Cabinet approval, and with the authorisation of an Order in Council. An AISA provides transparency about the purposes for which information may be shared and the controls that will be put in place to protect it.
- 19 Inland Revenue has advised that it is subject to confidentiality obligations under the Tax Administration Act 1994. An exception to confidentiality authorises the sharing of personal and non-personal information under an AISA.

Agencies involved in the proposed AISA

- 20 The agencies involved in the proposed AISA are Inland Revenue, and two branches of MBIE, the Market Integrity Branch and the Business and Consumer Branch.
- 21 If there are any changes to the branches and business units, the agencies would look to update the names used in the AISA.

Current information sharing between the agencies

- 22 Inland Revenue and the Market Integrity Branch already exchange information through three memorandums of understanding. These memorandums of understanding allow them to work together to manage removals from the New Zealand Companies Register and the Limited Partnerships Register, and manage insolvencies.
- 23 The agencies have an existing information sharing agreement that enables Inland Revenue to share information with MBIE about specific offences in the Companies Act 1993. Provisions in the Tax Administration Act 1994 authorise Inland Revenue to share this information. This information share is proposed to be incorporated into the AISA. To avoid duplication, it is proposed that the statutory provisions which currently authorise the share of this information are repealed.
- 24 The Business and Consumer Branch in MBIE has also previously been able to use information from Inland Revenue, under a memorandum of understanding, to send newsletters, updates, and other communications to businesses on COVID-19 related initiatives.

The purposes of the proposed AISA

- 25 By incorporating some existing and some new information shares, the proposed AISA is expected to deliver the following benefits:
- Improving the administration and governance of the tax system, the Registers (see Appendix A), the criminal proceeds regime, and the insolvency regime.
 - Enabling and co-operation on, compliance and enforcement work, including:
 - ensuring the efficient and effective prevention, detection, investigation and prosecution of offences under the Crimes Act 1961 and legislation that either agency administers (where either agency has reasonable grounds to suspect that an offence has occurred, is occurring or will occur);
 - ensuring that appropriate penalties and administrative sanctions are imposed on individuals and entities under legislation that either agency administers; and
 - assisting with decision-making and collaboration on strategic approaches to compliance work and to enforcing the obligations of common customers.
 - Enabling the provision of relevant information to New Zealand businesses, helping them with their compliance obligations and understanding of available government support.
 - Enabling the development of public policy (including potential costings and impact modelling for public policy proposals).

26 The discussion document describes the information that would be shared for each of these purposes and the reasons for the proposed exchanges. A summary of these information exchanges can be found in Appendix B.

Governance arrangements for the data

27 Information that is shared under the AISA would be protected at all times during its transmission, storage, and use, to ensure that it is only disclosed or used as authorised under the AISA, limited to the particular purposes for that category of information.

28 The proposed AISA would include a range of safeguards to minimise any risks of loss, misuse, or improper disclosure of the information that is shared.

29 These include existing procedures for:

29.1 securely transferring and storing information in accordance with government security standards; and

29.2 ensuring that information is only available to staff who need it for their role.

Next steps

Public consultation

30 We recommend that the Committee agree to the release of the attached discussion document *Information sharing between Inland Revenue and the Ministry of Business, Innovation, and Employment* and its attachments, including the proposed AISA, for public consultation for a period of at least six weeks.

31 This will include consultation with key stakeholder groups, the Office of the Privacy Commissioner, and any other person or organisation that officials consider represents the interests of the classes of individuals whose information will be shared under the proposed agreement.

32 Feedback from the consultation will inform the final drafting of the AISA. We propose to report back to Cabinet on the findings from the consultation and to provide a final proposed version of the AISA for Cabinet's consideration in early 2025.

Financial implications

33 There are no financial implications from the release of the discussion document and the proposed AISA. Funding for the public consultation and implementation phases will be undertaken within departmental baselines.

Legislative Implications

34 There are no legislative implications at this point from this paper. However, should the proposal for an AISA be recommended following the public consultation process:

- 34.1 an Order in Council will be required to give effect to the AISA; and
- 34.2 the agencies would need to repeal an existing statutory provision that authorises the exchange of information between Inland Revenue and the Companies Office in relation to serious offending.

Impact Analysis

Regulatory impact assessment

35 The discussion document functions as an interim Regulatory Impact Assessment. Inland Revenue's Quality Assurance panel have reviewed the discussion document and confirms that it is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to inform subsequent decisions.

Climate implications of policy assessment

36 There are no climate implications from this paper.

Population implications

37 There are no specific population implications from the proposals in this paper.

Human rights

38 There are no human rights implications from this paper.

Consultation

39 The Privacy Commissioner was consulted during the initial AISA drafting process and is pleased to see that his recommendations have been adopted with respect to information collected and disclosed for policy development purposes not being able to be used for any other purpose by the agencies to the proposed AISA; restrictions on further on-sharing of information; use of anonymised information wherever practicable and taking all reasonable steps to prevent the re-identification of individuals in any research or statistical material published.

40 The Ministry of Justice and the Department of Internal Affairs have been consulted on the proposed share of information under the AISA from MBIE to Inland Revenue from the register of Charitable Trust Boards Register (Charitable Trusts Act 1957). The Ministry of Justice was consulted because it is responsible for the administration of the legislation which establishes the Charitable Trust Boards Register, and the Department of Internal Affairs were consulted because of their role in the charities sector.

41 The Treasury, the Department of Prime Minister and Cabinet, and the Office of the Privacy Commissioner have been informed of this paper.

Risks

42 Although the proposed AISA includes a range of safeguards to minimise any risks of loss, misuse, or improper disclosure of the information that is shared, some members of the public may not be supportive due to privacy concerns.

Communications

43 We will publish a joint press release announcing the release of the discussion document and inviting interested parties to make a submission.

44 The discussion document and the proposed AISA will be published on the websites of Inland Revenue and MBIE.

Proactive release

45 We propose to proactively release this Cabinet paper, associated minutes, and key advice papers within 30 working days of Cabinet making final decisions, subject to minor redactions under the Official Information Act 1982.

Recommendations

The Minister of Revenue and the Minister of Commerce and Consumer Affairs recommend that the Committee:

- 1 **note** that the purposes of the proposed AISA are to:
 - 1.1 improve Inland Revenue's administration and governance of the tax system, and the Market Integrity Branch's administration of the insolvency regime, the criminal proceeds regime, and some registers;
 - 1.2 improve co-operation on compliance, and enforcement work;
 - 1.3 enable the provision of relevant information to New Zealand businesses, helping them with their compliance obligations and understanding of available government support; and
 - 1.4 enable the development of public policy by the agencies.
- 2 **agree** to the release of the attached discussion document and proposed AISA for consultation with the public, key stakeholder groups, the Office of the Privacy Commissioner, and any other person or organisation that officials consider represents the interests of the classes of individuals whose information will be shared under the proposed agreement;
- 3 **note** that the consultation period will likely commence in late October 2024 and run for at least six weeks; and
- 4 **authorise** the Minister of Revenue and the Minister of Commerce and Consumer Affairs to make editorial changes to the text and layout of the discussion document and proposed AISA before release.

Authorised for lodgement

Hon Simon Watts

Minister of Revenue

Hon Andrew Bayly

Minister of Commerce and Consumer Affairs

Appendix A: Registers to be shared

- 1 Incorporated Trust Boards (Charitable Trusts) Register established under the Charitable Trusts Act 1957;
- 2 Companies Register established under the Companies Act 1993;
- 3 Incorporated Societies Register established under the Incorporated Societies Act 1908; and
- 4 Incorporated Societies Register established under the Incorporated Societies Act 2022.

Appendix B: Overview of the proposed approved information sharing agreement's (AISA) main proposals

		Data sharing parties and information flow	
Information sharing between IR and the Companies Office in MBIE			
1. Register information	IR	←	NZ Companies Office (Companies Office) in MIB
2. Removal and restoration information		↔	
3. Contact details		→	
4. Large company information		→	
Information sharing between IR and CPIE in MBIE			
5. Information relevant to offences and the imposition of administrative sanctions or penalties	IR	↔	Criminal Proceeds, Integrity, and Enforcement (CPIE) in MIB
6. Failed entity information		↔	
7. Information concerning GST tax status		↔	
Information sharing between IR and ITS in MBIE			
8. Information relevant to bankruptcies and company liquidations	IR	↔	Insolvency and Trustee Service (ITS) in MIB
Information sharing between IR and business.govt.nz in MBIE			
9. Entity information enabling direct communication with New Zealand businesses	IR	→	business.govt.nz in BCB
Information sharing between IR and MBIE's MIB and BCB			
10. Any of the information that can be shared under Categories 1 to 9 for the development of public policy	IR	↔	MIB and BCB



Cabinet Economic Policy Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Approved Information Sharing Agreement Between Inland Revenue and the Ministry of Business, Innovation and Employment: Approval to Consult

Portfolio **Revenue / Commerce and Consumer Affairs**

On 23 October 2024, the Cabinet Economic Policy Committee:

- 1 **noted** that the purposes of the proposed Approved Information Sharing Agreement (AISA) are to:
 - 1.1 improve Inland Revenue's administration and governance of the tax system, and the Market Integrity Branch's administration of the insolvency regime, the criminal proceeds regime, and some registers;
 - 1.2 improve co-operation on compliance and enforcement work;
 - 1.3 enable the provision of relevant information to New Zealand businesses, helping them with their compliance obligations and understanding of available government support;
 - 1.4 enable the development of public policy by Inland Revenue and the Ministry of Business, Innovation and Employment;
- 2 **approved** the release of the discussion document and proposed AISA attached under ECO-24-SUB-0232 for consultation with the public, key stakeholder groups, the Office of the Privacy Commissioner, and any other person or organisation that officials consider represents the interests of the classes of individuals whose information will be shared under the proposed agreement;
- 3 **noted** that the consultation period will likely commence in late October 2024 and run for at least six weeks;
- 4 **authorised** the Minister of Revenue and the Minister of Commerce and Consumer Affairs to make editorial changes to the discussion document and proposed AISA before release.

Rachel Clarke
Committee Secretary

Present: (see over)

Present:

Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Brooke van Velden
Hon Simeon Brown
Hon Erica Stanford
Hon Paul Goldsmith
Hon Louise Upston
Hon Judith Collins KC
Hon Mark Mitchell
Hon Tama Potaka
Hon Matt Dooney
Hon Simon Watts
Hon Melissa Lee
Hon Penny Simmonds
Hon Chris Penk
Hon Nicola Grigg
Hon Andrew Bayly
Hon Andrew Hoggard
Hon Mark Patterson
Simon Court MP

Officials present from:

Office of the Prime Minister
Office of Hon Chris Bishop
Officials Committee for ECO



Cabinet


Minute of Decision

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Report of the Cabinet Economic Policy Committee: Period Ended 25 October 2024

On 29 October 2024, Cabinet made the following decisions on the work of the Cabinet Economic Policy Committee for the period ended 25 October 2024:

Not in scope




ECO-24-MIN-0232

**Approved Information Sharing Agreement
Between Inland Revenue and the Ministry of
Business, Innovation and Employment:
Approval to Consult**
Portfolios: Revenue / Commerce and Consumer
Affairs

CONFIRMED

Not in scope



Rachel Hayward
Secretary of the Cabinet