



1 February 2024

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 14 December 2023. You requested:

- 1) *Why have you specially chosen days 183 entering and days 325? As in the logic, was it a flow on from an OECD arrangement?*
- 2) *When did 183 and 325 requirements kick in? If you have cabinet papers recommending or rejecting either 325 days or the 183 days, include those too please.*
- 3) *From an investigatory perspective, where would the bulk of your historic (historic means the last 10 and also 5 and 3 years please) resources have been deployed in the context of 183 days entering of NZ tax residents vs 325 days for exiting tax residents?*
- 4) *What country do you find raises the bulk of the tax residency 'kerfuffles', by way of example, a dual NZ/Aus tax payer, that disputes IR's assertion of them being a NZ resident and insists they are only an Aus tax resident.*

***Questions 1 and 2: Why a person needs to be in New Zealand for 183 days to be a resident, why they need to be out of New Zealand for 325 days to be a non-resident, and when these number of days became law***

The tax residence rules determine whether a person is assessable for tax on worldwide income or only on New Zealand-sourced income. New Zealand residents are assessable on worldwide income, and non-residents are assessable only on New Zealand-sourced income.

**Information being released**

As you know, person is deemed to be a tax resident in New Zealand if they are present in New Zealand for more than 183 days in a year. They are deemed to be a non-tax resident if they are absent for more than 325 days in a year. When the rules were introduced, the main reason for the difference in the number of days was to make it easier for a person to become a New Zealand tax resident and harder for someone to lose their tax residency.

The tax residency rules were changed to 183 and 325 days and put into the Income Tax Act 1976 by section 23 of the Income Tax Amendment Act (No. 5) 1988. The rules took effect in the income year beginning 1 April 1989 (the 1990 income year).

Under the previous rules, a person was deemed to be a tax resident in New Zealand if they were present in New Zealand for at least 309 days. They were deemed non-resident if they were absent from New Zealand for more than 309 days. Details are in the documents listed in the table below.

Please find enclosed the following documents:

Item	Date	Document	Decision
1.	01/12/1988	<i>Treasury Report to the Minister of Finance (December 88)</i>	Partially released
2.	22/11/1988	<i>Treasury Report to the Minister of Finance (November 88) (the relevant annex is attached.)</i>	Partially released
3.	11/10/1988	<i>Inland Revenue Report to the Minister of Revenue (October)</i>	Partially released
4.	7/09/1988	<i>Inland Revenue Report to the Minister of Revenue (September)</i>	Partially released
5.	1/06/1989	<i>Public Information Bulletin No. 180 June 1989</i>	Released in full

As stated in the table, documents 1 to 4 are released to you in part. This because personal details of officials have been withheld under section 9(a) of the OIA, to protect the privacy of natural persons.

### Information outside scope

Document 2 contains several annexes to the main report. Only the relevant annex has been enclosed, as the other information is not relevant to your request. This information has not been considered for release and has been withheld as not in scope.

### Information publicly available

Documents 6 and 7 are published online. The documents are refused under section 18(d) of the OIA, as they are publicly available.

Item	Date	Document	Website address
6.	01/07/1988	<i>International Tax Reform: Full Imputation Part 2: Report of the Consultative Committee</i>	<a href="http://ird.govt.nz">International tax reform - Full imputation - Part 2 - Report of the Consultative Committee (Volume 1) (ird.govt.nz)</a>
7.	16/12/1988	<i>Income Tax Amendment Act (No. 5) 1988</i>	<a href="http://austlii.edu.au">Income Tax Amendment Act (No 5) 1988 (1988 No 225) (austlii.edu.au)</a>

Document 6 is Volume 1 of the *International Tax Reform* report. Volume 2 of the report sets out the draft legislation. This legislation is document 7, also available online. Part III, section 23,

*Determination of place of residence*, is on page 2755 of the Income Tax Amendment Act (No. 5) 1988 Act (on p. 43 of the online PDF).

### **Additional information – document 6**

As you may notice, document 6 is Part 2 of a report (*International Tax Reform: Full Imputation Part 2*). Part 2 (July 1988) is a later, revised version of Part 1 (December 1987). Part 2 includes additional recommendations not in Part 1, including the change to the individual tax residency rule. Part 2 is therefore more relevant to your request than Part 1 of the report.

However, if you would like to read Part 1, it is publicly available online on the Tax Policy website: [International tax reform - Part 1 - Report of the Consultative Committee \(ird.govt.nz\)](http://ird.govt.nz)

### **Additional information – document 5**

Document 5, *Public Information Bulletin No. 180 June 1989*, has been replaced by *Interpretation Statement IS 16/03, Tax residence*. The new Interpretation Statement applies from 1 April 2014. You can read the Interpretation Statement on the Tax Policy website at: [IS 16/03: Tax residence \(ird.govt.nz\)](http://ird.govt.nz)

***Questions 3 and 4: Where we have used most of our resources in investigating the number of days needed for New Zealand tax residency and non-residency, and which country raises the most tax residency disputes***

### **Information refused**

Inland Revenue is unable to provide the information requested. This is because we do not record information in a way that would enable us to answer your questions.

These parts of your request are therefore refused under section 18(g) of the OIA, as the information is not held by Inland Revenue, and we do not believe it is held by another agency.

### **Right of review**

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: [CommissionersCorrespondence@ird.govt.nz](mailto:CommissionersCorrespondence@ird.govt.nz).

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decision. You can contact the office of the Ombudsman by email at: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz).

If you choose to have an internal review, you can still ask the Ombudsman for a review.

### **Publishing of OIA response**

We intend to publish our response to your request on Inland Revenue's website ([www.ird.govt.nz](http://www.ird.govt.nz)) as this information may be of interest to other members of the public. This letter, with your personal details removed, will be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of

enabling more effective participation in the making and administration of laws and policies and promoting the accountability of officials.

Thank you for your request.

Yours sincerely



Angela Graham  
**Policy Lead, International**