



14 March 2024

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 16 February 2023. You requested:

*Can you please legally define personal income.*

Section YA 1 of the Income Tax Act 2007 (ITA), *Definitions*, defines a person's income as:

*Income, for a person, means income of the person under section BD 1(1) (Income, exempt income, excluded income, non-residents' foreign-sourced income, and assessable income).*

Section BD 1(1) of the ITA, *Amounts of income*, states:

*An amount is income of a person if it is their income under a provision in Part C (Income).*

Part CA 1 of the ITA, *Amounts that are income*, states:

*An amount is income of a person if it is their income under a provision in this Part.*

*An amount is also income of a person if it is their income under ordinary concepts.*

In addition, the Courts have identified the characteristics of income:

- Income is something that comes in, in money or in money's worth. Income comes in as a return for something, whether it be services rendered, money advanced, premises rented out etc.
- Another feature of income is that it often imports the notion of periodicity, recurrence or regularity. Having said that, the Courts have shown that it does not necessarily follow that all receipts of a regular nature constitute income, nor does it necessarily follow that a one-off receipt is excluded from being income.
- A further characteristic of income is the quality of the particular receipt in the hands of the recipient. For example, if the recipient relies on the receipt for support and sustenance, it is likely to be income.

- In addition, the ITA specifically deems certain receipts to be the gross income of the recipient. For example, section CB 1 of the ITA includes amounts derived from a business to be gross income, sections CC 4 and CD 1 include interest and dividends as gross income, and section CE 1 includes monetary remuneration such as salary and wages as gross income.

Most types of income are taxable. Taxable income can include income from working (salary, wages or self-employed), benefits and student allowances, assets, and investments (including KiwiSaver and rental income) and overseas income.

You can find more information about how income is taxed on Inland Revenue's website ([ird.govt.nz](http://ird.govt.nz)) or at [How income gets taxed](#).

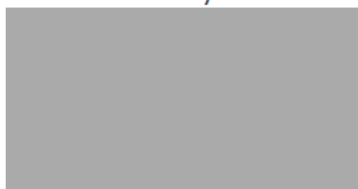
You can read more about the Acts administered by Inland Revenue on the New Zealand Legislation website ([legislation.govt.nz](http://legislation.govt.nz)).

### **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



Josh Green

**Domain Lead, Governance and Ministerial Services**



14 March 2024

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 16 February 2023. You requested:

- 1) *Can you please supply the legislation stating people must have a tax file number.*
- 2) *Can a natural person cancel or return their Tax number?*

#### **Item 1**

Tax file numbers (also called IRD numbers) are unique identifiers that allow the Commissioner of Inland Revenue to identify information about specific customers or customers generally efficiently and accurately. The Commissioner uses tax file / IRD numbers to help ensure that his obligations under sections 6 and 6A of the Tax Administration Act 1994 (TAA) are carried out, which include the care and management of the Revenue Acts.

Section 3 of the TAA defines a "tax file number" as:

*An identification number that the Commissioner allocates to a person.*

Tax file / IRD numbers are used to:

- ensure that each person is assessed and pays the correct amount of tax
- ensure confidentiality of information
- complete certain forms required by Inland Revenue
- efficiently handle phone calls and enable callers to use automated telephone systems, and
- avoid a person being taxed at a higher, non-declaration rate.

The Commissioner requires the use of IRD / tax file numbers to ensure that each person is assessed with and pays the correct amount of tax, as required by the law. All New Zealand residents who earn taxable income need an IRD number to complete an income tax return, or any other form required by the TAA.

Schedule 3 of the TAA, *Record-keeping requirements*, sets out a list of information that employers and PAYE intermediaries are required to keep. The list includes the name and tax file number of every person who derives or receives PAYE income payments.

Under section 80KB of the TAA, a person applying for Working for Families Tax Credits in respect of a child must provide the child's IRD number.

The Income Tax Act 2007 (ITA) also refers to IRD / tax file numbers. Section YA 1 of the ITA defines a "tax file number" as:

*An identification number that the Commissioner has allocated to a person—*

- (a) generally for the purposes of this Act; or*
- (b) specifically for the purpose of the issue to the person of an RWT exemption certificate under section RE 27.*

There are consequences to not providing all the information that the Commissioner requires, including IRD / tax file numbers. For example, under section RD 10 and Schedule 2 of the ITA, if an employee does not provide their employer with their tax file number, their employer is required to deduct PAYE at the no-notification rate of 45%. There is also a no-notification rate of 33% for withholding tax on interest and dividends.

The Privacy Act 2020 gives agencies the right to assign unique identifiers if that identifier is necessary to enable the agency to carry out one or more of its functions efficiently (information privacy principle 13).

For this purpose, a person is required by the Inland Revenue Acts to cooperate with the Commissioner in a way that assists the exercise of the Commissioner's powers under the tax laws.

New Zealand's Acts are published on the New Zealand Legislation website ([legislation.govt.nz](http://legislation.govt.nz)).

## **Item 2**

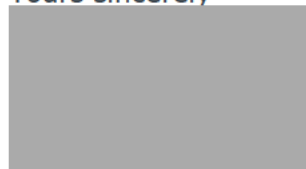
A person cannot cancel or return their IRD number. Once created, an IRD number can never be re-used and continues to exist.

### **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



Josh Green

**Domain Lead, Governance and Ministerial Services**



14 March 2024

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 16 February 2023. You requested:

*If we are required to file a tax return at all, it must be published in the Government Gazette.*

- 1) *Could you please supply the volume date and a page number that this public obligation exists in the public and that the public have been given notice in the Gazette.*
- 2) *Can you please legally define "person".*

#### **Item 1**

A notice in the *New Zealand Gazette* is not required by legislation for obligations to have effect under tax law.

Successive New Zealand Parliaments have been validly held and have passed valid legislation, including the various Inland Revenue Acts.

Inland Revenue was originally established through the enactment of the Inland Revenue Department Act 1952 and is now constituted by section 5 of the Tax Administration Act 1994 (TAA).

The general legislative authority for imposing and collecting taxes lies in the various Inland Revenue Acts, which are listed in the Schedule to the TAA. More specifically, Part B of the Income Tax Act 2007 provides for the imposition of tax on income, and Part R provides for payment of tax by customers on their own behalf and by way of source deductions. Section 8 of the Goods and Services Tax Act 1985 provides for the charging of GST on goods or services supplied in the course of carrying on a taxable activity.

As tax obligations are imposed by statute, persons cannot opt out of them, and tax obligations remain obligations whether people comply with them voluntarily or not.

This position is supported by the Court of Appeal decision in *Shaw v Commissioner of Inland Revenue* [1999] 3 NZLR 154. The appellant in the case argued that particular tax legislation was invalid. The Court dismissed the appeal.

**Item 2**

The word "person" is defined in section 13 of the Legislation Act 2019 and includes a corporation sole, a body corporate, and an unincorporated body. The definition of person is an inclusive definition and includes a natural person as well as all the other entities referred to in the section.

In addition to the natural and everyday usage of the word, there is considerable textual support in the Income Tax Act 2007 which makes it clear that the word "person" includes a human being.

You can read the Revenue Acts on the New Zealand Legislation website ([legislation.govt.nz](http://legislation.govt.nz)).

**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



Josh Green

**Domain Lead, Governance and Ministerial Services**