



15 May 2024

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 18 April 2024. You requested the following:

... Any cabinet papers, advice or reports to Ministers and/or Treasury concerning the topic of tax paid by multinational companies in New Zealand. Related to the same topic, can I also be provided with any correspondence and written communications between the Government and multinationals and any records of meetings held between representatives of multinationals and Ministers/Government officials. The relevant time period for this request is 2014 to the present day.

Inland Revenue did not prepare any Cabinet papers, advice or reports to Ministers or the Treasury concerning the topic of tax paid by multinational companies in New Zealand. Your request for this information is therefore refused under section 18(e) of the OIA, as the document alleged to contain the information requested does not exist. Generally, Inland Revenue is prevented from discussing the tax affairs of specific taxpayers with Ministers due to the confidentiality obligations set out in section 18 of the Tax Administration Act 1994 (TAA).

Information related to correspondence, written communications, and records of meetings between the Government and multinational companies is considered sensitive revenue information under section 18 of the TAA because it directly identifies an entity. Your request for this information is therefore refused under section 18(c)(i) of the OIA, as making the requested information available would be contrary to the provisions of a specified enactment, namely Inland Revenue's confidentiality obligation in section 18 of the Tax Administration Act 1994 (TAA). Disclosure of this information does not fall within any of the exceptions to the confidentiality obligation listed in sections 18D to 18J of the TAA.

Additional Information

Documents relating to Inland Revenue's anti Base erosion and profit shifting (BEPS) work are available on Inland Revenue's Tax Policy website (taxpolicy.ird.govt.nz) by searching for [Base erosion and profit shifting](#). While these documents are not within the scope of your request (as they do not directly relate to tax paid by multinationals), they do concern tax measures the Government adopted to ensure multinationals do not use aggressive tax strategies to reduce their tax payable in New Zealand.

The following BEPS related documents, available on Inland Revenue's Tax Policy website (taxpolicy.ird.govt.nz) may also be of interest:

1. [New Zealand's plan to ensure multinationals pay their fair share of tax](#),
2. [Cabinet paper - Base erosion and profit shifting \(BEPS\) update](#),
3. [New Zealand's taxation framework for inbound investment](#), and
4. [Multinational Enterprises, Compliance Focus](#).

I am also releasing, attached as **Appendix A**, a document related to Inland Revenue's anti BEPS work, dated September 2019, as it may also be of interest. Please note some information in this document has been withheld as it does not relate to Inland Revenue's anti BEPS work.

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.

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. 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 (ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, may 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



Sam Rowe
Policy Lead, Policy & Regulatory Stewardship



Inland Revenue
Te Tari Taake

BEPS and Out of Scope Current State -
Briefing for Minister of Revenue

John Nash

Manager (International Revenue Strategy)

September 2019

Released under the Official Information Act 1982

Current BEPS Focus

- Bedding down law changes and meeting minimum standards
- Encouraging impacted MNEs to restructure (e.g. unwind hybrids, put more equity capital into NZ, convert service company models to buy/sell distributors, update transfer pricing documentation)
- Providing guidance and binding rulings/advance pricing agreements (where requested)
- Full refresh of Multinational Enterprises Compliance Focus
- Active participation in OECD work on the digital economy



Compliance Approach to BEPS

- Comprehensive risk-based approach, with top 58 groups compliance-managed one-to-one and focus particularly on foreign-owned MNEs
- All significant enterprises must file a basic compliance package (BCP) which is reviewed annually - depending on risk rating from analysis of BCP and past history, further review or in-depth audit may follow
- Annual International Questionnaire issued to over 600 groups supplemented by additional intelligence derived from country-by-country reports received from treaty partners
- Commencing targeted campaigns addressing specific sectors (e.g. distributors) and special issues (e.g. IP royalties)



Overall Coverage of MNEs

[Handout to be provided at meeting on 30 September 2019, showing full breakdown of IR compliance coverage of this sector]



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Transitional Period

- BEPS legislation effective from 1 July 2018 – MNEs encouraged to restructure
- International Monitoring Framework established to track progress/behavioural change of impacted groups (283)
- Analysis of likely impacted groups shows only 61 will be filing in March 2020, with 222 to follow in March 2021
- Difficult to form a clear evidence-based view of the full impact of BEPS measures prior to mid-2021
- However, monitoring change through other avenues (e.g. inquiries made directly of IR, pre-application meetings for rulings/advance pricing agreements, and feedback from the major tax practices/large corporates)



International Monitoring Framework

- Covers all key BEPS measures, focusing on
 - Interest and debt (thin capitalisation)
 - Hybrids
 - Large digital enterprises
 - Restructuring
 - Royalties (intellectual property licencing)
- Annual International Questionnaire will include specific questions as to steps taken to restructure their NZ operations and/or funding thereof
- Specific BEPS disclosures required with tax returns to capture interest deductibility and hybrids



Feedback to date on BEPS Impact

- Considerable engagement from taxpayers with professional advisers and increased focus at board/stakeholder level
- Clear reductions in related-party debt taking place, and simpler/vanilla structuring of operations
- Taxpayers with hybrid instruments or Australian limited partnerships designed to have a hybrid outcome have taken action to remove the hybridity
- Some digital enterprises now booking sales in NZ (previously booked offshore) but only modest net margins result
- Delays in some restructuring as contracts with third parties require renegotiation and NZ not necessarily top priority
- Treaty partners also seeing adjustments to financing arrangements, relocations of intangible property and supply chain restructures
- Overall = moving in the right direction



BEPS Minimum Standards

- Four minimum standards covering exchange of tax rulings (EOTR), country-by-country reporting (CbCR), mutual agreement procedure effectiveness and tax treaty abuse
- International peer reviews completed – NZ fully compliant with requirements for EOTR and CbCR
- Common recommendation for all jurisdictions – progressive updating of bilateral tax treaties required where treaty partners have not signed the Multilateral Instrument

Redaction note: Pages nine to 12 have been withheld in full as they do not relate to Inland Revenue's anti BEPS work.



Questions?

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