



19 September 2023

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 3 September 2023. You requested:

(...) NZ tax law which clearly states NZer's are **REQUIRED** to pay personal income tax.

(...) the current correct filing form for anyone to file such a return.

Item 1

Legislative authority for imposing tax is outlined in the various Acts administered by Inland Revenue, which are listed in schedule 1 of the Tax Administration Act 1994 (TAA). Acts administered by Inland Revenue have been passed by Parliament and are binding on all people residing in New Zealand.

A New Zealand resident is liable for tax on all assessable income, whether derived from New Zealand or overseas and a non-resident is liable for tax on all assessable income sourced in New Zealand.

Boyton v Commissioner of Inland Revenue (2002) 20 NZTC 17,615 HC

[9] Section AA 2 *Income Tax Act* 1994...provides that **New Zealand residents and persons with income from New Zealand are subject to the *Income Tax Act* and to the *Tax Administration Act 1994* and must satisfy the obligations those Acts impose.** Section BB 2 provides that persons must calculate and satisfy the income tax liability the person has in respect of taxable income for an income tax year, in accordance with sub-part BC. The evidence establishes that Mr Boyton had income in one or other or both of the taxation years in issue. Even if he is not a New Zealand resident (all the indications are to the contrary) **the *Income Tax Act* applies to those who have income from New Zealand** [emphasis added].

Section BB 1 of the *Income Tax Act* 2007 (ITA) imposes income tax on a person's taxable income. Every person is liable for income tax. A taxpayer means a person who is liable to comply with an obligation imposed by the ITA. A person includes an individual; see section AA 3 of the ITA and in Part 2 of the *Legislation Act* 2019. Therefore, a person is liable to pay income tax on income derived by them. See *Guy v C of IR* (2003) 21 NZTC 18,269 and *Keighley v C of IR* (2004) 21 NZTC 18,461.

Section BB 2 of the ITA states a person's income tax liability for a tax year must be calculated and satisfied by the person under subpart BC.

Section 15B of the TAA, *Taxpayer's tax obligations*, sets out taxpayer obligations. These include the obligation to correctly determine the amount of tax payable, pay tax on time, and comply with all the other obligations imposed on the taxpayer by the tax laws.

The TAA sets out penalties to be imposed on taxpayers for non-compliance. These include civil penalties, such as late payment penalties and shortfall penalties, and criminal penalties. Section 149 of the TAA states:

Each time a taxpayer breaches a tax obligation the taxpayer may be liable to a civil penalty or, on conviction, a criminal penalty, or both.

Since tax obligations are imposed by statute, persons are not able to opt out of them, and they remain obligations whether they comply with them voluntarily or not. Taxpayers who have not met their obligations under the Revenue Acts have found themselves in breach of the law and liable to the penalties imposed by the law.

You can read more about the Acts administered by Inland Revenue on the New Zealand Legislation website at legislation.govt.nz.

Item 2

At the end of a tax year, individuals may need to file an *Individual income tax return –IR3* (IR3 form). This return tells Inland Revenue about the individual's income for the year and the expenses they are claiming. The IR3 form can also be used to calculate if a refund is due or there is tax to pay.

The IR3 form and further information on how to file an individual income tax return is available on Inland Revenue's website at ird.govt.nz by searching for *Individual income tax return - IR3*. I am therefore refusing this part of your request under section 18(d) of the OIA as the information requested is publicly available.

Publishing of OIA response

We intend to publish our response to your request on our website. 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 Ministers and officials.

Right of Review

If you disagree with my decision on your OIA request, you have the right, under section 28(3) of the OIA, to ask the Ombudsman to investigate and review my decision. The office of the Ombudsman can be contacted via email at info@ombudsman.parliament.govt.nz or to PO Box 10152, The Terrace, Wellington 6143 or via freephone on 0800 802 602.

Alternatively, you may have the decision reviewed by an Inland Revenue review officer. This does not preclude you from subsequently seeking a review by the Ombudsman if you are not satisfied with the department's internal review. If you would like an internal review, please write to the Commissioner of Inland Revenue via email at commissionerscorrespondence@ird.govt.nz setting out the details of your request.

Thank you for your request.

Yours sincerely



Pip Knight
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