

3 February 2020

S Devoy
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Dear S Devoy

I understand that you approached the Ombudsman's office because you had not received a response to your request that we review Inland Revenue's response of 28 June 2019 to your request made under the Official Information Act 1982 (OIA). Unfortunately, your request had slipped through the cracks and I apologise for the delay in responding to you.

You requested the following information:

The number of MPs owning LTC's with tax losses related to residential properties owned by them.

Inland Revenue declined your request under 18(c)(i) of the OIA, as it was considered that releasing the information would be contrary to section 18 of the Tax Administration Act 1994 (TAA). Your contention is that disclosing the number of MPs does not identify any individual person or entity, so cannot be defined as sensitive revenue information as defined in section 16C of the TAA.

It may be of some assistance if I explain that every officer of Inland Revenue, and every other government agency, has statutory responsibilities under the TAA to protect the integrity of New Zealand's tax system. Integrity of the tax system includes the rights of taxpayers (including MPs) to have their individual affairs kept confidential and treated with no greater or lesser favour than the tax affairs of other taxpayers (refer to section 6(2)(a) of the TAA).

The purpose of subpart 16 of the TAA is to provide the Commissioner with the necessary authority to protect the confidentiality of sensitive revenue information. Sensitive revenue information, as you have identified is defined in section 16C(3), as being information that relates to the affairs of a person or entity that might reasonably be regarded as private, commercially sensitive, or otherwise confidential.

Information disclosed in individuals' tax returns is reasonably considered private, commercially sensitive and otherwise confidential, and its release could result in prejudice to the person whom it relates. Confidentiality and privacy of customer information underpins the successful administration of New Zealand's tax system.

Section 18 of the TAA requires officers of Inland Revenue to keep confidential all sensitive revenue information and officials must not disclose information, unless there is a permitted disclosure that meets the requirements of sections 18D to 18J. These permitted disclosures are as follows:

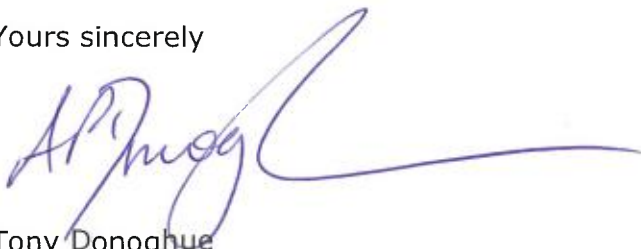
- 18D(1) Carrying into effect Revenue Law
- 18(D)(2) Carrying out a function conferred on the Commissioner – to administer the tax system, implement the tax system, improve, research, or reform the tax system, and the Commissioner considers the disclosure is reasonable for those purposes.
- 18E Disclosure made under information sharing arrangements
- 18F Regulations for information-sharing for public services purposes
- 18G Disclosures to persons and their representatives
- 18H Disclosures to other agencies for certain specified purposes
- 18I Disclosure for international purposes
- 18J Disclosure for risk or harm purposes.

As there is no permitted disclosure ground, I consider it right that your request be refused. The information you requested relates to the affairs of individuals (albeit MPs) and it is sensitive revenue information. Further, it is considered the aggregation of statistical information relating the information in MPs' income tax returns could be capable of being used to identify individual MPs directly or indirectly. MPs like any other customer of Inland Revenue are entitled to privacy. Analysing data disclosed in MPs tax returns is not required for the purposes of the Inland Revenue's Acts.

As was mentioned in Inland Revenue's letter of 28 June 2019, members of Parliament have been required to make an annual return of their pecuniary and other specified interests since 2005. The 2019 data is available at: www.parliament.nz/en/mps-and-electoralates/mps-financial-interests/mps-financial-interests/2019-register-and-summary-of-amendments-and-additional-returns/

Thank you for writing. I apologise again for the delay in responding to you and trust that my comments are of assistance and have helped explain Inland Revenue's position. If you remain not satisfied with Inland Revenue's response, your right to ask the Ombudsman to investigate and review my decision, remains.

Yours sincerely



Tony Donoghue
Manager, Commissioner's correspondence