

14 July 2022

Angela
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Dear Angela

Thank you for your email of 4 July 2022 asking for the source of authority for assessing and collecting taxes in New Zealand/Aotearoa.

Tax is levied by statute not by contract, agreement, bill of sale nor patent. The legislative authority for imposing and collecting taxes lies in the various Inland Revenue Acts, which are listed in schedule 1 to the Tax Administration Act 1994 (TAA).

The New Zealand Court of Appeal has held that the Parliament of New Zealand have full power to make laws. I refer to the Court of Appeal's decision in the case *Shaw v Commissioner of Inland Revenue* [1999] 3 NZLR 154.

Successive New Zealand Parliaments have been validly held and have passed valid legislation, including the Inland Revenue Acts. The Inland Revenue Acts listed in schedule 1 of the TAA include, but are not limited to, the Income Tax Act 2007, which imposes tax on income, and the Goods and Services Tax Act 1985, which provides for the charging of GST on goods and services supplied in the course of carrying on a taxable activity.

The Inland Revenue Acts are binding on all persons within the territory of New Zealand. The decision in the tax case *Commissioner of Inland Revenue v Rupe* (2003) 21 NZTC 18,129, confirmed that the Inland Revenue Acts are binding on all residents of New Zealand. This decision was later confirmed in the High Court. Mr Rupe questioned the authority of the tax law and challenged his obligation to pay tax. He also asserted that he was exempted by virtue of the Treaty of Waitangi and Maori sovereignty, as well as his Christian beliefs. Judge I B Thomas rejected Mr Rupe's arguments in full and cited the authority of Penlington J in *Warren v Police* 9 February 2000, High Court Hamilton, AP 133/ 99, which confirmed:

1. The New Zealand Parliament is empowered to make legislation.
2. The Acts of Parliament do not derive their authority from the Treaty of Waitangi or the Declaration of Independence.
3. The Acts of Parliament are binding on all persons within the territory of New Zealand, Pakeha or Maori.

To avoid doubt the Inland Revenue Acts are Acts of Parliament and are binding on all persons within the territory of New Zealand. The tax statutes apply to all residents of New Zealand regardless of how they may refer to themselves or whatever status they may consider they have. As such, persons are not able to opt out of them.

As mentioned above tax is imposed by statute and not by contract, agreement, bill of sale nor patent. I refer you to Paragraph 40 of Judge Barber's decision in the case *Commissioner of Inland Revenue v Boyton*, which was confirmed by the High Court:

"A theme of the defendant's submissions seemed to be that his liability in this case is a matter of "contract", presumably with the State or the IRD. In fact, taxation

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is levied by Parliament and is covered by Statute and not by any system of contracts."

Since tax obligations are imposed by statute and not by contract, I again confirm that persons are not able to opt out of them. Those who do not pay the tax which is due from them or otherwise do not meet their obligations under the tax Acts in reliance on such theories will find themselves in breach of the law and subject to the penalties imposed by the law.

Thank you for writing. This response fully covers your request.

Yours sincerely



Craig O'Halloran
Officer, Inland Revenue