

9 February 2015

Ms Camille Venturina
Fyi-request-2371-98d94517@requests.fyi.org.nz

Dear Ms Venturina

Thank you for your request of 5 January 2015 under the Official Information Act 1982 about the efficacy of the New Zealand voluntary administration regime. You requested:

- *Any policy documents which set out IRD's policies on the support of opposition of voluntary administrations*
- *Statistics on how IRD has historically voted in meetings*

The process of "voluntary administration" was introduced into New Zealand company law in 2007. Since that date, Inland Revenue has been involved in 131 voluntary administration cases.

As a creditor in the voluntary administration process, the Commissioner is obliged to consider and, subsequently, vote on a number of resolutions. Through the course of the voluntary administration process, the most common resolutions that the Commissioner is asked to consider include:

- (a) Whether to appoint a creditors' committee and, if so, to appoint its members;
- (b) Whether to replace the administrator; and
- (c) Whether the company and the deed administrator should execute a deed of company arrangement.

From time to time, additional resolutions may be advanced by creditors at any of the creditors meetings.

In respect to voting decisions, Inland Revenue has not yet developed policies specifically dealing with how the Commissioner should vote on each respective resolution. Given the limited number of voluntary administration cases that the Commissioner has been party to, each resolution is currently considered and addressed on a case by case basis.

When asked to consider the repayment proposal outlined in a Deed of Company Arrangement, the Commissioner takes a similar approach to her consideration of any proposal for repayment of debt as if it were presented as an application for relief under the Tax Administration Act 1994.

Principles underlying the Commissioner's consideration of relief applications are outlined in Inland Revenue's Standard Practice Statements *11/01 Instalment arrangements for*

interest. All of our Standard Practice Statement documents are publicly available on our website www.ird.govt.nz

Factors that are considered include the likelihood of compliance with the terms of a proposal, compliance history of the debtor, whether the proposal will provide a maximum return for Inland Revenue, the period of payment being proposed, and the nature of other debt owed to creditors.

The specific request for policy documents setting out IRD's policies in relation to voluntary administrations will be refused under Section 18(e) as the documents do not exist.

There is no formal record of how Inland Revenue voted in each individual case since Voluntary Administration was first introduced. Inland Revenue is bound by the majority decision across all creditors and records the overall outcomes from creditors meetings accordingly. This information is also refused under section 18(e).

You have the right to ask the Ombudsman to investigate and review my decision. The Office of the Ombudsman can be contacted at PO Box 10152, Wellington 6143.

Alternatively, you may have the decision reviewed by a review officer. The internal right of review does not preclude you from subsequently seeking a review by the Ombudsman should you be dissatisfied with the department's internal review. To request an internal review, please write to the Commissioner of Inland Revenue, PO Box 2198, Wellington 6140, setting out the details of your complaint.

Yours sincerely

A handwritten signature in blue ink that reads "David Udy". The signature is fluid and cursive, with a large initial 'D'.

David Udy
Group Manager Collections