

**Ministerial and Escalated Complaints**

Inland Revenue  
PO Box 2198  
Wellington 6140  
New Zealand

Telephone: 04 890 1846  
CommissionersCorrespondence@ird.govt.nz

8 November 2023

Mr Luis Martins  
fyi-request-24535-07dffe9c@requests.fyi.org.nz

Dear Mr Martins

In response to your request received on 26 October 2023, reference 24535-07dffe9c, I make the following general comments.

The collection of tax is fundamental to the successful operation of New Zealand's tax system. By ensuring that taxpayers, both individually and generally, are committed to paying tax on time - and in full, the integrity of New Zealand's tax system is protected.

The integrity of the tax system is described in law in section 6(2) of the Tax Administration Act 1994 (the Act), as including:

- a) the public perception of that integrity; and
- b) the rights of persons to have their liability determined fairly, impartially, and according to law; and
- c) the rights of persons to have their individual affairs kept confidential and treated with no greater or lesser favour than the affairs of other persons; and
- d) the responsibility of persons to comply with the law; and
- e) the responsibility of those administering the law to maintain the confidentiality of the affairs of persons; and
- f) the responsibilities of those administering the law to do so fairly, impartially, and according to law.

This is also recognised in section 15B(c) of the Act, which specifically provides that a taxpayer is obliged to pay their tax on time. In addition, section 176 of the Act sets out the general obligation that the Commissioner must maximise the recovery of outstanding tax from a taxpayer. When tax is not paid on time, penalties and/or interest will generally be payable.

Turning to specific points raised in your email:

***Would IRD acted the same way with the big companies?***

Inland Revenue always considers debt collection on a case-by-case basis. Inland Revenue's Standard Practice Statement SPS 18/04 *Options for relief from tax debt* sets out the Commissioner's practice when considering the options for removing or deferring the obligation to pay tax, interest and/or penalties under the Act. The standard practice statement is available to the public from Inland Revenue's Tax Technical website, [www.taxtechnical.ird.govt.nz](http://www.taxtechnical.ird.govt.nz).

If, after considering a taxpayer's circumstances, the Commissioner concludes that relief under the Act is not appropriate, the options available are to collect the amount owing (such as by garnishing bank accounts or property), or if failing to do so, to apply to the Courts to have the taxpayer made bankrupt (or liquidated, in the case of a company) in order to protect the integrity of the tax system.

***Would IRD say to a big company that IRD always comes first and leave staff, suppliers without payment?***

Paying taxes as they are due is an inherent responsibility all taxpayers share, regardless of the size of a company or a sole trader. Paying taxes in New Zealand contributes to providing

the various government services that all those who live, visit and/or work in New Zealand expect.

Under New Zealand company law, companies must be solvent to continue to trade. To satisfy the solvency test a company must be able to pay its debts as they become due in the normal course of business, and further, the value of the company's assets must be greater than the value of its liabilities, including contingent liabilities.

Section 6A (2) of the Act provides that it is the duty of the Commissioner to collect the highest net revenue that is practicable within the law, having regard to the resources available to the Commissioner, the importance of promoting compliance (especially voluntary compliance) by all taxpayers with the Inland Revenue Acts, and the compliance costs incurred by taxpayers. This duty requires the Commissioner to collect the highest net revenue over time. This means the Commissioner must consider the short and long-term implications of the various options open for the collection of outstanding amounts and debt relief.

***Would IRD enforce (sic) to shareholders from big companies to sell their assets to pay their taxes or IRD would repossess it?***

The process of company liquidation is covered by legislation. I refer you to Part 16 of the Companies Act 1993.

***Can IRD provide me where in NZ legislation it says that IRD can come and destroy a family which the main breaker is injury and unable to work and generate income for his family?***

Inland Revenue is responsible for administering the Inland Revenue Acts.

***Can IRD provide me a financial report from big companies in NZ who are always updated with taxes?***

Staff of Inland Revenue are bound by section 18 of the Act to keep confidential all sensitive revenue information and must not disclose information unless disclosure is a permitted disclosure that meets the requirements of sections 18D to 18J of the Act. Sensitive revenue information includes information held by Inland Revenue -

- (i) that identifies, or is capable of being used to identify, a person or entity, whether directly or indirectly;
- (ii) that might reasonably be considered as private, commercially sensitive, or otherwise confidential.

I consider company accounts would reasonably be considered private, commercially sensitive, and otherwise confidential. Therefore, Inland Revenue will not and cannot comment publicly on the business affairs of any other company or individual. However, you may find, big publicly owned companies generally publish financial data.

***At the time of this happened I was a NZ resident, not a NZ citizen, was I treated by IRD recovery team with discrimination for not being a NZ citizen? Would IRD act the same to a NZ born citizen?***

Inland Revenue is bound to deal with customers fairly, impartially, and according to the law regardless of a person's citizenship or ethnicity.

Yours sincerely



Tony Donoghue  
Team Lead - Ministerial and Escalated Complaints