

12 July 2016

Ms Lisa Marriott
Fyi-request-4142-b376c839@requests.fyi.org.nz

Dear Ms Marriott,

Thank you for your request made under the Official Information Act 1982 (the OIA), which was received on 15 June 2016. You requested the following information:

(1) Sections 157 and 167 of the Tax Administration Act 1994 provide for recovery of tax from payments (such as banks), or employers or PAYE intermediaries, respectively. Could you please provide details of how often these tools have been used for debt recovery over the past five years?

(2) Does Inland Revenue have the authority to seize assets (either themselves or with other agencies) to assist with debt recovery? If so, could you please advise how often this mechanism has been used over the past five years?

On 21 June 2016 we contacted you to clarify your request as section 167 of the Tax Administration Act 1994 (TAA) sets out an employer's general obligations to hold money deducted from employee's wages, such as PAYE, rather than being a collection tool. You confirmed that you would like information regarding the department's use of section 169 of the TAA, which is a collection tool and is more closely related to your request.

The following table shows the number of deduction notices that were issued under section 157 of the TAA for each of the last 5 years ending 30 June.

Year ended	Notices issued
2011	64,025
2012	68,501
2013	57,395
2014	66,126
2015	73,013

The total number of charging orders applied under section 169 of the TAA between 1 July 2011 and 30 June 2015 is 36.

In response to part 2 of your request, there are no provisions under the Revenue Acts that explicitly permit the Commissioner to seize assets to assist with debt recovery. However, section 183 of the Child Support Act 1991 allows the Commissioner to apply to the District Court/Family Court for warrants to seize property. A total of 71 warrants were successfully granted between 1 July 2011 and 30 June 2015.

As a general creditor who has obtained judgment in the District Court, the Commissioner is also entitled to apply for a distress warrant to seize assets under section 85 of the District Courts Act 1947. However, this option has not been used as the Commissioner has other, more cost effective options available.

As the number of charging orders applied under section 169 and the number of distress warrants granted are of a minimal amount each year, releasing a yearly breakdown may allow inferences to be made about particular taxpayers. I have therefore decided to withhold the yearly breakdown of these figures under section 18(c)(i) of the OIA, because releasing it would be contrary to the provisions of a specified enactment - specifically section 81 of the TAA.

The information is covered by the secrecy provisions contained within section 81 of the TAA and can therefore only be released if one of the exceptions to secrecy (as set out in section 81) applies and the Commissioner has decided to exercise her discretion under that exception.

I have considered the exceptions to secrecy set out in section 81. The only exception that could apply in this case is the general exception contained in section 81(1B)(b). This exception requires the release of the information to support the performance or execution of a duty of the Commissioner and be reasonable in light of five factors.

One of these factors is the Commissioner's obligation at all times to use best endeavours to protect the integrity of the tax system. As releasing this information may allow inferences to be made about particular tax payers, the criteria for this exception have not been met.

Right of review

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

Alternatively, you may have the decision reviewed by a review officer. Choosing 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. If an internal review is sought, please write to the Commissioner of Inland Revenue, PO Box 2198, Wellington 6140, setting out the details of your complaint.

Thank you again for your request. I trust this information is of assistance to you.

Yours sincerely,



Paula Knaap
**Manager, Capability Planning & Relationship Management
Collections**