

Policy and Strategy
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22 August 2018

Mr Blake Winstanley
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Dear Mr Blake Winstanley

Thank you for your request made under the Official Information Act 1982 (the Act), received on 25 July 2018. I note that you made an identical request to the Treasury on the same date, which was subsequently transferred to Inland Revenue on 10 August 2018. This response answers both requests. You requested the following:

Any and all information relating to proposals to reform or revise Fringe Benefit Tax (FBT)

On 1 August 2018, we requested clarification of the scope of your request. At the time, Inland Revenue was working on only one proposal to reform or revise Fringe Benefit Tax. This proposal is called "*Fringe Benefit Tax on employment related loans*" and is designed to address the over-taxation of employment related loans that occurs under the current definition of market interest.

Therefore, our interpretation of the scope of your request was:

All official advice given to the Minister of Revenue on the current proposal, "Fringe Benefit Tax on employment related loans", to reform or revise the Fringe Benefit Tax.

Since our clarification request, Inland Revenue has worked on another proposal relating to Fringe Benefit Tax. Three documents relating to this other proposal have been identified as within the scope of your request. All three documents have been withheld in full under section 9(2)(f)(iv) of the Act to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials.

Information to be released

Enclosed are three documents relating to "*Fringe Benefit Tax on employment related loans*". Information in these documents that is outside the scope of the request has not been considered for release and has been withheld. Some information in the enclosed documents has been withheld under the following sections of the Act:

- Section 9(2)(a) – to protect the privacy of natural persons, including that of deceased persons.
- Section 18(c)(i) – making the requested information available would be contrary to the provisions of a specified enactment, namely Inland Revenue's secrecy

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obligation in section 81 of the Tax Administration Act 1994. Disclosure of the information requested does not fall within any of the specific exceptions to the secrecy obligation, nor within the general carrying into effect exception in section 81(1). – also 81(1B)

In making my decision, I have weighed up the public interest considerations in section 9(1) of the Act.

Please find enclosed the following documents:

Item	Date	Document description	Decision	Withholding ground (if applicable)
1.	6 March 2018	IR2018/124: Fringe benefit tax on employment related loans – Market interest rate	Released in part	Section 9(2)(a); and section 18(c)(i)
2.	6 March 2018	Fringe Benefit Tax – Market Interest Rate draft cabinet paper	Released in full	n/a
3.	16 March 2018	IR2018/170: Miscellaneous Tax Policy Changes for Inclusion in the Next Omnibus Taxation Bill for 2018	Released in part	Section 18(c)(i); and pages 2-6, 10-12 and 17 withheld as outside the scope of the request

Information publicly available

The *“Fringe Benefit Tax on employment related loans”* proposal has been included in the Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill. Some further information on this proposal is available in the following Regulatory Impact Assessment and Bill Commentary:

www.taxpolicy.ird.govt.nz/publications/2018-ria-armtarm-bill/ria-01-fringe-benefit-tax

www.taxpolicy.ird.govt.nz/publications/2018-commentary-armtarm-bill/other-policy-matters#fbt

For future reference, the Government periodically publishes a tax policy work programme that lists the main tax reform proposals it is currently working on. This list is available at the following website and includes the *“Fringe Benefit Tax on employment related loans”* project:

www.taxpolicy.ird.govt.nz/work-programme

Rights of review

If you disagree with my decision, you may have it reviewed by an Inland Revenue review officer. This does not preclude you from subsequently seeking a review by the Ombudsman if you are not satisfied with the department’s internal review. If you would like an internal review, please write to the Commissioner of Inland Revenue by email (CommissionersCorrespondence@ird.govt.nz) setting out the details of your request.

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Alternatively, you have the right, under section 28(3) of the Act, to ask the Ombudsman to investigate and review my decision. The office of the Ombudsman can be contacted by email (info@ombudsman.parliament.nz).

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'CG', with a small dot at the end.

Chris Gillion
Policy Manager