



Observatory on the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by Adrian Sawyer, Professor at *University of Canterbury* and OPTR National Reporter of New Zealand.

This set of questionnaires comprise the National Reporter's assessment on the country practice during 2020 in the protection of taxpayers' rights, and the level of fulfilment of the minimum standards and best practices on the practical protection of taxpayers' rights identified by Prof. Dr. Philip Baker and Prof. Dr. Pasquale Pistone at the 2015 IFA Congress on "The Practical Protection of Taxpayers' Fundamental Rights".

OPTR - 2020 Questionnaire 1 - Country Practice

Dear National Reporter,

I would like to thank you for your participation in the IBFD's Observatory on the Protection of Taxpayers' Rights (OPTR).

This form collects the information on the practical implementation in domestic law of legal procedures, safeguards and guarantees associated with taxpayers' rights in 82 situations for the practical protection of taxpayers' rights, as monitored by the IBFD Observatory on the Protection of Taxpayers' Rights.

We kindly ask you to assess assertively (yes/no) the level of practical implementation of said procedures, safeguards and guarantees associated with taxpayers' rights in your country. When answering, please bear in mind the actual practice regarding each situation, regardless of whether a given procedure, safeguard or guarantee has been formally adopted in your country.

We would be very grateful if you submit us this questionnaire, duly filled out, by no later than 15 January 2021.

Feel free to contact us for any clarification you may need. We look forward to your valuable contribution to this remarkable project.

Kind regards,

Prof. Dr. Carlos E. Weffe
Managing Editor
IBFD Observatory on the Protection of Taxpayers' Rights.

* Better if filled in using Google Chrome © or Mozilla Firefox ©

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Tax Administration

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Academia

Other: _____

Questionnaire 1 - Country Practice

Instructions:

1. Please answer all questions. The form will not allow you to continue/submit your responses until you have answered all questions.
2. For assertive questions, please answer with "yes" or "no" by clicking on the corresponding button.
3. For questions that require you to specify a period of time (namely, Q. 26 and Q. 45), please select the time applicable in your country to carry out the procedures indicated in the questions in practice, within the options provided.
4. For questions with more than one possible answer (namely, Q. 56), please check all necessary boxes to reflect better the practical situation of your country regarding the issue, by clicking on them.

5. When completed, please submit the survey.

6. Once you have submitted the survey, you will receive an email acknowledging your participation in the OPTR and providing a backup of your answers.

7. The email will also include an "edit your survey" link, in case you want to modify any of your answers. You will receive this email every time you submit partial responses.

8. An option to quit the survey and save your answers is provided at the end of each section.

9. If answering partially, please select "Yes" at the end of the section in which you are to submit your partial answers to the survey. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this survey.

10. For editing your answers, please use the last "edit your response" link provided to you via email. Please bear in mind that this is the only way the system will acknowledge your previous answers. If you use a link other than the last one provided, some (or all) changes might not be retrieved by the system.

11. When clicking on the last "edit your response" link, the system will lead you to the front page of the survey. Click on "Next" as many times as needed to get to the section you want to continue in. Once you have reached said section, please remember to change your answer to the question "Do you want to save your results and quit?" to "No", in order to be able to continue.

Area 1 - Identification of taxpayers, issuing tax returns and communicating with taxpayers

1. Do taxpayers have the right to see the information held about them by the tax authority? *

Yes

No

2. If yes, can they request the correction of errors in the information? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

3. Is it possible in your country for taxpayers to communicate electronically with the tax authority? *

Yes

No

4. If yes, are there systems in place to prevent unauthorised access to the channel of communication? *

Yes

No

5. In your country, is there a system of "cooperative compliance" / "enhanced relationship" which applies to some taxpayers only? *

Yes

No

6. If yes, are there rules or procedures in place to ensure this system is available to all eligible taxpayers on a non-preferential/non discriminatory/non arbitrary basis? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

7. Are there special arrangements for individuals who face particular difficulties (e.g. the disabled, the elderly, other special cases) to receive assistance in complying with their tax obligations? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 2 - The issue of tax assessment

8. Does a dialogue take place in your country between the taxpayer and the tax authority before the issue of an assessment in order to reach an agreed assessment? *

Yes

No

9. If a systematic error in the assessment of tax comes to light (e.g. the tax authority loses a tax case and it is clear that tax has been collected on a wrong basis), does the tax authority act ex officio to notify all affected taxpayers and arrange repayments to them? *

Yes

No

10. If yes, can the taxpayer request a meeting with the tax officer? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 3 - Confidentiality

11. Is information held by your tax authority automatically encrypted? *

Yes

No

12. Is access to information held by the tax authority about a specific taxpayer accessible only to the tax official(s) dealing with that taxpayer's affairs? *

Yes

No

13. If yes, must the tax official identify himself/herself before accessing information held about a specific taxpayer? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

14. Is access to information held about a taxpayer audited internally to check if there has been any unauthorised access to that information? *

Yes

No

15. Are there examples of tax officials who have been criminally prosecuted in the last decade for unauthorised access to taxpayers' data? *

Yes

No

16. Is information about the tax liability of specific taxpayers publicly available in your country? *

Yes

No

17. Is "naming and shaming" of non-compliant taxpayers practised in your country? *

Yes

No

18. Is there a system in your country by which the courts may authorise the public disclosure of information held by the tax authority about specific taxpayers (e.g. habeas data or freedom of information)? *

Yes

No

19. Is there a system of protection of legally privileged communications between the taxpayer and its advisors? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

Yes

No

20. If yes, does this extend to advisors other than those who are legally qualified (e.g. accountants, tax advisors)? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

Not applicable (click here if you answered "No" to the previous question)

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 4 - Normal audits

21. Does the principle ne bis in idem apply to tax audits (i.e. that the taxpayer can only receive one audit in respect of the same taxable period)? *

Yes

No

22. If yes, does this mean only one audit per tax per year? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

23. Does the principle audi alteram partem apply in the tax audit process (i.e. does the taxpayer have to be notified of all decisions taken in the process and have the right to object and be heard before the decision is finalised)? *

Yes

No

24. Does the taxpayer have the right to request an audit (e.g. if the taxpayer wishes to get finality of taxation for a particular year)? *

Yes

No

25. Are there time limits applicable to the conduct of a normal audit in your country (e.g. the audit must be concluded within so many months)? *

Yes

No

26. If yes, what is the normal limit in months? *

There is no limit (click here if you answered "No" to the previous question) ▼

27. Does the taxpayer have the right to be represented by a person of its choice in the audit process? *

Yes

No

28. May the opinion of independent experts be used in the audit process? *

Yes

No

29. Does the taxpayer have the right to receive a full report on the conclusions of the audit at the end of the process? *

Yes

No

30. Are there limits to the frequency of audits of the same taxpayer (e.g. in respect to different periods or different taxes)? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 5 - More intensive audits

31. Is the principle nemo tenetur applied in tax investigations (i.e. the principle against self-incrimination)? *

Yes

No

32. If yes, is there a restriction on the use of information supplied by the taxpayer in a subsequent penalty procedure/criminal procedure? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

33. If yes to nemo tenetur, can the taxpayer raise this principle to refuse to supply basic accounting information to the tax authority? *

Not applicable (click here if you answered "No" to question 31)

Yes

No

34. Is there a procedure applied in your country to identify a point in time during an investigation when it becomes likely that the taxpayer may be liable for a penalty or a criminal charge, and from that time onwards the taxpayer's right not to self-incriminate is recognised? *

Yes

No

35. If yes, is there a requirement to give the taxpayer a warning that the taxpayer can rely on the right of non-self-incrimination? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

36. Is authorisation by a court always needed before the tax authority may enter and search premises? *

Yes

No

37. May the tax authority enter and search the dwelling places of individuals? *

Yes

No

38. Is a court order required before the tax authority can use interception of communications (e.g. telephone tapping or access to electronic communications)? *

Yes

No

39. Is there a procedure in place to ensure that legally privileged material is not taken in the course of a search? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

40. Is there a procedure for an internal review of an assessment/decision before the taxpayer appeals to the judiciary? *

Yes

No

41. Does the taxpayer need permission to appeal to the first instance tribunal? *

Yes

No

42. Does the taxpayer need permission to appeal to the second or higher instance tribunals? *

Yes

No

43. Is it necessary for the taxpayer to bring his case first before an administrative court to quash the assessment/decision, before the case can proceed to a judicial hearing? *

Yes

No

44. Are there time limits applicable for a tax case to complete the judicial appeal process? *

Yes

No

45. If yes, what is the normal time it takes for a tax case to be concluded on appeal? *

There is no limit (click here if you answered "No" to the previous question) ▼

46. Are there any arrangements for alternative dispute resolution (e.g. mediation or arbitration) before a tax case proceeds to the judiciary? *

Yes

No

47. Is there a system for the simplified resolution of tax disputes (e.g. by a determination on the file, or by e/filing)? *

Yes

No

48. Is the principle audi alteram partem (i.e. each party has a right to a hearing) applied in all tax appeals? *

Yes

No

49. Does the taxpayer have to pay some/all the tax before an appeal can be made (i.e. solve et repete)? *

Yes

No

50. If yes, are there exceptions recognised where the taxpayer does not need to pay before appealing (i.e. can obtain an interim suspension of the tax debt)? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

51. Does the loser have to pay the costs in a tax appeal? *

Yes

No

52. If yes, are there situations recognised where the loser does not need to pay the costs (e.g. because of the conduct of the other party)? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

53. If there is usually a public hearing, can the taxpayer request a hearing in camera (i.e. not in public) to preserve secrecy/confidentiality? *

Yes

No

54. Are judgments of tax tribunals published? *

Yes

No

55. If yes, can the taxpayer preserve its anonymity in the judgment? *

- Not applicable (click here if you answered "No" to the previous question)
- Yes
- No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

Area 7 - Criminal and administrative sanctions

56. Does the principle ne bis in idem apply in your country to prevent either: *

- The principle does not apply in my country
- The imposition of a tax penalty and the tax liability
- The imposition of more than one tax penalty for the same conduct
- The imposition of a tax penalty and a criminal liability

57. If ne bis in idem is recognised, does this prevent two parallel sets of court proceedings arising from the same factual circumstances (e.g. a tax court and a criminal court)? *

- Not applicable (click here if you answered "No" to the previous question)
- Yes
- No

58. If the taxpayer makes a voluntary disclosure of a tax liability, can this result in a reduced or a zero penalty? *

- Yes
- No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

Area 8 - Enforcement of taxes

59. Is a court order always necessary before the tax authorities can access a taxpayer's bank account or other assets? *

Yes

No

60. Does the taxpayer have the right to request a deferred payment of taxes or a payment in instalments (perhaps with a guarantee)? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 9 - Cross-border situations

61. Does the taxpayer have the right to be informed before information relating to him is exchanged in response to a specific request? *

Yes

No

62. Does the taxpayer have a right to be informed before information is sought from third parties in response to a specific request for exchange of information? *

Yes

No

63. If no to either of the previous two questions, did your country previously recognise the right of taxpayers to be informed and was such right removed in the context of the peer review by the Forum on Transparency and Exchange of Information? *

Not applicable (click here if you answered "No" to either question 61 or question 62)

Yes

No

64. Does the taxpayer have the right to be heard by the tax authority before the exchange of information relating to him with another country? *

Yes

No

65. Does the taxpayer have the right to challenge before the judiciary the exchange of information relating to him with another country? *

Yes

No

66. Does the taxpayer have the right to see any information received from another country that relates to him? *

Yes

No

67. Does the taxpayer have the right in all cases to require a mutual agreement procedure is initiated? *

Yes

No

68. Does the taxpayer have a right to see the communications exchanged in the context of a mutual agreement procedure? *

Yes

No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 10 - Legislation

69. Is there a prohibition on retrospective tax legislation in your country? *

Yes

No

70. If no, are there restrictions on the adoption of retrospective tax legislation in your country? *

- Not applicable (click here if you answered "Yes" to the previous question)
- Yes
- No

71. Is there a procedure in your country for public consultation before the adopting of all (or most) tax legislation? *

- Yes
- No

72. Is tax legislation subject to constitutional review which can strike down unconstitutional laws? *

- Yes
- No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

Area 11 - Revenue practice and guidance

73. Does the tax authority in your country publish guidance (e.g. revenue manuals, circulars, etc.) as to how it applies your tax law? *

Yes

No

74. Does your country have a generalised system of advanced rulings available to taxpayers? *

Yes

No

75. If yes, is it legally binding? *

Not applicable (click here if you answered "No" to the previous question)

Yes

No

76. If a binding ruling is refused, does the taxpayer have a right to appeal? *

Yes

No

77. If your country publishes guidance as to how it applies your tax law, can taxpayers acting in good faith rely on that published guidance (i.e. protection of legitimate expectations)? *

- Not applicable (click here if you answered "No" to the previous question)
- Yes
- No

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

Area 12 - Institutional framework for protecting taxpayers' rights

78. Is there a taxpayers' charter or taxpayers' bill of rights in your country? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- Yes
- No

79. If yes, are its provisions legally effective? *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- Not applicable (click here if you answered "No" to the previous question)
- Yes
- No

80. Is there a (tax) ombudsman / taxpayers' advocate / equivalent position in your country? *

- Yes
- No

81. If yes, can the ombudsman intervene in an on-going dispute between the taxpayer and the tax authority (before it goes to court)? *

- Not applicable (click here if you answered "No" to the previous question)
- Yes
- No

82. If yes to a (tax) ombudsman, is he/she independent from the tax authority? *

Not applicable (click here if you answered "No" to question 80)

Yes

No

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OPTR - 2020 Questionnaire 2 - Standards of Protection

Dear National Reporter,

I would like to thank you for your participation in the IBFD Observatory on the Protection of Taxpayers' Rights (OPTR).

This form collects the information on developments occurred in 2020 regarding the implementation of 57 minimum standards and 44 best practices, distributed into 86 benchmarks, for the practical protection of taxpayers' rights as monitored by the OPTR.

We kindly ask you to provide an impartial, non-judgmental summary of events occurred in 2020 that in your opinion affect the level of compliance of a given of minimum standard/best practice in your country. These events may include, without limitation, legislation enacted, administrative rulings and/or circulars issued, case law and tax administration practices implemented, among others, as requested by this form.

You are also kindly required to assess whether the events you described represent either a step towards or a step away from the practical implementation of the given minimum standard/best practice in your country. Full instructions are provided below.

This form should be filled in as soon as any of the events mentioned above occurs and edited as many times as necessary to cover all relevant developments occurred in 2020, until no later than 15 January 2021. We appreciate very much your cooperation in this regard.

Feel free to contact us for any clarification you may need. We look forward to your valuable contribution to this remarkable project.

Kind regards,

Prof. Dr Carlos E. Weffe
Managing Editor
IBFD Observatory on the Protection of Taxpayers' Rights.

* Better if filled in using Google Chrome © or Mozilla Firefox ©

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Taxpayers / Tax Practitioners

Tax Administration

Judiciary

(Tax) Ombudsperson

Academia

Other: _____

Instructions

1. Please answer all questions. The form will not allow you to continue/submit your responses until you have answered all questions.

2. All questions are two or three-tiered (namely, either with parts "MS" and/or "BP", and "S"). They comprise a minimum standard and /or a best practice, and a "summary of relevant facts in 2020", a space for providing a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way.
3. Please Indicate, by clicking on the corresponding button, whether there was an improvement or a decrease of the level of compliance of the relevant standard/best practice in your country in 2020. If there were no changes, please indicate so by clicking on the corresponding button.
4. In ALL cases where an assessment of either improvement or decrease is reported, please refer the relevant novelties in the space provided under "summary of relevant facts in 2020", for each question. Please give a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. In case there is nothing to report for a given minimum standard/best practice, please answer "no changes".
5. If any, make additional, non-judgmental commentaries at the space provided under "summary of relevant facts in 2020".
6. Back up your assertions with the relevant documentary materials, if possible. While it is not mandatory, a short summary of such materials in English is appreciated. You are welcomed to send us these materials to our email: optr@ibfd.org and c.weffe@ibfd.org.
7. When completed, please submit the survey.
8. Once you have submitted the survey, you will receive an email acknowledging your participation in the OPTR and providing a backup of your answers.
9. The email will also include an "edit your survey" link, in case you want to modify any of your answers. You will receive this email every time you submit partial responses.
10. An option to quit the survey and save your answers is provided at the end of each section. This survey has 12 sections, as many as those identified by Baker and Pistone in their 2015 IFA General Report.
11. If answering partially, please select "Yes" at the end of the section in which you are to submit your partial answers to the survey. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this survey.
12. For editing your answers, please use the last "edit your response" link provided to you via email. Please bear in mind that this is the only way the system will acknowledge your previous answers. If you use a link other than the last one provided, some (or all) changes might not be retrieved by the system.
13. When clicking on the last "edit your response" link, the system will lead you to the front page of the survey. Click on "Next" as many times as needed to get to the section you want to continue in. Once you have reached said section, please remember to change your answer to the question "Do you want to save your results and quit?" to "No", in order to be able to continue.

Area 1 - Identification of taxpayers, issuing tax returns and communicating with taxpayers

1 (MS). Implement safeguards to prevent impersonation when issuing a unique identification number *

- No changes
- Shifted away
- Shifted towards

1 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

2 (MS). The system of taxpayer identification should take account of religious sensitivities *

- No changes
- Shifted away
- Shifted towards

2 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

3 (MS). Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes *

- No changes
- Shifted away
- Shifted towards

3 (BP). Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax *

- No changes
- Shifted away
- Shifted towards

3 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

4 (MS). Where pre/populated returns are used, these should be sent to taxpayers to correct errors. *

- No changes
- Shifted away
- Shifted towards

4 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

5 (MS). Provide a right to access to taxpayers to personal information held about them, and a right to correct inaccuracies. *

- No changes
- Shifted away
- Shifted towards

5 (BP). Publish guidance on taxpayers' rights to access information and correct inaccuracies

*

- No changes
- Shifted away
- Shifted towards

5 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

6 (MS). Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception *

- No changes
- Shifted away
- Shifted towards

6 (S). Summary of relevant facts in 2019

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

7 (MS). Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis *

- No changes
- Shifted away
- Shifted towards

7 (S). Summary of relevant facts in 2019

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

8 (MS). Provide assistance for those who face difficulties in meeting compliance obligations, including those with disabilities, those located in remote areas, and those unable or unwilling to use electronic forms of communication *

- No changes
- Shifted away
- Shifted towards

8 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

Yes

No

Area 2 - The issue of tax assessment

9 (BP). Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms *

No changes

Shifted away

Shifted towards

9 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

10 (BP). Use e-filing to speed up assessments and correction of errors, particularly systematic errors *

- No changes
- Shifted away
- Shifted towards

10 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

If "Yes", please submit the form. To edit/complete your answers later, please use the "edit your response" link sent to your email after submitting this form. If not, click "Next" to continue.

- Yes
- No

Area 3 - Confidentiality

11 (MS). Provide a specific legal guarantee for confidentiality, with sanctions for officials who make unauthorised disclosures (and ensure sanctions are enforced). *

- No changes
- Shifted away
- Shifted towards

11 (BP). Encrypt information held by a tax authority about taxpayers to the highest level attainable. *

- No changes
- Shifted away
- Shifted towards

11 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

12 (MS). Introduce an offence for tax officials covering up unauthorised disclosure of confidential information. *

- No changes
- Shifted away
- Shifted towards

12 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

13 (MS). Restrict access to data to those officials authorised to consult it. For encrypted data, use digital access codes. *

- No changes
- Shifted away
- Shifted towards

13 (BP). Ensure an effective fire-wall to prevent unauthorised access to data held by revenue authorities. *

- No changes
- Shifted away
- Shifted towards

13 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

14 (MS). Audit data access periodically to identify cases of unauthorised access. *

- No changes
- Shifted away
- Shifted towards

14 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

15 (MS). Introduce administrative measures emphasizing confidentiality to tax officials. *

- No changes
- Shifted away
- Shifted towards

15 (BP). Appoint data protection/privacy officers at senior level and local tax offices. *

- No changes
- Shifted away
- Shifted towards

15 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

16 (MS). If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges). *

- No changes
- Shifted away
- Shifted towards

16 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

17 (MS). Provide remedies for taxpayers who are victims of unauthorised disclosure of confidential information. *

- No changes
- Shifted away
- Shifted towards

17 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

18 (MS). Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted. *

- No changes
- Shifted away
- Shifted towards

18 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

19 (MS). If "naming and shaming" is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer). *

- No changes
- Shifted away
- Shifted towards

19 (BP). Require judicial authorisation before any disclosure of confidential information by revenue authorities *

- No changes
- Shifted away
- Shifted towards

19 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

20 (MS). No disclosure of confidential taxpayer information to politicians, or where it might be used for political purposes. *

- No changes
- Shifted away
- Shifted towards

20 (BP). Parliamentary supervision of revenue authorities should involve independent officials, subject to confidentiality obligations, examining specific taxpayer data, and then reporting to Parliament. *

- No changes
- Shifted away
- Shifted towards

20 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

21 (MS). Freedom of information legislation may allow a taxpayer to access information about himself. However, access to information by third parties should be subject to stringent safeguards: only if an independent tribunal concludes that the public interest in disclosure outweighs the right of confidentiality, and only after a hearing where the taxpayer has an opportunity to be heard. *

- No changes
- Shifted away
- Shifted towards

21 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

22 (MS). If published, tax rulings should be anonymised and details that might identify the taxpayer removed. *

- No changes
- Shifted away
- Shifted towards

22 (BP). Anonymise all tax judgments and remove details that might identify the taxpayer *

- No changes
- Shifted away
- Shifted towards

22 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

23 (MS). Legal professional privilege should apply to tax advice. *

Please provide separately (via optr@ibfd.org) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away
- Shifted towards

23 (BP). Privilege from disclosure should apply to all tax advisors (not just lawyers) who supply similar advice to lawyers. Information imparted in circumstances of confidentiality may be privileged from disclosure. *

Please provide separately (via optr@ibfd.org) an annex with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away
- Shifted towards

23 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

24 (MS). Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege. *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away
- Shifted towards

24 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

Yes

No

Area 4 - Normal audits

25 (MS). Audits should respect the following principles: (i) Proportionality. (2) Ne bis in idem (prohibition of double jeopardy). (3) Audi alteram partem (right to be heard before any decision is taken). (4) Nemo tenetur se detegere (principle against self/incrimination). Tax notices issued in violation of these principles should be null and void. *

No changes

Shifted away

Shifted towards

25 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

26 (MS). In application of proportionality, tax authorities may only request for information that is strictly needed, not otherwise available, and must impose least burdensome impact on taxpayers. *

- No changes
- Shifted away
- Shifted towards

26 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

27 (BP). In application of ne bis in idem the taxpayer should only receive one audit per taxable period, except when facts that become known after the audit was completed. *

- No changes
- Shift away
- Shift towards

27 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

28 (MS). In application of audi alteram partem, taxpayers should have the right to attend all relevant meetings with tax authorities (assisted by advisors), the right to provide factual information, and to present their views before decisions of the tax authorities become final.

*

- No changes
- Shifted away
- Shifted towards

28 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

29 (MS). In application of nemo tenetur, the right to remain silent should be respected in all tax audits. *

- No changes
- Shifted away
- Shifted towards

29 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

30 (BP). Tax audits should follow a pattern that is set out in published guidelines. *

- No changes
- Shifted away
- Shifted towards

30 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

31 (BP). A manual of good practice in tax audits should be established at the global level. *

- No changes
- Shifted away
- Shifted towards

31 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

32 (BP). Taxpayers should be entitled to request the start of a tax audit (to obtain finality). *

- No changes
- Shifted away
- Shifted towards

32 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

33 (MS). Where tax authorities have resolved to start an audit, they should inform the taxpayer *

- No changes
- Shifted away
- Shifted towards

33 (BP). Where tax authorities have resolved to start an audit, they should hold an initial meeting with the taxpayer in which they spell out the aims and procedure, together with timescale and targets. They should then disclose any additional evidence in their possession to the taxpayer. *

- No changes
- Shifted away
- Shifted towards

33 (S). Summary of relevant facts in 2019

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

34 (MS). Taxpayers should be informed of information gathering from third parties. *

- No changes
- Shifted away
- Shifted towards

34 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

35 (BP). Reasonable time limits should be fixed for the conduct of audits. *

- No changes
- Shifted away
- Shifted towards

35 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

36 (MS). Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer. *

- No changes
- Shifted away
- Shifted towards

36 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

37 (MS). The completion of a tax audit should be accurately reflected in a document, notified in its full text to the taxpayer. *

- No changes
- Shifted away
- Shifted towards

37 (BP). The drafting of the final audit report should involve participation by the taxpayer, with the opportunity to correct inaccuracies of facts and to express the taxpayer's view. *

- No changes
- Shifted away
- Shifted towards

37 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

38 (BP). Following an audit, a report should be prepared even if the audit does not result in additional tax or refund. *

- No changes
- Shifted away
- Shifted towards

38 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

Yes

No

Area 5 - More intensive audits

39 (BP). More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance. *

No changes

Shifted away

Shifted towards

39 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

40 (MS). If there is point in an audit when it becomes foreseeable that the taxpayer may be liable for a penalty or criminal charge, from that time the taxpayer should have stronger protection of his right to silence, and statements from the taxpayer should not be used in the audit procedure. *

- No changes
- Shifted away
- Shifted towards

40 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

41 (MS). Entering premises or interception of communications should be authorised by the judiciary. *

- No changes
- Shifted away
- Shifted towards

41 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

42 (MS). Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for ex-post ratification. *

- No changes
- Shifted away
- Shifted towards

42 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

43 (MS). Inspection of the taxpayer's home should require authorisation by the judiciary and only be given in exceptional cases. *

- No changes
- Shifted away
- Shifted towards

43 (BP). Where tax authorities intend to search the taxpayer's premises, the taxpayer should be informed and have an opportunity to appear before the judicial authority, subject to exception where there is evidence of danger that documents will be removed or destroyed.

*

- No changes
- Shifted away
- Shifted towards

43 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

44 (BP). Access to bank information should require judicial authorisation. *

- No changes
- Shifted away
- Shifted towards

44 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

45 (BP). Authorisation by the judiciary should be necessary for the interception of telephone communications and monitoring of internet access. Specialised offices within the judiciary should be established to supervise these actions. *

- No changes
- Shifted away
- Shifted towards

45 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

46 (MS). Seizure of documents should be subject to a requirement to give reasons why seizure is indispensable, and to fix the time when documents will be returned; seizure should be limited in time. *

- No changes
- Shifted away
- Shifted towards

46 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

47 (BP). If data are held on a computer hard drive, then a backup should be made in the presence of the taxpayer's advisors and the original left with the taxpayer. *

- No changes
- Shifted away
- Shifted towards

47 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

48 (MS). Where invasive techniques are applied, they should be limited in time to avoid a disproportionate impact on taxpayers. *

- No changes
- Shifted away
- Shifted towards

48 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

Yes

No

Area 6 - Reviews and appeals

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

49 (BP). E-filing of requests for internal review to ensure the effective and speedy handling of the review process. *

No changes

Shifted away

Shifted towards

49 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

50 (MS). The right to appeal should not depend upon prior exhaustion of administrative reviews. *

- No changes
- Shifted away
- Shifted towards

50 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

51 (BP). Reviews and appeals should not exceed two years. *

- No changes
- Shifted away
- Shifted towards

51 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

52 (MS). Audi alteram partem should apply in administrative reviews and judicial appeals. *

- No changes
- Shifted away
- Shifted towards

52 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

53 (MS). Where tax must be paid in whole or in part before an appeal, there must be an effective mechanism for providing interim suspension of payment. *

- No changes
- Shifted away
- Shifted towards

53 (BP). An appeal should not require prior payment of tax in all cases. *

- No changes
- Shifted away
- Shifted towards

53 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

54 (BP). The state should bear some or all of the costs of an appeal, whatever the outcome.

*

- No changes
- Shifted away
- Shifted towards

54 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

55 (MS). Legal assistance should be provided for those taxpayers who cannot afford it. *

- No changes
- Shifted away
- Shifted towards

55 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

56 (MS). Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing. *

- No changes
- Shifted away
- Shifted towards

56 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

57 (A). Tax judgments should be published. *

- No changes
- Shifted away
- Shifted towards

57 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

- Yes
- No

Area 7 - Criminal and administrative sanctions

58 (MS). Proportionality and ne bis in idem should apply to tax penalties. *

- No changes
- Shifted away
- Shifted towards

58 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

59 (BP). Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied. *

- No changes
- Shifted away
- Shifted towards

59 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

60 (BP). Voluntary disclosure should lead to reduction of penalties. *

- No changes
- Shifted away
- Shifted towards

60 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

61 (MS). Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures. *

- No changes
- Shifted away
- Shifted towards

61 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

- Yes
- No

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Please be particularly aware of regulations on the COVID-19 pandemic. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

62 (MS). Collection of taxes should never deprive taxpayers of their minimum necessary for living. *

- No changes
- Shifted away
- Shifted towards

62 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

63 (BP). Authorisation by the judiciary should be required before seizing assets or bank accounts *

- No changes
- Shifted away
- Shifted towards

63 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

64 (MS). Taxpayers should have the right to request delayed payment of arrears. *

- No changes
- Shifted away
- Shifted towards

64 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

65 (BP). Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment. *

- No changes
- Shifted away
- Shifted towards

65 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

66 (MS). Temporary suspension of tax enforcement should follow natural disasters. *

Please provide separately (via optr@ibfd.org and c.weffe@ibfd.org) an annexe with the actual wording of relevant excerpts of your country's legislation regarding this matter. Please be particularly aware of regulations on the COVID-19 pandemic. Technically accurate translations of such material into English, if possible, would be very appreciated. Thank you.

- No changes
- Shifted away
- Shifted towards

66 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Provision for COVID-19 relief by way of powers granted to the Commissioner were made in 2020. Relief in cases of natural disasters is made on a case by case basis as has been the norm.

Do you want to save your results and quit? *

- Yes
- No

Area 9 - Cross-border situations

67 (MS). The requesting state should notify the taxpayer of cross-border requests for information, unless it has specific grounds for considering that this would prejudice the process of investigation. The requested state should inform the taxpayer unless it has a reasoned request from the requesting state that the taxpayer should not be informed on grounds that it would prejudice the investigation. *

- No changes
- Shifted away
- Shifted towards

67 (BP). The taxpayer should be informed that a cross-border request for information is to be made. *

- No changes
- Shifted away
- Shifted towards

67 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

68 (BP). Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer. *

- No changes
- Shifted away
- Shifted towards

68 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

69 (BP). Provisions should be included in tax treaties setting specific conditions for exchange of information. *

- No changes
- Shifted away
- Shifted towards

69 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

70 (MS). If information is sought from third parties, judicial authorisation should be necessary. *

- No changes
- Shifted away
- Shifted towards

70 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

71 (BP). The taxpayer should be given access to information received by the requesting state. *

- No changes
- Shifted away
- Shifted towards

71 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

72 (BP). Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information. *

- No changes
- Shifted away
- Shifted towards

72 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

73 (BP). A requesting state should provide confirmation of confidentiality to the requested state. *

- No changes
- Shifted away
- Shifted towards

73 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

74 (MS). A state should not be entitled to receive information if it is unable to provide independent, verifiable evidence that it observes high standards of data protection. *

- No changes
- Shifted away
- Shifted towards

74 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

75 (BP). For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights. *

- No changes
- Shifted away
- Shifted towards

75 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

76 (BP). Taxpayers should have a right to request initiation of mutual agreement procedure. *

- No changes
- Shifted away
- Shifted towards

76 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

77 (MS). Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to the progress of the procedure. *

- No changes
- Shifted away
- Shifted towards

77 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

Yes

No

Area 10 - Legislation

78 (MS). Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail. *

No changes

Shifted away

Shifted towards

78 (BP). Retrospective tax legislation should ideally be banned completely. *

No changes

Shifted away

Shifted towards

78 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

79 (BP). Public consultation should precede the making of tax policy and tax law. *

- No changes
- Shifted away
- Shifted towards

79 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

- Yes
- No

Area 11 - Revenue practice and guidance

80 (MS). Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance. *

- No changes
- Shifted away
- Shifted towards

80 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

81 (MS). Where legal material is available primarily on the internet, arrangements should be made to provide it to those who do not have access to the internet. *

- No changes
- Shifted away
- Shifted towards

81 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

82 (MS). Binding rulings should only be published in an anonymised form *

- No changes
- Shifted away
- Shifted towards

82 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

83 (MS). Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively. *

- No changes
- Shifted away
- Shifted towards

83 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

Do you want to save your results and quit? *

- Yes
- No

84 (MS). Adoption of a charter or statement of taxpayers' rights should be a minimum standard. *

- No changes
- Shifted away
- Shifted towards

84 (BP). A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited. *

- No changes
- Shifted away
- Shifted towards

84 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

85 (BP). A taxpayer advocate or ombudsman should be established to scrutinise the operations of the tax authority, handle specific complaints, and intervene in appropriate cases. Best practice is the establishment of a separate office within the tax authority but independent from normal operations of that authority. *

- No changes
- Shifted away
- Shifted towards

85 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

86 (BP). The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally. *

- No changes
- Shifted away
- Shifted towards

86 (S). Summary of relevant facts in 2020

Only if answered "shifted away" or "shifted towards", please give here a summarized account of facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices), in a non-judgmental way. Specify if some content is no longer applicable, due to other developments. If applicable, indicate whether the fact reported is under a minimum standard or fully complies with the best practice. Thank you.

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Tax Administration Act 1994 (NZ)

Part 2: Commissioner and department

COVID-19 response variations

Heading: inserted (with effect on 17 March 2020), on 30 April 2020, by section 18 of the COVID-19 Response (Taxation and Other Regulatory Urgent Measures) Act 2020 (2020 No 10).

6H COVID-19 response: powers to vary provisions of Inland Revenue Acts

Commissioner's discretionary power

(1) Section 6I provides the Commissioner with a discretionary power to extend or otherwise modify a due date, deadline, time period, or timeframe set out in an Inland Revenue Act, or to vary a procedural or administrative requirement of an Inland Revenue Act, to apply in certain circumstances and for a limited time.

Purpose of section 6I

(2) The purpose of section 6I is to provide the Commissioner with some flexibility to mitigate the effect of a provision of the Inland Revenue Acts when compliance is impossible, impractical, or unreasonable for a person or a class of persons in circumstances arising either from the imposition of COVID-19 response measures or as a consequence of COVID-19.

Supplementary discretionary power

(3) The discretionary power to make a variation under section 6I supplements the powers of the Commissioner under the provisions of this Act. The power to vary a provision is intended to be used only when the Commissioner considers that an appropriate outcome is not possible or is difficult to achieve under the terms of an existing provision.

Application of section 6I

(4) Section 6I applies in relation to a variation of a provision for some or all of the period starting on 17 March 2020 and ending on 30 September 2021. However, the Governor-General may, by Order in Council made on the recommendation of the Minister of Revenue, extend the application of section 6I if it is reasonably necessary in the circumstances because of the continuing impact of COVID-19 related measures or circumstances.

Extended meaning of Inland Revenue Acts

(5) For the purpose of this section and section 6I, Inland Revenue Acts includes the Unclaimed Money Act 1971.

6I COVID-19 response: Commissioner's variations

Power to vary

(1) The Commissioner may vary the application of a provision in an Inland Revenue Act by—

(a) extending or otherwise modifying a due date, deadline, time period, or timeframe by, within, or in relation to which—

(i) a person must comply with a requirement set out in the provision:

(ii) a person must make an election under the provision:

(iii) a person's entitlements, rights, or obligations are affected:

(b) modifying a procedural or administrative requirement that a person must meet under the provision, *for example*, modifying the nature or form of information or action required under the provision.

Meaning of modifying

(1B) For the purposes of subsection (1), modifying a due date, deadline, time period, or timeframe may include shortening or reducing it if the Commissioner considers it would be advantageous for persons generally or for a particular class of persons.

Person treated as meeting requirements

(2) A person who complies with a variation made under this section is treated as having met their requirements under the relevant Act.

General application

(3) A variation made under subsection (1) applies generally unless it is expressly stated that the variation—

(a) applies to a particular class of persons or circumstances; or

(b) requires certain conditions to be met for the variation to apply.

Optional application

(4) Despite subsection (3), a person to whom a variation is available may choose whether or not to apply the variation by taking a tax position, *for example*, in a return of income, or by informing the Commissioner of their election. If the person chooses not to apply a variation, the law applies as if the variation did not apply in relation to the person.

Publication

(5) The Commissioner must publish a variation made under this section in a manner chosen by the Commissioner.

Complaints process

At Inland Revenue we're committed to providing excellent service. If you aren't satisfied with our service, processes, or a policy decision, you can follow the complaints process.

What's on this page

- Making a complaint
- Who will look after my case
- How long will my complaint take to resolve
- Website feedback
- Disagreements with tax or child support assessments

Making a complaint

Your feedback is important and helps us improve. We'll do our best to fix your problem and make sure it doesn't happen again.

Before making a complaint, please try the following:

Step one: Talk to us. Contact our staff in the area that relates to your problem and tell them your concerns.

Step two: If you're not satisfied with the solution offered by a staff member, you can ask for your concerns to be escalated to a team leader or technical support staff member.

If your issue is not resolved by either of these steps, you can contact our Complaints management service:

- online
- by phone, or
- by post.

[Back to top](#)

Who will look after my case

Your case will be assigned a case management officer who'll liaise with the area(s) involved with your complaint.

They'll:

- keep you informed of the status of your complaint and the outcome, and
- contact you if we require more information.

[Back to top](#)

How long will my complaint take to resolve

We aim to resolve a complaint within 15 working days. However, the length of time to resolve a complaint depends on its complexity. Your case management officer will discuss this with you.

If your case is unable to be resolved to your satisfaction, you can ask the Office of the Ombudsmen to investigate.

[Back to top](#)

Website feedback

To help us make this website as easy to use and useful as possible, you can tell us your feedback.

We want to know:

- what works well
- what doesn't work for you.

[Give feedback about our website](#)

[Back to top](#)

Disagreements with tax or child support assessments

If you disagree with how we've assessed your or your client's tax or child support, this is a separate process. In this situation you may need to follow the disputes process.

Find out what to do if you disagree with a:

- child support decision or assessment
- disputable decision or tax assessment

Tax Administration Act 1994 (NZ)

20 Privilege for confidential communications between legal practitioners and their clients

(1) Despite anything in the Search and Surveillance Act 2012, but subject to subsections (2) and (3), any information or document shall, for the purposes of sections 16 to 17E, 17H, and 17I, 143(1)(b), 143A(1)(b), 143B(1)(b), and 143F, be privileged from disclosure, if—

(a) it is a confidential communication passing between—

(i) a legal practitioner in the practitioner's professional capacity and another legal practitioner in such capacity; or

(ii) a legal practitioner in the practitioner's professional capacity and the practitioner's client,—whether made directly or indirectly through an agent of either; and

(b) it is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and

(c) it is not made or brought into existence for the purpose of committing or furthering the commission of some illegal or wrongful act.

(2) Where the information or document consists wholly or partly of, or relates wholly or partly to, the receipts, payments, income, expenditure, or financial transactions of a specified person (whether a legal practitioner, the practitioner's client, or any other person), it shall not be privileged from disclosure if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by the legal practitioner in connection with a trust account of the legal practitioner within the meaning of section 6 of the Lawyers and Conveyancers Act 2006.

(3) Where the information or document consists wholly or partly of, or relates wholly or partly to investment receipts (being receipts arising or accruing on or after 1 April 1975 from any money lodged at any time with a legal practitioner for investment) of any person or persons (whether the legal practitioner, the practitioner's client or clients, or any other person or persons), it shall not be privileged from disclosure if it is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared or kept by the legal practitioner in connection with a trust account of the legal practitioner within the meaning of section 6 of the Lawyers and Conveyancers Act 2006.

(4) Except as provided in subsection (1), no information or document shall for the purposes of sections 16 to 17E, 17H, and 17I, 143(1)(b), 143A(1)(b), 143B(1)(b), and 143F be privileged from disclosure on the ground that it is a communication passing between one legal practitioner and another legal practitioner or between a legal practitioner and the practitioner's client.

(5) Where any person refuses to disclose any information or document on the ground that it is privileged under this section, the Commissioner or that person may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and, for the purposes of determining any such application, the District Court Judge may require the information or document to be produced to the District Court Judge. An application under

this subsection may be made in the course of an inquiry under section 17J to the District Court Judge who is holding the inquiry.

(6) Subject to subsection (3), this section shall apply to information and documents made or brought into existence whether before or after the commencement of this Act.

(7) In this section, *legal practitioner* means a barrister or solicitor of the High Court, and references to a legal practitioner include a firm or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006) in which he or she is, or is held out to be, a partner, director, or shareholder.

20B No requirement to disclose tax advice document

(1) Despite anything in the Search and Surveillance Act 2012, a person (called in this section and sections 20C to 20G an *information holder*) who is required under 1 or more of sections 16 to 17E, 17H, and 17I or under a discovery obligation to disclose information in relation to the information holder or another person is not required to disclose a document that is a tax advice document for the person to whom the information relates.

(2) A document is eligible to be a tax advice document for a person if the document—

(a) is confidential; and

(b) is created by—

(i) the person for the main purpose of instructing a tax advisor to act for the person by giving advice to the person, if the advice is to be about the operation and effect of tax laws:

(ii) a tax advisor or, where the tax advisor is in public practice, an employee of the tax advisor's firm, for the main purpose of recording research and analysis, if the research and analysis is performed for the main purpose of enabling the tax advisor to give advice to the person about the operation and effect of tax laws:

(iii) a tax advisor or, where the tax advisor is in public practice, an employee of the tax advisor's firm, for the main purpose of the giving of advice by the tax advisor to the person, or the recording of advice given by the tax advisor to the person, if the advice is about the operation and effect of tax laws; and

(c) is created for purposes that do not include a purpose of committing, or promoting or assisting the committing of, an illegal or wrongful act.

(3) A document is a *tax advice document* for a person if—

(a) the document is eligible under subsection (2) to be a tax advice document for the person; and

(b) the person makes a claim, under section 20D, that the document is a tax advice document; and

(c) the person satisfies the requirements of sections 20E and 20F for the document.

(4) A *tax advisor* is a natural person who is subject to the code of conduct and disciplinary process, referred to in subsection (5)(a)(ii) and (iii), of an approved advisor group.

(5) An *approved advisor group* is a group that—

(a) includes natural persons who—

(i) have a significant function of giving advice on the operation and effect of tax laws; and

(ii) are subject to a professional code of conduct in giving the advice; and

(iii) are subject to a disciplinary process that enforces compliance with the code of conduct; and

(b) is approved by the Commissioner for the purposes of this definition.

20C Treatment of document

(1) This section applies to a document that is—

(a) included in a request for, or discovery obligation for disclosure of, information in relation to a person; and

(b) possibly eligible to be a tax advice document for the person.

(2) The document must be treated as being a tax advice document for the person—

(a) from the time of the request for, or discovery obligation for disclosure of, information:

(b) until the earlier of—

(i) the time by which the person is required by section 20D to claim that the document is a tax advice document for the person:

(ii) the time at which the person notifies the Commissioner that the person does not claim that the document is a tax advice document for the person.

(3) If the person makes a claim under section 20D that the document is a tax advice document for the person, the document must be treated as being a tax advice document for the person from the time of the claim until—

(a) the document is ruled not to be a tax advice document for the person by—

(i) the District Court:

(ii) a court or Taxation Review Authority, if the claim is made in response to a discovery obligation in proceedings before the court or Authority:

(b) the person notifies the Commissioner that the document is not eligible to be a tax advice document for the person:

(c) the person notifies the Commissioner that they withdraw the claim that the document is a tax advice document for the person:

(d) an approved advisor group informs the Commissioner that a tax advisor is not or was not a member of the approved advisor group at a time—

(i) at which the tax advisor is claimed by the person or the tax advisor to be a member of the approved advisor group; and

(ii) at which the tax advisor would be required to be a member of an approved advisor group for the document to be a tax advice document.

(4) If a document must be treated under this section as being a tax advice document for a person, a copy of the document must be held in a secure place for the periods referred to in subsections (2) and (3) by a tax advisor.

20D Claim that document is tax advice document

(1) A claim by a person that a document is a tax advice document for the person must be made by the person or by a tax advisor who is authorised to act on behalf of the person for the purposes of sections 20C to 20G.

(2) A claim that a document created by a person is a tax advice document for the person must contain the following information:

(a) a brief description of the form and contents of the document; and

(b) the name of the tax advisor for whom the document was intended; and

(c) the date on which the document was created.

(3) A claim that a document created by a tax advisor, or by an employee of a tax advisor's firm, is a tax advice document for a person must contain the following information:

(a) a brief description of the form and contents of the document; and

(b) the name of the tax advisor giving the tax advice in relation to which the document was created; and

(c) the approved advisor group to which the tax advisor belonged when the document was created; and

(d) the statute or other enactment and the type of revenue that was the subject of the tax advisor's advice in relation to which the document was created; and

(e) the date on which the document was created.

(4) A claim that a document is a tax advice document for a person must be made—

(a) if the requirement to disclose information is under section 17 or under section 17 or 17C—

(i) on the day on which the Commissioner or an officer of the department exercises the right of inspection or removal that leads to the claim:

(ii) by a later date to which the Commissioner agrees:

(b) if the requirement to disclose information is under section 17B or 17C, by the date that is the later of the following:

(i) the date that is given by the Commissioner in the request for disclosure of the information:

(ii) the date that is 28 days after the date of the request by the Commissioner for disclosure of the information:

(c) if the requirement to disclose information is under section 17H, 17J, or 17K, by the date on which the court requires the production of information:

(d) if the requirement to disclose information is under section 17I, by the date on which the Commissioner requires the production of information:

(e) if the requirement to disclose information is under a discovery obligation, by the date by which the discovery obligation requires the disclosure of information.

(5) If a tax advisor acting on behalf of a person claims that a document is a tax advice document for the person, the claim must include notification by the tax advisor that the tax advisor is authorised to act on behalf of the person for the purposes of sections 20C to 20G.

20E Document or part of document included in tax advice document

An information holder who is required to disclose information in relation to a person is required to provide a copy of a document or part of document that—

(a) is attached to a document that is eligible under section 20B(2) to be a tax advice document for the person; and

(b) is not eligible under section 20B(2) to be a tax advice document for the person.

20F Person must disclose tax contextual information from tax advice document

(1) An information holder who is required to disclose information relating to a person must disclose under subsection (2) a description of tax contextual information from a document that the person claims, under section 20D, to be a tax advice document for the person.

(2) A disclosure under subsection (1) of a description of tax contextual information from a document must be made—

(a) if the requirement to disclose information is under section 17 or under section 17 or 17C, by the date that is determined by the Commissioner:

(b) if the requirement to disclose information is under section 17B or 17C and the requirement is accompanied or followed by a requirement for disclosure of a description of tax contextual information, by the date that is the later of—

(i) the date that is given by the Commissioner in the requirement for disclosure of the description:

(ii) the date that is 28 days after the date of the requirement by the Commissioner for disclosure of the description:

(c) if the requirement to disclose information is under section 17H, 17J, or 17K, by the date on which the court requires the production of information:

(d) if the requirement to disclose information is under section 17I, by the date on which the Commissioner requires the production of information:

(e) if the requirement to disclose information is under a discovery obligation, by the date by which the discovery obligation requires the disclosure of information.

(3) *Tax contextual information* for a tax advice document for a person is—

(a) a fact or assumption relating to a transaction that has occurred or is postulated by the person creating the tax advice document:

(b) a description of a step involved in the performance of a transaction that has occurred or is postulated by the person creating the tax advice document:

(c) advice that does not concern the operation and effect on the person of tax laws:

(d) advice that concerns the operation and effect on the person of tax laws relating to the collection by the Commissioner of debts payable to the Commissioner:

(e) a fact or assumption relating to advice that is referred to in paragraph (c) or (d):

(f) a fact or assumption from, or relating to the preparation of,—

(i) financial statements of the person:

(ii) a document containing information that the person is required to provide to the Commissioner under an Inland Revenue Act.

(4) A disclosure by a person or tax advisor of tax contextual information from a tax advice document for the person must be in a statutory declaration that—

(a) is made by a tax advisor who has not been barred under subsection (5) from making statutory declarations under this subsection; and

(b) states that the tax advisor is authorised to act on behalf of the person for the purposes of sections 20C to 20G; and

(c) is in the prescribed form.

(5) The Commissioner may apply to a District Court Judge, or to a court or Taxation Review Authority in relation to a tax advisor making a statutory declaration considered in proceedings before the court or Authority, that a tax advisor be barred from making statutory declarations under this section, if the tax advisor is convicted of an offence under—

(a) section 111 of the Crimes Act 1961:

(b) section 143(1)(b):

(c) section 143A(1)(b) or (c):

(d) section 143B(1)(b) or (c):

(e) section 143H.

(6) An application under subsection (5) may be made in the course of proceedings before a court or Taxation Review Authority.

20G Challenge to claim that document is tax advice document

(1) If a person claims that a document is a tax advice document for the person, the Commissioner or the person may apply to a District Court Judge, or to the court or Taxation Review Authority hearing the proceedings giving rise to the claim, for an order determining whether—

(a) the document is a tax advice document for the person:

(b) information provided or withheld by the person is tax contextual information in relation to the document:

(c) the person should provide a more detailed or better description of tax contextual information in relation to the document.

(2) For the purposes of determining an application under this section, the District Court Judge, court, or Taxation Review Authority may require the document to be produced to the District Court Judge, court, or Taxation Review Authority.

(3) An application under this section may be made in the course of an inquiry under section 17J to the District Court Judge who is holding the inquiry.

(4) An application under this section may be made in the course of proceedings before a court or Taxation Review Authority.

Tax Administration Act 1994 (NZ)

Part 4A Disputes procedures

Part 4A: inserted, on 1 October 1996, by section 11 of the Tax Administration Amendment Act (No 2) 1996 (1996 No 56).

89A Purpose of this Part

(1) The purpose of this Part is to establish procedures that will—

(a) improve the accuracy of disputable decisions made by the Commissioner under certain of the Inland Revenue Acts; and

(b) reduce the likelihood of disputes arising between the Commissioner and taxpayers by encouraging open and full communication—

(i) to the Commissioner, of all information necessary for making accurate disputable decisions; and

(ii) to the taxpayers, of the basis for disputable decisions to be made by the Commissioner; and

(c) promote the early identification of the basis for any dispute concerning a disputable decision; and

(d) promote the prompt and efficient resolution of any dispute concerning a disputable decision by requiring the issues and evidence to be considered by the Commissioner and a disputant before the disputant commences proceedings.

(2)

This Part does not apply with respect to any tax returns or notices of assessments that are, or become, subject to objection proceedings under Part 8.

(3) Despite section 1(2), this Part applies to disputable decisions made by the Commissioner for tax years before the 1994–95 tax year.

89AB Response periods

(1) This section applies for the purposes of Parts 4A and 8A to set the period for a notice in response to another notice (the *initiating notice*). The period is called the *response period*.

(2) When the initiating notice is a notice of proposed adjustment, the response period is a 2-month period starting on the date of issue of the notice, unless section 89AC applies.

(3) When the initiating notice is a notice of assessment issued by a taxpayer, the response period for a notice of proposed adjustment under section 89DA is—

(a) a 4-month period starting on the date of issue of the initiating notice; or

(b) if the notice of proposed adjustment relates solely to the amount of a tax credit under section LH 2 of the Income Tax Act 2007, a period starting on the date the initiating notice is

received in an office of the department and ending 2 years after the latest date to provide a return of income for the relevant tax year.

(4) When the initiating notice is either a notice of disputable decision or a notice revoking or varying a disputable decision that is not an assessment, the response period for a notice is—

(a) a 2-month period starting on the date of issue of the initiating notice, unless paragraph (b) or (c) applies; or

(b) for a notice of proposed adjustment to which paragraph (c) does not apply, a 4-month period starting on the date of issue of the initiating notice; or

(c) for a notice of proposed adjustment relating solely to the amount of a tax credit under section LH 2 of that Act, a period starting on the date the notice of proposed adjustment is received in an office of the department and ending on the later of—

(i) 4 months after the date of the initiating notice:

(ii) 2 years after the latest date to provide a return of income for the relevant tax year.

(5) When the initiating notice is a disclosure notice, a notice issued by the Commissioner rejecting an adjustment proposed by a disputant, or a disputant's statement of position, the response period is a 2-month period starting on the date of issue of the initiating notice, unless section 89AC applies.

(6) For the purposes of subsections (3)(b) and (4)(c)(ii), if the taxpayer is a member of an internal software development group to which section 68E applies, the latest date for providing a return means the latest date for any member of the group.

89AC Response period when initiating notice filed late

When the initiating notice is a notice of proposed adjustment referred to in section 89AB(2) or a statement of position referred to in section 89AB(5), and the disputant issues the initiating notice outside the applicable response period but the notice is treated as being issued within that period, the response period for the response to the initiating notice is a 2-month period beginning on the earlier of—

(a) the day on which the Commissioner issues a notice in favour of the disputant in accordance with section 89K(1):

(b) the day on which a challenge to the Commissioner's refusal under section 89K(4) is finally judged successful by the Taxation Review Authority or by a court, or the day on which the Commissioner concedes.

Notices of proposed adjustment

89B Commissioner may issue notices of proposed adjustment

(1) The Commissioner may issue 1 or more notices of proposed adjustment in respect of a tax return or an assessment.

(2) The Commissioner may issue one notice of proposed adjustment in relation to more than 1 return period, if, in the Commissioner's opinion,—

(a) the adjustments proposed to each tax return or assessment for the return periods relate exclusively to the same issues or arrangements; or

(b) the adjustments proposed to each tax return or assessment for the return periods relate substantially to the same issues, and the issue of one notice is likely to expedite the issue of the assessments for all of the returns.

(3) The Commissioner may issue a notice of proposed adjustment in relation to more than 1 return period, more than 1 issue, and more than 1 tax type.

(4) The Commissioner may not issue a notice of proposed adjustment—

(a) if the proposed adjustment is already the subject of a challenge; or

(b) after the expiry of the time bar that, under—

(i) sections 108 and 108B; or

(ii) sections 108A and 108B,—

applies to the assessment.

89C Notices of proposed adjustment required to be issued by Commissioner

The Commissioner must issue a notice of proposed adjustment before the Commissioner makes an assessment, unless—

(a) the assessment corresponds with a tax return that has been provided by the taxpayer; or

(b) the taxpayer has provided a tax return which, in the Commissioner's opinion, appears to contain a simple or obvious mistake or oversight, and the assessment merely corrects the mistake or oversight; or

(c) the assessment corrects a tax position previously taken by the taxpayer in a way or manner agreed by the Commissioner and the taxpayer; or

(d) the assessment reflects an agreement reached between the Commissioner and the taxpayer; or

(db) the assessment is made in relation to a matter for which the material facts and relevant law are identical to those for an assessment of the taxpayer for another period that is at the time the subject of court proceedings; or

(e) the Commissioner has reasonable grounds to believe a notice may cause the taxpayer or an associated person—

(i) to leave New Zealand; or

(ii) to take steps, in relation to the existence or location of the taxpayer's assets, making it harder for the Commissioner to collect the tax from the taxpayer; or

(eb) the Commissioner has reasonable grounds to believe that the taxpayer has been involved in fraudulent activity; or

(f) the assessment corrects a tax position previously taken by a taxpayer that, in the opinion of the Commissioner is, or is the result of, a vexatious or frivolous act of, or vexatious or frivolous failure to act by, the taxpayer; or

(g) the assessment is made as a result of a direction or determination of a court or the Taxation Review Authority; or

(h) the taxpayer has not provided a tax return when and as required by a tax law; or

(i) the assessment is made following the failure by a taxpayer to withhold or deduct an amount required to be withheld or deducted by a tax law or to account for an amount withheld or deducted in the manner required by a tax law; or

(j) the taxpayer is entitled to issue a notice of proposed adjustment in respect of a tax return provided by the taxpayer, and has done so; or

(k) the assessment corrects a tax position taken by the taxpayer or an associated person as a consequence or result of an incorrect tax position taken by another taxpayer, and, at the time the Commissioner makes the assessment, the Commissioner has made, or is able to make, an assessment for that other taxpayer for the correct amount of tax payable by that other taxpayer; or

(ka) the assessment corrects a tax position taken by the taxpayer in relation to a tax position taken by a look-through company in a return of income under section 42B, and the Commissioner and the company have completed the disputes process for that return of income and that tax position; or

(l) the assessment results from an amendment made under section 22G(6); or

(lba) the assessment is of a penalty under section 142H or 142I; or

(lb) the assessment extinguishes all or part of a taxpayer's tax loss in accordance with section 177C(5); or

(m) the assessment includes a calculation by the Commissioner of a tax credit under the family scheme.

89D Taxpayers and others with standing may issue notices of proposed adjustment

(1) If the Commissioner—

(a) issues a notice of assessment to a taxpayer; and

(b) has not previously issued a notice of proposed adjustment to the taxpayer in respect of the assessment, whether or not in breach of section 89C,—

the taxpayer may, subject to subsection (2), issue a notice of proposed adjustment in respect of the assessment except to the extent to which the assessment takes into account amounts arising under subpart HB of the Income Tax Act 2007.

(2) A taxpayer who has not furnished a return of income for an assessment period may dispute the assessment made by the Commissioner only by furnishing a return of income for the assessment period.

(2A) For the purpose of subsection (2), section 33(2) does not apply.

(2B) For a taxpayer who is an individual, when an assessment for a tax year is made as described in section 22I(3), the taxpayer may dispute the assessment only by making an adjustment to their final account for the tax year.

(2C) A taxpayer who has not provided a GST tax return for a GST return period may not dispute the assessment made by the Commissioner other than by providing a GST return for the GST return period.

(2D) For the purpose of subsection (2C), section 16(6) of the Goods and Services Tax Act 1985 does not apply.

(2E) If the Commissioner makes an assessment of an amount of research and development credit, a taxpayer who has not provided a statement under section 68D or 68E in relation to an assessment period may dispute the assessment only by providing a statement for the period within the time allowed under section 68D or 68E, as applicable.

(3) If the Commissioner—

(a) issues a notice of disputable decision that is not a notice of assessment; and

(b) the notice of disputable decision affects the taxpayer,—

the taxpayer, or any other person who has the standing under a tax law to do so on behalf of the taxpayer, may issue a notice of proposed adjustment in respect of the disputable decision.

(4) [Repealed]

(5) For a notice of proposed adjustment issued under this section to have effect, the notice must be issued within the applicable response period.

89DA Taxpayer may issue notice of proposed adjustment for taxpayer assessment

(1) A taxpayer may issue a notice of proposed adjustment in respect of an assessment made by the taxpayer for a tax year or a GST return period except,—

(a) to the extent to which the assessment takes into account amounts arising under subpart HB of the Income Tax Act 2007:

(ab) to the extent to which the assessment relates to an amount of research and development tax credit and the taxpayer has not filed a research and development supplementary return in relation to the credit within the time allowed under section 33E:

(b) if the Commissioner has previously issued a notice of proposed adjustment to the taxpayer in respect of the assessment.

(2) A notice of proposed adjustment under this section is not effective unless it is issued within the response period for the notice.

(3) A taxpayer who makes an assessment of an amount of research and development credit but does not provide a statement under section 68D or 68E in relation to the tax year referred to in subsection (1), may dispute the assessment only by providing a statement for the tax year within the time allowed under section 68D or 68E, as applicable.

(4) A look-through company may issue a notice of proposed adjustment in respect of a return it makes under section 42B for a tax year if the Commissioner has not previously issued a notice of proposed adjustment to the taxpayer in respect of the return. For the purposes of section 89AB(3), the return is treated as a notice of assessment.

89E Election of small claims jurisdiction of Taxation Review Authority

[Repealed]

89F Content of notice of proposed adjustment

(1) A notice of proposed adjustment must—

(a) contain sufficient detail of the matters described in subsections (2) and (3) to identify the issues arising between the Commissioner and the disputant; and

(b) be in the prescribed form.

(2) A notice of proposed adjustment issued by the Commissioner must—

(a) identify the adjustment or adjustments proposed to be made to the assessment; and

(b) provide a concise statement of the key facts and the law in sufficient detail to advise the disputant of the grounds for the Commissioner's proposed adjustment or adjustments; and

(c) state how the law applies to the facts.

(3) A notice of proposed adjustment issued by a disputant must—

(a) identify the adjustment or adjustments proposed to be made to the assessment; and

(b) provide a statement of the facts and the law in sufficient detail to advise the Commissioner of the grounds for the disputant's proposed adjustment or adjustments; and

(c) state how the law applies to the facts; and

(d) include copies of the documents of which the disputant is aware at the time that the notice is issued that are significantly relevant to the issues arising between the Commissioner and the disputant.

89G Issue of response notice

(1) To reject a proposed adjustment, the recipient of the notice of proposed adjustment must, within the response period for the notice, notify the issuer that the adjustment is rejected by issuing a response notice.

- (2) A notice of response must state concisely—
- (a) the facts or legal arguments in the notice of proposed adjustment that the issuer of the notice of response considers are wrong; and
 - (b) why the issuer of the notice of response considers those facts or legal arguments to be wrong; and
 - (c) any facts and legal arguments relied on by the issuer of the notice of response; and
 - (d) how the legal arguments apply to the facts; and
 - (e) the quantitative adjustments to any figure referred to in the notice of proposed adjustment that result from the facts and legal arguments relied on by the issuer of the notice of response.

89H Deemed acceptance

- (1) If a disputant does not, within the response period for a notice of proposed adjustment issued by the Commissioner, reject an adjustment contained in the notice, the disputant is deemed to accept the proposed adjustment and section 89I applies.
- (2) If the Commissioner does not, within the response period for a notice of proposed adjustment issued by a disputant, reject an adjustment contained in the notice, the Commissioner is deemed to accept the proposed adjustment and section 89J applies.
- (3) Where—
- (a) a disputant does not, within the response period for replying to a notice from the Commissioner rejecting an adjustment proposed by the disputant, notify the Commissioner that they reject all or part of the Commissioner’s notice, the disputant is deemed to accept the matters specified in the Commissioner’s notice; or
 - (b) the disputant notifies the Commissioner that they accept all or a part of the Commissioner’s notice,—
- then, in those circumstances,—
- (c) section 89I applies as if the matters contained in the Commissioner’s notice were an adjustment or adjustments proposed by the Commissioner; and
 - (d) the Commissioner’s notice is deemed, for the purposes of section 89K, to be a notice of proposed adjustment.
- (4) If the Commissioner fails to issue a challenge notice in accordance with section 89P, the Commissioner is deemed to accept an adjustment proposed by the disputant or the disputant’s statement of position, and section 89J applies.

89I Circumstances where disputant may not challenge adjustment

- (1) A disputant may not challenge an adjustment proposed by the Commissioner if the disputant—

- (a) notifies the Commissioner that they accept the adjustment; or
 - (b) is deemed to accept the adjustment, and section 89K does not apply.
- (2) The Commissioner must include or take account of each proposed adjustment that is accepted or deemed accepted by a disputant in a notice of assessment issued to the disputant.

89J Where Commissioner accepts adjustment proposed by disputant

(1)

If the Commissioner accepts or is deemed to accept an adjustment proposed by a disputant, and section 89L does not apply, the Commissioner must include or take account of the adjustment in—

- (a) a notice of assessment issued to the disputant; and
 - (b) any further notice of assessment or further amended assessment issued to the disputant.
- (2) Despite subsection (1), the Commissioner does not have to issue a notice of assessment or an amended assessment that includes or takes into account an adjustment that the Commissioner has accepted, or is deemed to have accepted, if the Commissioner considers that the disputant in relation to the adjustment—
- (a) was fraudulent:
 - (b) wilfully misled the Commissioner.

89K Late actions deemed to occur within response period

(1) Where—

(a) the Commissioner—

- (i) considers that an exceptional circumstance has prevented a disputant from doing 1 or more of the actions described in subsection (1B); or
- (ii) considers that the disputant has a demonstrable intention to enter into or continue the disputes process at the time the disputant fails in doing 1 or more of the actions described in subsection (1B); and

(b) the disputant sends to the Commissioner—

(i) a notice—

(A) rejecting an adjustment proposed by the Commissioner in the notice of proposed adjustment referred to in subsection (1B)(a); and

(B) specifying the matters required by section 89G; or

(ii) a notice of proposed adjustment—

(A) in respect of a disputable decision referred to in subsection (1B)(b); and

(B) specifying the matters required by section 89F; or

(iii) a statement of position,—

as soon as reasonably practicable after becoming aware of the disputant's failure to reject the Commissioner's proposed adjustment or to issue a notice within the applicable response period, the Commissioner may issue a notice in favour of the disputant stating that—

(c) the disputant's rejection of the Commissioner's notice of proposed adjustment; or

(d) the disputant's notice of proposed adjustment; or

(e) the disputant's statement of position:

is to be treated for all purposes under this Part as if it had been given within the applicable response period.

(1B) For the purposes of subsection (1)(a), the actions are—

(a) rejecting, within the applicable response period, an adjustment contained in a notice of proposed adjustment issued by the Commissioner:

(b) issuing, within the applicable response period, a notice of proposed adjustment under section 89D or 89DA in respect of a disputable decision:

(c) issuing, within the applicable response period, a statement of position.

(2) Subsection (1) may apply even if the Commissioner has already issued a notice of disputable decision that includes or takes account of an adjustment that was proposed by the Commissioner; and, where subsection (1) applies, the notice of disputable decision is to be deemed not to have been issued.

(3) For the purposes of subsection (1),—

(a) an *exceptional circumstance* arises if—

(i) an event or circumstance beyond the control of a disputant provides the disputant with a reasonable justification for not rejecting a proposed adjustment, or for not issuing a notice of proposed adjustment or statement of position, within the response period for the notice:

(ii) a disputant is late in issuing a notice of proposed adjustment, notice of response or statement of position but the Commissioner considers that the lateness is minimal, or results from 1 or more statutory holidays falling in the response period:

(b) an act or omission of an agent of a disputant is not an exceptional circumstance unless—

(i) it was caused by an event or circumstance beyond the control of the agent that could not have been anticipated, and its effect could not have been avoided by compliance with accepted standards of business organisation and professional conduct; or

(ii) the agent is late in issuing a notice of proposed adjustment, notice of response or statement of position but the Commissioner considers that the lateness is minimal, or results from 1 or more statutory holidays falling in the response period.

(4) If the Commissioner decides to not issue a notice in favour of the disputant under subsection (1), the Commissioner must issue a notice of that decision (the *refusal notice*) within 1 month of the disputant sending the relevant notice or statement under subsection (1)(b).

(5) If the Commissioner fails to issue a refusal notice in accordance with subsection (4), then, for the purposes of subsection (6), the Commissioner is treated as issuing such a notice on the day that is 1 month after the disputant sends the relevant notice or statement under subsection (1)(b).

(6) The disputant may challenge the Commissioner's refusal notice by filing proceedings, in accordance with the Taxation Review Authorities Regulations 1998, within 2 months of the notice's issue. For the purposes of this subsection, the Taxation Review Authorities Act 1994, and the Taxation Review Authorities Regulations 1998, the refusal notice is treated as a notice of disputable decision and the challenge is treated as a challenge under Part 8A.

89L Application to High Court

(1) The Commissioner may apply to the High Court for an order allowing the Commissioner to issue a notice rejecting an adjustment proposed by a taxpayer that the Commissioner has accepted, or is deemed to have accepted, if—

(a) the Commissioner considers that an exceptional circumstance applies or has prevented the Commissioner from rejecting the adjustment within the response period; and

(b) the Commissioner applies—

(i) before the Commissioner issues a notice of assessment including the adjustment; or

(ii) relying on section 108(2) or section 108A(3).

(1B) The Commissioner may apply to the High Court for an order allowing the Commissioner to issue a challenge notice past the 4 years provided in section 89P(1) if—

(a) the Commissioner considers that an exceptional circumstance applies or has prevented the Commissioner from issuing the challenge notice within the 4 years; and

(b) the Commissioner applies within the 4 years.

(2) The High Court may—

(a) make an order for the purposes of subsection (1) on such terms as the court deems fit; or

(b) decline to make an order.

(2B) The High Court may—

(a) make an order for the purposes of subsection (1B) on such terms as the court deems fit; or

(b) decline to make an order.

(3) For the purposes of subsection (1) or (1B), an *exceptional circumstance*—

(a) is an event or circumstance beyond the control of the Commissioner or an officer of the department that provides the Commissioner with a reasonable justification for not rejecting an adjustment proposed by a disputant within the response period.

(b) [Repealed]

Disclosure notices

89M Disclosure notices

(1) Unless subsection (2) applies, and subject to section 89N, the Commissioner must issue a disclosure notice in respect of a notice of proposed adjustment to a disputant at the time or after the Commissioner or the taxpayer, as the case may be, issues the notice of proposed adjustment.

(2) The Commissioner may not issue a disclosure notice in respect of a notice of proposed adjustment if the Commissioner has already issued a notice of disputable decision that includes, or takes account of, the adjustment proposed in the notice of proposed adjustment.

(3) Unless the disputant has issued a notice of proposed adjustment, the Commissioner must, when issuing a disclosure notice,—

(a) provide the disputant with the Commissioner's statement of position; and

(b) include in the disclosure notice—

(i) a reference to section 138G; and

(ii) a statement as to the effect of the evidence exclusion rule.

(4) The Commissioner's statement of position in the prescribed form must, with sufficient detail to fairly advise the disputant,—

(a) give an outline of the facts on which the Commissioner intends to rely; and

(b) give an outline of the evidence on which the Commissioner intends to rely; and

(c) give an outline of the issues that the Commissioner considers will arise; and

(d) specify the propositions of law on which the Commissioner intends to rely.

(5) If the Commissioner issues a disclosure notice to a disputant, the disputant must issue the Commissioner with the disputant's statement of position within the response period for the disclosure notice.

(6) A disputant's statement of position in the prescribed form must, with sufficient detail to fairly advise the Commissioner,—

(a) give an outline of the facts on which the disputant intends to rely; and

(b) give an outline of the evidence on which the disputant intends to rely; and

(c) give an outline of the issues that the disputant considers will arise; and

(d) specify the propositions of law on which the disputant intends to rely.

(6BA) The Commissioner must issue a statement of position, described in subsection (4), in response to the disputant's statement of position, unless—

(a) the Commissioner issued a statement of position when issuing a disclosure notice:

(b) on or before the date on which the Commissioner is required to issue the statement of position—

(i) section 89N(1)(c)(viii) applies:

(ii) any of section 89N(1)(c)(i) to (vi) and (ix) apply.

(6B) In subsections (4)(b) and (6)(b), *evidence* refers to the available documentary evidence on which the person intends to rely, but does not include a list of potential witnesses, whether or not identified by name.

(7) A disputant who does not issue a statement of position in the prescribed form within the response period for the statement of position, is treated as follows:

(a) if the Commissioner has proposed the adjustment to the assessment, the disputant is treated as having accepted the Commissioner's notice of proposed adjustment or statement of position:

(b) if the disputant has proposed the adjustment to the assessment, the disputant is treated as not having issued a notice of proposed adjustment.

(8) The Commissioner—

(a) may, within the response period for a disputant's statement of position, provide the disputant with additional information in response to the disputant's statement of position; and

(b) must provide the additional information as far as possible in the manner required by subsection (4).

(9) The additional information provided by the Commissioner under subsection (8) is deemed to form part of the Commissioner's statement of position.

(10) The Commissioner may apply to the High Court for more time to reply to a disputant's statement of position if—

(a) the Commissioner applies before the expiry of the response period for the disputant's statement of position; and

(b) the Commissioner considers it is unreasonable to reply to the disputant's statement of position within the response period, because of the number or complexity or novelty of matters raised in the disputant's statement of position.

(11) The disputant may apply to the High Court for more time within which to reply to the Commissioner's statement of position if—

(a) the disputant applies before the expiry of the response period for the Commissioner's statement of position; and

(b) the disputant considers it unreasonable to reply to the Commissioner's statement of position within the response period, because the issues in dispute had not previously been discussed between the Commissioner and the disputant.

(12) The High Court shall, in considering an application under subsection (11), have regard to the provisions of section 89A and the conduct of the parties to the dispute.

(13) The Commissioner and a disputant may agree to additional information being added, at any time, to either of their statements of position.

(14) The additional information provided by the Commissioner or a disputant under subsection (13) is deemed to form part of the provider's statement of position.

89N Completing the disputes process

(1) This section applies if—

(a) a notice of proposed adjustment has been issued; and

(b) the dispute has not been resolved by agreement between the Commissioner and the disputant; and

(c) none of the following applies:

(i) the Commissioner notifies the disputant that, in the Commissioner's opinion, the disputant in the course of the dispute has committed an offence under an Inland Revenue Act that has had an effect of delaying the completion of the disputes process:

(ii) the Commissioner has reasonable grounds to believe that the disputant may take steps in relation to the existence or location of the disputant's assets to avoid or delay the collection of tax from the disputant:

(iii) the Commissioner has reasonable grounds to believe that a person who is an associated person of the disputant may take steps in relation to the existence or location of the disputant's assets to avoid or delay the collection of tax from the disputant:

(iv) the disputant has begun judicial review proceedings in relation to the dispute:

(v) a person who is an associated person of the disputant and is involved in another dispute with the Commissioner involving similar issues has begun judicial review proceedings in relation to the other dispute:

(vi) during the disputes process, the disputant receives from the Commissioner a requirement under a statute to produce information relating to the dispute and fails to comply with the requirement within a period that is specified in the requirement:

(vii) [Repealed]

(viii) the disputant and the Commissioner agree, recording their agreement in a document, that they have reached a position in which the dispute would be resolved more efficiently by being submitted to the court or Taxation Review Authority without completion of the disputes process:

(ix) the disputant and the Commissioner agree, recording their agreement in a document, to suspend the disputes process pending a decision in a test case referred to in section 89O.

(2) If this section applies, the Commissioner may not amend an assessment under section 113 before one of the following occurs:

(a) the Commissioner or the disputant accepts a notice of proposed adjustment, notice of response, or statement of position issued by the other:

(b) the Commissioner considers a statement of position issued by the disputant.

(3) Despite subsection (2), the Commissioner may apply to the High Court for an order that allows more time for the completion of the disputes process, or for an order that completion of the disputes process is not required.

(4) The Commissioner must make an application under subsection (3) within the period of time during which the Commissioner would otherwise be required, under the Inland Revenue Acts, to make an amended assessment.

(5) If the Commissioner makes an application under subsection (3), the Commissioner must make an amended assessment by the last day of the period that—

(a) begins on the day following the day by which the Commissioner, in the absence of the suspension, would be required under the Inland Revenue Acts to make the amended assessment; and

(b) contains the total of—

(i) the number of days between the date on which the Commissioner files the application in the High Court and the earliest date on which the application is decided by the High Court or the application or dispute is resolved:

(ii) the number of days allowed by an order of a court as a result of the application.

89O Test cases

(1) This section applies if—

(a) a dispute between a disputant and the Commissioner has been identified; and

(b) the Commissioner has designated a separate challenge as a test case.

(2) The disputant and the Commissioner may agree, recording their agreement in a document, to suspend the proceedings in the dispute because there is significant similarity between the facts and questions of law in the dispute and the facts and questions of law in the challenge that has been designated as a test case.

(3) A suspension that is agreed under subsection (2) starts on the date of the agreement and ends on the earliest of—

(a) the date of the court's decision in the test case:

(b) the date on which the test case is otherwise resolved:

- (c) the date on which the dispute is otherwise resolved.
- (4) The Commissioner may make an assessment or perform an action in relation to a suspended dispute that is consistent with the resolution of the test case.
- (5) The Commissioner must make an amended assessment, or perform an action, that is the subject of a suspended dispute by the later of the following:
 - (a) the day that is 60 days after the last day of the suspension:
 - (b) the last day of the period that—
 - (i) begins on the day following the day by which the Commissioner, in the absence of the suspension, would be required under the Inland Revenue Acts to make the amended assessment, or perform the action; and
 - (ii) contains the same number of days as does the period of the suspension.

89P Challenge notice for taxpayer-initiated disputes

- (1) The Commissioner must issue a challenge notice to a disputant within 4 years of the disputant issuing a notice of proposed adjustment, unless—
 - (a) section 89L(2B)(a) applies:
 - (b) section 89J(2) applies.
- (2) Despite subsection (1), the Commissioner does not have to issue a challenge notice to the extent to which the dispute has ended.
- (3) A challenge notice may not be issued before the Commissioner issues a statement of position, unless 1 or more of section 89N(1)(c)(i) to (ix) apply.
- (4) A challenge notice must state that—
 - (a) the Commissioner will not be issuing an amended assessment that includes or takes into account the adjustment proposed by the disputant; and
 - (b) a challenge may proceed.

Part 8A Challenges

138A Application of this Part

(1) Despite section 1(2), this Part applies to—

(a) every notice of disputable decision issued by the Commissioner under a provision of the Inland Revenue Acts on or after 1 October 1996, irrespective of the period to which the notice of disputable decision relates; and

(b) any assessment, reassessment, or determination of the Commissioner if a notice of assessment or reassessment to which section 125A(2)(a) applies has been issued before 1 October 1996, irrespective of the period to which the notice of assessment or reassessment relates.

(2) This Part does not apply to any assessment or reassessment or determination or decision of the Commissioner to which Part 8 applies by virtue of subsection (1) or subsection (2)(b) of section 125A.

138B When disputant entitled to challenge assessment

(1) A disputant is entitled to challenge an assessment by commencing proceedings in a hearing authority if—

(a) the assessment includes an adjustment proposed by the Commissioner which the disputant or their look-through company has rejected within the applicable response period; and

(b) where the assessment is an amended assessment, an adjustment proposed by the Commissioner that is included in the assessment—

(i) imposes a fresh liability (being a liability that was not included in an earlier assessment) in respect of a particular; or

(ii) increases an existing liability (being a liability that was included in an earlier assessment but to a lesser extent) in respect of a particular; and

(c) the disputant files the proceedings, in accordance with the Taxation Review Authority Regulations 1994 (or any regulations made in substitution for those regulations) or the High Court Rules 2016, within the response period following the issue of the relevant notice of assessment.

(2) A disputant is entitled to challenge an assessment by commencing proceedings in a hearing authority if—

(a) the assessment was the subject of an adjustment proposed by the disputant which the Commissioner has rejected by notice within the applicable response period; and

(b) the disputant is subsequently issued with an amended assessment; and

(c) the disputant files the proceedings, in accordance with the Taxation Review Authority Regulations 1994 (or any regulations made in substitution for those regulations) or the High

Court Rules 2016, within the response period following the issue of the amended notice of assessment.

(3) Subject to subsection (4), a disputant is entitled to challenge an assessment by commencing proceedings in a hearing authority if—

(a) the assessment was the subject of an adjustment proposed by the disputant which the Commissioner has rejected by notice within the applicable response period; and

(b) the Commissioner has issued a challenge notice to the disputant; and

(c) the disputant files the proceedings, in accordance with the Taxation Review Authorities Regulations 1998 (or any regulations made in substitution for those regulations) or the High Court Rules 2016 within 2 months.

(4) Despite subsection (3), the disputant is entitled to challenge an assessment by commencing proceedings in a hearing authority if—

(a) the assessment was the subject of an adjustment (the *adjustment*) notified to the Commissioner specifying the adjustment and sufficient details to identify how the adjustment meets paragraph (c); and

(b) the Commissioner has issued a challenge notice to the disputant; and

(c) the adjustment—

(i) is in relation to a matter for which the material facts and relevant law are identical to those for another assessment for the taxpayer, for another period, that is at the time of proposing the adjustment the subject of court proceedings; or

(ii) corrects a tax position taken by the taxpayer or an associated person as a consequence or result of an incorrect tax position taken by another taxpayer and, at the time of proposing the adjustment, the incorrect tax position taken by the other taxpayer is the subject of, or was the subject of, court proceedings; and

(d) the disputant files the proceedings, in accordance with the Taxation Review Authorities Regulations 1998 (or any regulations made in substitution for those regulations) or the High Court Rules 2016 within 2 months.

138C When disputant entitled to challenge disputable decision other than assessment

A disputant is entitled to challenge a disputable decision that is not an assessment by commencing proceedings in a hearing authority if—

(a) the disputable decision was the subject of an adjustment proposed by the disputant which the Commissioner has rejected; and

(b) the disputant files the proceedings in accordance with the Taxation Review Authority Regulations 1994 (or any regulations made in substitution for those regulations) or the High Court Rules 2016, within the response period for the notice from the Commissioner rejecting the proposed adjustment.

138D Challenge may in exceptional circumstances be commenced after response period

(1) If a hearing authority considers that exceptional circumstances apply, the hearing authority may, on application by a disputant, allow the disputant to commence a challenge to a notice of a disputable decision after the response period.

(2) For the purposes of subsection (1), an *exceptional circumstance* is an event or circumstance beyond the control of a disputant that provides the disputant with a reasonable justification for not commencing a challenge to a disputable decision within the response period; but an act or omission of an agent of a disputant is not an exceptional circumstance unless the act or omission was caused by an event or circumstance beyond the control of the agent—

(a) that could not have been anticipated; and

(b) the effect of which could not have been avoided by compliance with accepted standards of business organisation and professional conduct.

138E Certain rights of challenge not conferred

(1) This Part does not confer a right of challenge with respect to—

(a) a decision of the Commissioner under a tax law to enlarge or extend the time for giving notice, making an application, furnishing a tax return, or doing any other act, matter, or thing; or

(b) a decision of the Minister under a tax law, or an act, matter, or thing done or omitted by the Minister under a tax law; or

(c) a matter in respect of which provision is made by a tax law—

(i) for a challenge or objection to the matter to be heard and determined by; or

(ii) for the matter to be inquired into, considered, reported upon, heard, decided, determined, or otherwise dealt with by; or

(iii) for the matter to be the subject of any recommendation of,—

a special committee, tribunal, or authority (other than a Taxation Review Authority) established in that behalf or a person or official (other than the Commissioner); or

(d) a valuation or apportionment made by the Valuer-General or a registered valuer under the Valuation of Land Act 1951 or the Income Tax Act 2007; or

(e) a matter which by a provision in—

(i) the PAYE rules; or

(ii) the provisional tax rules; or

(iii) any of sections CD 15, CD 19, HD 2, HD 3(2), HD 5(4), HD 15, HD 24, HD 26 to HD 29, LA 6 to LA 8, LJ 1 to LJ 7, RD 3, RM 2 to RM 4, RM 8, and RM 10 of the Income Tax

Act 2007 and sections 18K, 33, 92A, 139 (insofar as it applies to unpaid tax for periods before 1 April 1997) and 184 of the Tax Administration Act 1994; or

(iv) any of sections 17F, 17G, 18I, 21B to 23, 36 to 46, 58, 62, 63, 78B, 78C, 80, 89C, 89K, 89L, 89M, 89N(1)(c)(viii) and (3), 92, 106, 107, 108A, 108B, 109, 110, 111, 113, 114, 120A to 120U, 124ZH, Part 7B, 138I(2B), 138N, 139B, 142A, 142C, 146, 150A, 157, 160, 166, 166B, 167, 174AA, 176, 177, 177A to 177D, 183A, 183D, 183F, and 225B of this Act; or

(ivb) any of Parts 1 to 3 of the KiwiSaver Act 2006; or

(v) any of Parts 4, 6, 7 and 11 (other than section 76) of the Goods and Services Tax Act 1985—

is left to the discretion, judgment, opinion, approval, consent, or determination of the Commissioner; or

(ea) the Commissioner's interpretation of how a taxation law applies to a person, whether or not the person has come into legal existence, and to an arrangement, whether or not a single or a recurring arrangement, as set out in a binding ruling made under Part 5A; or

(eb) the Commissioner's interpretation of whether the amendment or repeal of a taxation law has changed the way that the law applies in a private or a product ruling, as set out in a status ruling made under section 91GA; or

(f)

a matter in respect of which a tax law provides that there shall be no right of objection or challenge to the decision of the Commissioner.

(2) Subsection (1) may be overruled by a tax law or other law that expressly confers a right of objection or challenge in respect of a decision made by any person.

138F Challenging disputable decisions which are not assessments

(1)

A disputant may challenge under section 138B an assessment made by the Commissioner that takes account of or relies on a disputable decision, whether or not the disputant has issued a notice of proposed adjustment in respect of the disputable decision.

(2) Subsection (1) does not apply if—

(a) the disputant has issued a notice of proposed adjustment in respect of the disputable decision; and

(b) the disputant's grounds for challenging the assessment are the same grounds, or substantially the same as the grounds, that were specified in the notice of proposed adjustment.

(3) In subsection (1), a *disputable decision* does not include an assessment.

Section 138F: inserted, on 1 October 1996, by section 42 of the Tax Administration Amendment Act (No 2) 1996 (1996 No 56).

138G Effect of disclosure notice

(1) Unless subsection (1B) or (2) apply, if the Commissioner issues a disclosure notice to a disputant, and the disputant challenges the disputable decision, the Commissioner and the disputant may raise in the challenge only the issues and the propositions of law that are disclosed in the Commissioner's and disputant's statements of position.

(1B) If the Commissioner did not issue a statement of position in response to the disputant's statement of position on or before the required date, and did not issue a statement of position when issuing a disclosure notice, subsection (1) does not apply to limit the issues or propositions of law that may be raised by—

(a) the Commissioner, if section 89M(6BA)(b)(i) applies:

(b) the Commissioner or the disputant, if section 89M(6BA)(b)(ii) applies.

(2) A hearing authority may, on application by a party to a challenge to a disputable decision, allow the applicant to raise in the challenge new propositions of law, and new issues, if satisfied that—

(a) the applicant could not, at the time of delivery of the applicant's statement of position, have, with due diligence, discerned those propositions of law or issues; and

(b) having regard to the provisions of section 89A and the conduct of the parties, the hearing authority considers that the raising of those propositions of law or issues is necessary to avoid manifest injustice to the Commissioner or the disputant.

(3) For the purposes of subsection (1), a *statement of position* includes any additional information that the Commissioner and the disputant agree (under section 89M(13)) to add to the statement of position.

138H Application to strike out proceedings

The Commissioner may apply to a hearing authority to strike out a challenge commenced by a disputant if the Commissioner considers that the disputant has failed to comply with any of the requirements of section 89M or section 138B.

138I Payment of disputed tax

(1) [Repealed]

(2) A disputant is not liable to pay—

(a) the deferrable tax relating to any tax in dispute; or

(b) a shortfall penalty, where the penalty is payable in respect of any tax in dispute; or

(c)

the interest accruing under Part 7 on that deferrable tax or that shortfall penalty—

until the due date for payment of that deferrable tax.

(2B) Despite subsection (2), the Commissioner may require a disputant to pay all tax in dispute that is the subject of the challenge if the Commissioner considers that there is a significant risk that the tax in dispute will not be paid should the disputant's challenge not be successful.

(3) The Commissioner must, after the day of determination of final liability, refund or pay to, or apply on behalf of, a disputant whose challenge is successful—

(a) the tax in dispute paid in accordance with subsection (2B); and

(b) interest accrued on the tax in dispute under Part 7.

(4) Part 7 applies to interest calculated on deferrable tax on and after 1 April 1997, irrespective of whether the challenge relates to a tax year before the 1997–98 tax year.

(5) If the challenge relates to the 1996–97 or an earlier tax year, interest must be calculated on deferrable tax on and after the date that the period of deferral starts.

138J Waiver of payment or security

[Repealed]

138K Determination of challenge not to affect other matters

The determination of a challenge by a hearing authority under this Part—

(a) relates solely to the matter that is the subject of the disputable decision being challenged; and

(b) does not affect the right of the Commissioner to make a disputable decision relating to a different matter and to amend the disputable decision being challenged in any way rendered necessary by the later disputable decision.

138L Challenging civil penalties

(1) A taxpayer assessed by the Commissioner for a civil penalty—

(a) may challenge the penalty in the same way as a taxpayer may challenge the assessment of tax to which the penalty relates; and

(b) has the same rights and obligations, in relation to proceedings concerning the penalty, as a person has in relation to proceedings concerning the tax.

(2) Notwithstanding subsection (1), a taxpayer has no right to challenge—

(a) a civil penalty imposed for—

(i) the late provision of a tax return; or

- (ii) the late payment of tax; or
- (ab) a civil penalty imposed under section 215 of the KiwiSaver Act 2006; or
- (b) the percentage applicable to the civil penalty.

138M Wrong PAYE withholding determination a ground for challenge

A disputant may—

- (a) dispute a notice of proposed adjustment; or
- (b) challenge an assessment—

that is issued by the Commissioner in relation to an amount of tax withheld on the basis of a determination under section RD 3(5) of the Income Tax Act 2007, on the ground that the determination is wrong, whether in fact or in law.

138N Proceedings may be transferred to different hearing authorities

(1) If a disputant commences a challenge in the High Court,—

- (a) the Commissioner may apply to the High Court to have the challenge transferred to a Taxation Review Authority; or
- (b) the High Court may, of its own motion, transfer the challenge to a Taxation Review Authority.

(2) If a disputant commences a challenge in a Taxation Review Authority, the Commissioner may apply to the High Court to have the challenge transferred to the High Court.

(3) The High Court may order that any proceedings transferred to the High Court under this section are to be transferred into the Court of Appeal.

138O Transfer from small claims jurisdiction of Taxation Review Authority

[Repealed]

138P Powers of hearing authority

(1) On hearing a challenge, a hearing authority may—

- (a) confirm or cancel or vary an assessment, or reduce the amount of an assessment, or increase the amount of an assessment to the extent to which the Commissioner was able to make an assessment of an increased amount at the time the Commissioner made the assessment to which the challenge relates; or

(b) make an assessment which the Commissioner was able to make at the time the Commissioner made the assessment to which the challenge relates, or direct the Commissioner to make such an assessment.

(1B) If a taxpayer brings a challenge and proves, on the balance of probabilities, that the amount of an assessment is excessive by a specific amount, a hearing authority must reduce the taxpayer's assessment by the specific amount.

(2) If the challenge relates to a disputable decision that is not an assessment, the hearing authority—

(a) must not make or alter the disputable decision; and

(b) may direct the Commissioner to alter the disputable decision to the extent necessary to conform to the decision of the hearing authority with the effect the hearing authority specifies.

(3) Subject to subsection (4), the Commissioner must make or amend an assessment or other disputable decision in such a way that it conforms to the hearing authority's determination.

(4) The Commissioner is not required to make or amend an assessment or other disputable decision before the resolution of appeal procedures from the hearing authority.

(5) The time bars in sections 108, 108A, and 108B do not apply with respect to—

(a) a determination of a hearing authority made under subsection (1)(a) or subsection (1B) of this section or an amendment made by the Commissioner to an assessment for the purpose of conforming to such a determination; or

(b) an assessment made by a hearing authority under subsection (1)(b) or the Commissioner under subsection (3).

138Q Challenges designated as test cases

(1) The Commissioner may designate a challenge as a test case, if the Commissioner considers that determination of the challenge is likely to be determinative of all or a substantial number of the issues involved in 1 or more other challenges.

(2) Test cases are to be heard in the High Court.

138R Stay of proceedings for similar cases

(1) The Commissioner may stay proceedings by issuing a notice notifying a disputant that a challenge is to be stayed because a test case on a similar challenge or objection is to be heard by the High Court.

(2) The Commissioner may issue a notice staying proceedings under subsection (1) only if—

(a) the Commissioner considers that the test case is likely to be determinative of all or a substantial number of the issues in the challenge proposed to be stayed; and

- (b) the challenge proposed to be stayed has not been determined by a hearing authority.
- (3) When a disputant receives a notice staying proceedings, the disputant may issue a notice requiring that there be no stay of proceedings that notifies the Commissioner that the disputant requires the challenge to be heard even though a test case is to be heard.
- (4) Within 14 days after the Commissioner receives a notice requiring that there be no stay of proceedings, the Commissioner may apply to the High Court for an order that the challenge be stayed pending the determination of the test case or the further order of the court.
- (5) If a challenge is stayed, the disputant or the Commissioner may apply to the High Court for an order that the challenge cease to be stayed.
- (6) A stay under subsection (1) lapses on the expiry of 14 days following the day on which any of the following occurs:
 - (a) the expiry of the 14-day period specified in subsection (4), if the disputant has issued a notice requiring there to be no stay of proceedings and the Commissioner has not within the 14-day period made an application under subsection (4); or
 - (b) the making by the High Court of an order dismissing an application by the Commissioner under subsection (4); or
 - (c) the making by the High Court, on an application under subsection (5), of an order that the challenge cease to be stayed; or
 - (d) the determination of the test case which caused the challenge to be stayed by the expiration of all rights of appeal.
- (7) For so long as a challenge is stayed,—
 - (a) any time limits or periods specified in or under this Act (other than in this section) in relation to the challenge are not to apply; and
 - (b) where the stay of a challenge lapses, any time limits or periods so specified are to be treated as if they were extended by the period commencing with the date of the notice staying proceedings, and ending with the day on which the stay lapses.
- (8) The Commissioner may give notices required by this section by formally notifying either the disputant or a solicitor who is authorised to accept service on their behalf at the contact address referred to in section 14G(c) or by effective delivery to an address supplied by the disputant.

138S Challenge to be heard before Taxation Review Authority

- (1) A challenge to a disputable decision made by the Commissioner under—
 - (a) the Student Loan Scheme Act 2011, or any provision of this Act that applies in relation to an employer’s obligation under the Student Loan Scheme Act 2011; and
 - (b) the Child Support Act 1991, or any provision of this Act that applies in relation to an employer’s obligation under the Child Support Act 1991; and

(c) any other tax law, where that tax law or another tax law specifies that the disputable decision is to be determined by a Taxation Review Authority,—

is to be commenced, heard, and finally determined by a Taxation Review Authority.

(2) Subsection (1) prevails over any other section in this Part.

How we will work with you

Inland Revenue collects money to pay for public services. We help people to meet their obligations and receive their entitlements. We work within the Inland Revenue Acts and other relevant laws, and our actions are consistent with the spirit of the Treaty of Waitangi.



How we will work with you

- We will be easy to deal with, prompt, courteous and professional.
- We will follow through on what we say we will do.
- We will be responsive to individual, cultural and special needs.
- The person you are dealing with will give you their name.
- We will value your feedback and use it to improve our services.



Reliable advice and information

- We will provide you with reliable and correct advice and information about your entitlements and obligations.
- We will assist you to get in touch with the right people for your needs.
- We will be well-trained and competent.
- We will keep looking for better ways to provide you with advice and information.



Confidentiality

- We will treat all information about you as private and confidential, and keep it secure. We will only use or disclose it in accordance with the law.



Consistency and equity

- We will apply the law consistently so everyone receives their entitlements and pays the right amount.
- We will take your particular circumstances into account as far as the law allows.



Your right to question us

- We will make it easy for you to question the information, advice and service we give you. We will inform you about options available if you disagree with us, and we will work with you to reach an outcome quickly and simply.

For this charter to work effectively, we rely on each customer to provide all relevant information when dealing with Inland Revenue.

Robert Russell
Commissioner of Inland Revenue

We're committed to good service

IR 614
March 2009

Our charter outlines the standards of service you can expect when dealing with Inland Revenue. If you believe we haven't met a service standard, we'd like to know about it and have the chance to make it right for you.

If you're not happy about the service you've received ...

The quickest and easiest way to resolve it is usually with the staff member you've been dealing with, or our customer service representatives. They're available from 8 am to 8 pm Monday to Friday, and 9 am to 1 pm Saturdays.

Call one of the 0800 numbers on this page and have your IRD number with you when you call, it will speed up the process.

If you're still not satisfied, or the complaint involves a staff member ...

Ask to speak to their manager.

At any stage, if you're not satisfied with the way your complaint has been dealt with ...

Our Complaints Management Service can take a fresh look. Call 0800 274 138 between 8 am and 5 pm weekdays.

If you prefer, send us your complaint in writing and include the following information:

- your contact details
- your IRD number
- a brief description of your complaint and any steps you've taken to try to resolve it
- copies of documents you think are relevant.

Send to the Complaints Management Service, Inland Revenue Department, PO Box 1072, Wellington.

If you disagree with how we're assessing your tax or child support...

You may need to follow a formal disputes procedure. You can discuss this with one of our customer service representatives. Just call one of the free 0800 numbers listed at the side of the page.

We're committed to dealing with your complaint promptly, fairly and fully ...

If we can't resolve your complaint immediately, we'll keep you informed of progress.

If we can't resolve it to your satisfaction, you can take your complaint to the Ombudsmen. You can call free on 0800 802 602 or write to the Office of Ombudsmen, PO Box 10-152, Wellington.

Numbers to call

Personal tax enquiries
0800 227 774

Business tax enquiries
0800 377 774

Child support enquiries
0800 221 221

Complaints Management Service
0800 274 138

Free calling does not apply to cellular calls