



Observatory for the Protection of Taxpayers' Rights

Below you will find a questionnaire filled in by or with the contribution of the National Reporters of New Zealand, Mr. Mike Lennard and Mr. Mark Keating, both representatives of the tax practitioners.

This questionnaire comprises the National Reporter assessment on the level of compliance of the minimum standards and best practices on the practical protection of taxpayers' rights identified by Prof. Dr. Pistone and Prof. Dr. Philip Baker at the 2015 IFA Congress on "*The Practical Protection of Taxpayers' Rights*". This report was filled in considering the following parameters:

1. It contains information on those issues in which there were movements towards or away from the level of compliance of the relevant standard/best practice in New Zealand between 2015 and 2017.
2. It is indicated, by the use of a checkmark () whether there were movements towards or away from of the level of compliance of the relevant standard/best practice in New Zealand between 2015 and 2017.
3. It contains a summarized account on facts (legislation enacted, administrative rulings, circulars, case law, tax administration practices) that serves as grounds for each particular assessment of the level of compliance of a given minimum standard / best practice, in a non-judgmental way.

New Zealand

Minimum Standard	Best Practice	Shift towards	Shift away	Development
1. Identifying taxpayers, issuing tax returns and communicating with taxpayers				
Implement safeguards to prevent impersonation when issuing unique identification numbers				<p>Complies with minimum standard.</p> <p>Processes in place to correctly identify individual people before issuing Inland Revenue Department (“IRD”) numbers. Strict criteria and processes for verification and forms of identification documents that can be used. Part of this also includes that there will always be a ‘face to face’ when applying an IRD number, either by IRD or an approved provider.</p> <p>Non-individual customers, when applying for an IRD number also need to provide verifying documents dependant on their form of entity (i.e. company, partnership, trust)</p>
The system of taxpayer identification should take account of religious sensitivities				<p>Not complied with.</p> <p>While the IRD says, correctly, that section 6 Tax Administration Act 1994 (“TAA”) requires that the Commissioner of Inland Revenue (“CIR” or “Commissioner”, the CEO of IRD and the statutory official responsible for administration of the tax system) protect the integrity of the New Zealand tax system. and specifically requires that taxpayers be treated fairly and “with no greater or lesser favour than the tax affairs of other taxpayers”, this does not address the standard directly.</p>
Impose obligations of confidentiality on third parties with respect to information gathered by them for tax purposes	Where tax is withheld by third parties, the taxpayer should be excluded from liability if the third party fails to pay over the tax			<p>Minimum Standard not complied with.</p> <p>New Zealand tax law does not empower IRD to impose restrictions of this kind on third parties, but they are subject to obligations under the Privacy Act 1993</p> <p>Best practice not complied with: where tax is withheld by third parties, the taxpayer is not necessarily excluded from liability if the third party fails to pay over the tax: section RA 8 of the Income Tax Act 2007</p> <p>However in normal cases no action is taken to recover the tax unless</p>

				there is evidence of collusion between the withholder and the taxpayer
Where pre-populated returns are used, these should be sent to taxpayers to correct errors				<p>Complied with</p> <p>Pre populated returns are known as Personal Tax Summaries. These are sent out and the taxpayer requested to confirm the details.</p> <p>Online Income Tax returns, IR3 information, can be prepopulated with Salary and wages and scheduler payments, for the taxpayer to see online ("MyIR"). This allows the taxpayer to see this information and correct it if required.</p> <p>Taxpayers also have the ability to ask the IRD to exercise a discretion to amend an assessments to ensure its correctness.</p>
Provide a right of access for taxpayers to personal information held about them, and a right to apply to correct inaccuracies	Publish guidance on taxpayers' rights to access information and correct inaccuracies			<p>Both the minimum standard and best practice complied with.</p> <p>The Privacy Act 1993 and the Official Information Act 1982 provide for rights to access taxpayer information and apply to correct inaccuracies. Organisations such as the Privacy Commissioner (www.privacy.org.nz) publish guidance on these rights.</p> <p>IRD's practice is to release personal information to the taxpayer or their tax agent on request, with certain exceptions relating to internally generated reports, third party information etc.</p>
Where communication with taxpayers is in electronic form, institute systems to prevent impersonation or interception				<p>Minimum standard complied with.</p> <p>Electronic communication and information has strict processes around it. MyIR is IRD's secure online service where communication can be accessed by logon. In MyIR customers then can access the secure electric mail part. Some letters can also be viewed here in image form.</p> <p>If email communication is required, processes to obtain correct identity and to secure the information are in place.</p>
Where a system of "cooperative compliance" operates, ensure it is available on a non-discriminatory and voluntary basis				<p>Largely complied with in practical terms.</p> <p>The IRD's strategy is to support voluntary compliance by making it easy for taxpayers to comply with their tax obligations operates on a</p>

				<p>non-discriminatory and voluntary basis.</p> <p>As part of a pilot programme, formal co-operative compliance agreements were entered into with three large taxpayers. However, although the three agreements continue, the pilot is now closed to new additions. Other active compliance regimes apply to certain other large taxpayers, however the criteria for these regimes to apply are determined by IRD and so are not available to taxpayers on a voluntary basis.</p>
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				<p>Complies with minimum standard.</p> <p>IRD Community Compliance provides much of this service if required based on need and availability.</p> <p>This includes counter appointments for complex enquires. Mobile offices are also used, which can include using other agencies' buildings to meet with those in remote locations. In some cases tax officials will visit taxpayers with severe mobility issues. For those with different disabilities we can also assist, including a deaf fax for those who are hard of hearing.</p>
Minimum Standard	Best Practice	Shift towards	Shift away	Development
2. The issue of tax assessment				
	Establish a constructive dialogue between taxpayers and revenue authorities to ensure a fair assessment of taxes based on equality of arms			<p>Complied with</p> <p>New Zealand's tax system involves a full dispute process including a system of semi-mediation, prior to the amendment of assessments (except in the case of fraud etc)</p>
	Use e-filing to speed up assessments and correction of errors, particularly systematic errors			<p>Complied with</p> <p>Considerable investment is being made in expanding digital access as part of IRD's business transformation programme</p>
3. Confidentiality				
Provide a specific legal guarantee for confidentiality, with sanctions for officials who make unauthorised	Encrypt information held by a tax authority about taxpayers to the highest level			Minimum standard and best practice both complied with.

disclosures (and ensure sanctions are enforced)	attainable			IRD employees can be disciplined, dismissed and/or prosecuted for breaching taxpayer secrecy, a matter which is carefully monitored
Restrict access to data to those officials authorised to consult it. For encrypted data, use digital access codes	Ensure an effective fire-wall to prevent unauthorised access to data held by revenue authorities			Minimum standard and best practice both complied with.
Audit data access periodically to identify cases of unauthorised access				Complied with.
Introduce administrative measures emphasising confidentiality to tax officials	Appoint data protection/privacy officers at senior level and local tax offices			Minimum standard and best practice complied with. Privacy rules are also published to IRD staff and clear processes followed in protecting data. New employees also receive training on secrecy and confidentiality requirements. Before commencing duties every IRD employee is required to complete a statutory declaration of fidelity and secrecy which continues to bind them even if they cease to be an employee
If a breach of confidentiality occurs, investigate fully with an appropriate level of seniority by independent persons (e.g. judges)				Partly complied with. Investigations are carried out in-house by an IRD unit dedicated to the purpose and reporting outside the Service Delivery line.
Introduce an offence for tax officials covering up unauthorised disclosure of confidential information				Not clearly complied with. Potentially section 107 Crimes Act 1961 (contravention of statute) provides a punishment for an IRD officer who, having become aware of an unauthorised disclosure of confidential information, neglects his/her statutory obligations to investigate or prosecute. Potentially also section 117(e) of the Crimes Act, attempts to pervert or obstruct the course of justice, could be applicable.

Minimum Standard	Best Practice	Shift towards	Shift away	Development
3. Confidentiality (cont).				
Provide remedies for taxpayers				Not complied with, except to the extent that the taxpayer can

who are victims of unauthorised disclosure of confidential information				<p>succeed in action for torts such as of negligence, breach of statutory duty or misfeasance in public office.</p> <p>A complaint to the IRD would result in an investigation, and potential prosecution of officers involved</p>
Exceptions to the general rule of confidentiality should be explicitly stated in the law, narrowly drafted and interpreted				<p>Fully complied with at present.</p> <p>Current Discussion Documents on future changes to the TAA propose greater sharing of taxpayer information held by the IRD with other government agencies. It is possible that present specific list of exceptions will be replaced by general principles.</p>
If “naming and shaming” is employed, ensure adequate safeguards (e.g. judicial authorisation after proceedings involving the taxpayer)	Require judicial authorisation before any disclosure of confidential information by revenue authorities			<p>Not fully complied with.</p> <p>While New Zealand has (subject to increasingly broad exceptions) taxpayer secrecy provisions (Part 4 TAA), taxpayers in civil and criminal disputes with IRD do not (apart from in the specialist Taxation Review Authority (“TRA”)) enjoy name suppression unless exceptional circumstances are made out. Results of tax disputes, including taxpayer names where they appear in the judgment, can be subject to IRD press releases.</p>
No disclosure of confidential taxpayer information to politicians, or where it might be used for political purposes	Parliamentary supervision of revenue authorities should involve independent officials, subject to confidentiality obligations, examining specific taxpayer data, and then reporting to Parliament			<p>Minimum standard fully complied with</p> <p>Best Practice is supported by New Zealand’s Privacy Commissioner and Ombudsmen, but no general process compliant with best practice exists in general.</p>
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				<p>Fully complied with.</p> <p>Section 81 of the TAA generally prohibits release information to third parties, though no direct tribunal-based method of authorising disclosure exists in New Zealand</p>
If published, tax rulings should be	Anonymise all tax judgments and remove			Minimum standard complied with for rulings issued by IRD.

anonymised and details that might identify the taxpayer removed	details that might identify the taxpayer			Best practice not complied with, in that for first-instance hearings in the High Court and appeals from the specialist TRA (a taxpayer may file a first-instance tax challenge in either the TRA or the High Court) there is no anonymity unless a taxpayer applies for name suppression and establishes exceptional grounds.
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Minimum Standard	Best Practice	Shift towards	Shift away	Development
3. Confidentiality (cont).				
Legal professional privilege should apply to tax advice	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			Minimum standard complied with in that legal professional privilege applies to tax advice. Best practice complied with in that a tax advisor from an “approved advisor group” (at present, chartered accountants’ associations and other accountancy institutes) can give confidential tax advice, which a taxpayer has a right not to disclose to the Revenue (sections 20B to 20G TAA) or in the litigation document discovery processes.
Where tax authorities enter premises which may contain privileged material, arrangements should be made (e.g. an independent lawyer) to protect that privilege				Minimum standard complied with by separate IRD lawyers taking custody of potentially privileged material and evaluating for existence of privilege in consultation with taxpayer’s lawyers. In practice this works fairly and robustly. Standard practice involves advice to a taxpayer that he/she may seek legal advice in private and without delay in conformity with the New Zealand Bill of Rights Act 1990.
4. Normal audits.				
Audits should respect the following principles: (1) Proportionality (2) <i>Ne bis in idem</i> (prohibition on double jeopardy) (3) <i>Audi alteram partem</i> (right to be heard before any decision is				As below. Only partial compliance.

<p>taken)</p> <p>(4) <i>Nemo tenetur se detegere</i> (principle against self-incrimination). Tax notices issued in violation of these principles should be null and void</p>				
<p>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</p>				<p>Partly Complied with.</p> <p>The Commissioner may require production of any information that she considers “necessary or relevant” for any purpose relating to any matter of tax administration or enforcement but not otherwise. The Commissioner need not exhaust alternative investigatory powers before relying on more intrusive search powers. There is no requirement that the Commissioner’s consideration be objectively correct – at the time or in hindsight.</p>
	<p>In application of <i>ne bis in idem</i> the taxpayer should only receive one audit per taxable period, except when facts that become known after the audit was completed</p>			<p>Not complied with.</p> <p>There is no limit on the Commissioner’s ability to revisit a taxpayer’s liability, except for the four-year time bar in section 108 TAA. That time bar is inapplicable in certain circumstances.</p> <p>In practice a repeat audit for a period is very rare. Once an audit is finalised the IRD will only re-visit if new evidence suggests full material facts were not known to the Commissioner at the time of the agreement or that avoidance, evasion or fraud has occurred.</p>
Minimum Standard	Best Practice	Shift towards	Shift away	
<p>In application of <i>audi alteram partem</i>, 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</p>				<p>Not strictly complied with.</p> <p>In general terms, in the course of an ordinary audit, such rights are granted. The provisions of Part 4A TAA formalise a reciprocal exchange of documents before most (but not all) disputed assessments are raised by the Commissioner. When the Part 4A process is used, these minimum standards are completely satisfied.</p>

				It is not complied with in terms of IRD's internal review of its processes ("escalation") even when such review directly concerns a specific taxpayer.
In application of <i>nemo tenetur</i> , the right to remain silent should be respected in tax audits.				<p>Not complied with.</p> <p>There is no right to remain silent. Some provisions relating to compulsory provision of information (e.g. section 18 and 19 TAA) provide that answers are not admissible in criminal proceedings against the person answering. Other provisions (e.g. section 17 TAA) do not provide for that.</p>
	Tax audits should follow a pattern that is set out in published guidelines			<p>Not fully complied with.</p> <p>While there are some published advice (especially on IRD's website) as to the process, the advice is vague and there is no obligation on IRD officials to follow it.</p> <p>In practice, audits each have a plan but can take different courses depending on the subject matter and the nature of the client. IRD has published performance standards overall for the expected duration of audits in different categories.</p> <p>An information memorandum is provided as best practice to any taxpayer who is audited. This spells out rights and describes the processes which will be followed.</p>
	A manual of good practice in tax audits should be established at the global level			<p>Not complied with.</p> <p>However Best Practice Statements have been developed by IRD internally and checks are made to ensure investigators are applying them.</p>
	Taxpayers should be entitled to request the start of a tax audit (to obtain finality)			<p>Not complied with.</p> <p>A taxpayer may however seek a "binding ruling" of the tax position taken so as to obtain finality as to the application of the law to the facts. However a taxpayer may not request a tax audit so as to obtain finality as to acceptance of those relevant facts.</p> <p>There is a factual review "product" available to verify certain facts/assumptions in a binding ruling. However its</p>

				<p>application/uptake is limited.</p> <p>Taxpayers may also issue a NOPA to commence the disputes process if they wish to have an issue determined though neither this process nor the binding ruling process are designed or intended to have the effect of triggering an audit.</p>
Where tax authorities have resolved to start an audit, they should inform the taxpayer	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			<p>Minimum standard and some aspects of best practice complied with in most cases, unless there is a suspicion that doing so may lead the taxpayer to hide information, remove assets, flee the jurisdiction etc.</p> <p>Disclosure of tax authorities' evidence rarely takes place at the start of an audit.</p>
Taxpayers should be informed of information gathering from third parties				Not complied with.
	Reasonable time limits should be fixed for the conduct of audits			<p>Not complied with.</p> <p>General performance timeliness standards do exist, depending on the type of case.</p>
Technical assistance (including representation) should be available at all stages of the audit by experts selected by the taxpayer				Complied with in that a taxpayer may engage technical assistance at all stages of the audit.
Minimum Standard	Best Practice	Shift towards	Shift away	Development
4. Normal audits (cont).				
The completion of a tax audit should be accurately reflected in a document, notified in its full text to the taxpayer	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			<p>Minimum standard complied with.</p> <p>Best practice not formally complied with: no requirement that this stage be undertaken unless the audit enters the Part 4A TAA dispute resolution process.</p> <p>Taxpayer participation occurs at the pre-completion phase. Any agreed positions are set out in writing. The dispute resolution process provides ample opportunity to correct inaccuracies of fact</p>

				and to express the taxpayer's view.
	Following an audit, a report should be prepared even if the audit does not result in additional tax or refund			Complied with. An internal audit report is prepared in all instances. A final audit letter is issued to all taxpayers setting out any findings. An agreed adjustment form, setting out any additional amounts is sent to any taxpayers who do not go to dispute.
5. More intensive audits.				
	More intensive audits should be limited to the extent strictly necessary to ensure an effective reaction to non-compliance			No sharp distinction between "normal audits" and "more intensive audits" exists. Best practice complied with in that use of more intrusive search/seizure/information requisition powers is limited to cases where a risk of taxpayer non-compliance/criminality is perceived.
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				Not complied with. See above as to limits to the right to silence. There is a general IRD practice of suspending civil tax dispute resolution procedures pending resolution of any criminal charges.
Entering premises or interception of communications should be authorised by the judiciary				Partially complied with. A warrant to enter domestic dwelling houses is required. A warrantless search of other premises is permissible. There is no current provision for the New Zealand revenue authorities to intercept communications.
Authorisation within the revenue authorities should only be in cases of urgency, and subsequently reported to the judiciary for <i>ex post</i> ratification				Inapplicable. As above, a warrant to enter domestic dwelling houses is required, but a warrantless search of other premises is permissible. No procedure exists for later judicial ratification of a search which would have required but did not have a warrant.
Inspection of the taxpayer's home should require authorisation by the judiciary and only be given in exceptional cases.	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			Minimum standard partially complied with in that a judicial warrant is necessary. Best practice not complied with: no "exceptional cases" standard

	exception where there is evidence of danger that documents will be removed or destroyed			exists, no provision for notice to the taxpayer exists and notice is almost never given. In practice such searches are limited to perceived cases of serious non-compliance in which sound evidence of tax fraud or the equivalent exists, and are authorised at a high level with legal review. Specific training is required for all staff who are involved
	Access to bank information should require judicial authorisation			Not complied with.
Minimum Standard	Best Practice	Shift towards	Shift away	Development
5. More intensive audits (cont).				
	Authorisation by the judiciary should be necessary for interception of telephone communications and monitoring of internet access. Specialised offices within the judiciary should be established to supervise these actions			Irrelevant: there is no current provision for the New Zealand revenue authorities to intercept communications.
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				Not complied with. Under section 16C Tax Administration Act 1994 there is no “indispensable” precondition for seizure and a seized document may be retained “for so long as is necessary for a full and complete inspection” although a taxpayer may obtain a copy of the seized document.
	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			Usually complied with. A backup is generally made on site, whether or not in the presence of any advisers, though there are times when the hard drive needs to be removed, often with taxpayer agreement, to complete the task at IRD’s offices. Published guidance explains the best practice.
Where invasive techniques are applied, they should be limited in time to avoid disproportionate impact on taxpayers				The only formal compliance with this minimum standard is the protection in the New Zealand Bill of Rights Act 1990 from unreasonable search and seizure.

				IRD practice is to consider a taxpayer's environmental factors, such as whether there are children present or hours of business operation to minimise disruptions. Management approval is required before action is taken.
6. Review and appeals.				
	E-filing of requests for internal review to ensure the effective and speedy handling of the review process			Fully complied with.
The right of appeal should not depend upon prior exhaustion of administrative reviews				Not fully complied with. IRD's agreement is needed to dispense with the later part of the internal "disputes resolution" (administrative review) process in Part 4A Tax Administration Act 1994: section 89N(1)(viii) Tax Administration Act 1994
	Reviews and appeals should not exceed two years			Not complied with. Subject only to the time limit on reassessments under section 108 and the four-year limit for some classes of disputes in section 89P of the Tax Administration Act 1994, there is no time limit on completion of the internal "disputes resolution" (administrative review) process in Part 4A Tax Administration Act 1994. There is no time limit on the completion of judicial determination of tax disputes.
<i>Audi alteram partem</i> should apply in administrative reviews and judicial appeals				Fully complied with. The internal "disputes resolution" (administrative review) process in Part 4A Tax Administration Act 1994 involves an iterative series of steps during which the taxpayer has the full ability to set out the relevant facts and arguments

Minimum Standard	Best Practice	Shift towards	Shift away	Development
6. Review and appeals (cont).				

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	An appeal should not require prior payment of tax in all cases			<p>Minimum standard complied with.</p> <p>Best standard complied with in that tax in dispute is not payable unless there is a perceived significant risk that the tax will not be paid should the taxpayer not succeed in the dispute (section 138I Tax Administration Act 1994).</p>
	The state should bear some or all of the costs of an appeal, whatever the outcome			<p>Not complied with.</p> <p>The other party's costs are not payable by either party in the specialist Taxation Review Authority. In the High Court and higher courts costs follow the event, with the losing party making a contribution to the winning party's costs. The Commissioner is in the same position as the taxpayer with regard to rights and liabilities to costs.</p>
Legal assistance should be provided for those taxpayers who cannot afford it				<p>Partly complied with.</p> <p>Legal aid may be available for taxpayers who are involved in disputes and cannot afford their own lawyer. People who get legal aid may have to pay a user charge and repay part or all of their legal aid costs. In practice very few tax disputes indeed result in eligibility for civil legal aid.</p>
Taxpayers should have the right to request the exclusion of the public from a tax appeal hearing				<p>Complied with in respect of hearings in the specialist Taxation Review Authority.</p> <p>Not complied with in that for first-instance hearings in the High Court and appeals from the TRA (a taxpayer may file a first-instance tax challenge in either the TRA or the High Court) there is generally no right to exclude the public. There is a general expectation in the High Court and higher Courts that "open justice" requires public access and reporting.</p>
Tax judgments should be published				Fully complied with.
7. Criminal and administrative sanctions.				
Proportionality and <i>ne bis in idem</i> should apply to tax penalties				<p>Partially complied with.</p> <p>Proportionality exists in that for both civil penalties and criminal proceedings a graduated series of sanctions exists depending on the</p>

				level of knowledge, intent, and dereliction of obligations. As below, civil and administrative penalties may both be imposed. New Zealand criminal law recognises the rule against double jeopardy.
	Where administrative and criminal sanctions may both apply, only one procedure and one sanction should be applied			<p>Not complied with.</p> <p>A taxpayer who has had a civil penalty imposed may not subsequently be prosecuted in relation to the same tax position, but the reverse does not apply: the taxpayer may be subject to a criminal penalty and then have a civil penalty imposed (section 149 Tax Administration Act 1994).</p> <p>New Zealand Courts have mandated that where both civil and criminal actions are mandated, the criminal procedure should be completed before the civil litigation is commenced.</p>
	Voluntary disclosure should lead to reduction of penalties			<p>Fully complied with.</p> <p>Voluntary disclosure pre-audit and post-audit results in differing levels of mitigation of civil penalties and either non-prosecution or mitigation of penalty.</p>
Sanctions should not be increased simply to encourage taxpayers to make voluntary disclosures				Fully complied with.
8. Enforcement of taxes.				
Collection of taxes should never deprive taxpayers of their minimum necessary for living				<p>Complied with.</p> <p>Part 11 Tax Administration Act 1994 provides for remission of tax and other relief for cases of hardship.</p>

Minimum Standard	Best Practice	Shift towards	Shift away	Development
8. Enforcement of taxes (cont).				
	Authorisation by the judiciary should be required before seizing assets or bank accounts			Fully complied with: freezing orders and charging orders require High Court judicial intervention.

				However, section 157 of the Tax Administration Act 1994 provides IRD with a garnishee power to require deductions to be made from bank accounts and other debts due to the taxpayer.
Taxpayers should have the right to request delayed payment of arrears				Complied with.
	Bankruptcy of taxpayers should be avoided, by partial remission of the debt or structured plans for deferred payment			Complied with.
Temporary suspension of tax enforcement should follow natural disasters				Complied with.
9. Cross-border procedures.				
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	The taxpayer should be informed that a cross-border request for information is to be made			Neither standard complied with. Information exchanged by competent authorities is treated as secret under all exchange of information instruments.
	Where a cross-border request for information is made, the requested state should also be asked to supply information that assists the taxpayer			Not fully complied with. Additional information that may assist the taxpayer will be provided if available and relevant.
	Provisions should be included in tax treaties setting specific conditions for exchange of information			Complied with. Generally Article 26 in the treaties sets out secrecy, use of the information provisions.

Minimum Standard	Best Practice	Shift towards	Shift away	Development
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9. Cross-border procedures (cont).				
If information is sought from third parties, judicial authorisation should be necessary				Not complied with.
	The taxpayer should be given access to information received by the requesting state			Not complied with, except to the extent that that information is required to be provided in response to a request under the Official Information Act 1982, the Privacy Act 1993 and/or discovery obligations in litigation. Under New Zealand current common law, New Zealand taxpayers subject to an information request which relates to a foreign taxpayer and which arises from that foreign taxpayer's tax authority have a right to challenge the legal propriety of such a request: <i>Chatfield & Co Ltd v Commissioner of IRD</i> (2015) 27 NZTC 22-024 (HC).
	Information should not be supplied in response to a request where the originating cause was the acquisition of stolen or illegally obtained information A requesting state should provide confirmation of confidentiality to the requested state			Not complied with. Complied with.
A state should not be entitled to receive information if it is unable to provide independent, verifiable evidence that it observe high standards of data protection				Not complied with.
	For automatic exchange of financial information, the taxpayer should be notified of the proposed exchange in sufficient time to exercise data protection rights			Not complied with.
	Taxpayers should have a right to request initiation of mutual agreement procedure			Not complied with.
Taxpayers should have a right to participate in mutual agreement procedure by being heard and being informed as to progress of the				Not complied with as a matter of informed, voluntary communication by the revenue authority.

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Minimum Standard	Best Practice	Shift towards	Shift away	Development
10. Legislation.				
Retrospective tax legislation should only be permitted in limited circumstances which are spelt out in detail	Retrospective tax legislation should ideally be banned completely			<p>Not complied with.</p> <p>In practice retrospective tax legislation is very rare, but there is no formal prohibition against it.</p> <p>In New Zealand as in other common law jurisdictions, there is no constitutional principle limiting the sovereignty of Parliament with respect to the making of laws. There is however an ingrained policy that retrospective legislation is normally objectionable so in effect there is compliance with the principle.</p>
	Public consultation should precede the making of tax policy and tax law			<p>Almost fully complied with.</p> <p>New Zealand's Generic Tax Policy Process is designed to ensure better, more effective tax policy development through early consideration of all aspects – and likely impacts – of proposals, and increased opportunities for public consultation.</p>
11. Revenue practice and guidance.				
Taxpayers should be entitled to access all relevant legal material, comprising legislation, administrative regulations, rulings, manuals and other guidance				<p>Complied with in that legislation, regulations, public rulings, manuals and other guidance are available publicly, on-line and freely. Not complied with in that "Dispute resolution reports" are not available to the public in any form.</p>
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				<p>Complied with.</p> <p>Taxpayers may request that booklets and other material is posted to them, though there is a growing expectation that material be</p>

				accessed on line
Binding rulings should only be published in an anonymised form				Complied with in that private binding rulings are not published at all. Binding public rulings are, by definition, public.
Where a taxpayer relies upon published guidance of a revenue authority which subsequently proves to be inaccurate, changes should apply only prospectively				Partly complied with. A taxpayer who relies on such advice post 2010 obtains an exemption from the imposition of interest and civil penalties on the resulting tax: section 120W TAA. The IRD practice is to apply changes of view prospectively, subject to some exceptions. Chief among these are changes of view which are favourable to taxpayers. These are usually applied retrospectively.

Minimum Standard	Best Practice	Shift towards	Shift away	Development
12. Institutional framework for protecting taxpayers' rights.				
Adoption of a charter or statement of taxpayers' rights should be a minimum standard	A separate statement of taxpayers' rights under audit should be provided to taxpayers who are audited			Minimum standard and best practice partially complied with. An information memorandum is provided as best practice to any taxpayer who is audited. This spells out rights and describes the processes which will be followed. However, rights are not given enforceability over and above general legal protections in other enactments such as the Privacy Act and the New Zealand Bill of Rights Act 1990.
	A taxpayer advocate or ombudsman should			Complied with.

	<p>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</p>			<p>IRD's Complaints Management Service provides an impartial resolution service for customers who have been unable to satisfactorily resolve issues through usual business processes.</p>
	<p>The organisational structure for the protection of taxpayers' rights should operate at local level as well as nationally</p>			<p>Not complied with: probably unnecessary and infeasible given New Zealand's small geographic and population size.</p>