



14 March 2024

John Armstrong
fyi-request-25748-d8d76659@requests.fyi.org.nz

Dear John Armstrong

Thank you for your request made under the Official Information Act 1982 (OIA), received on 16 February 2023. You requested:

If we are required to file a tax return at all, it must be published in the Government Gazette.

- 1) *Could you please supply the volume date and a page number that this public obligation exists in the public and that the public have been given notice in the Gazette.*
- 2) *Can you please legally define "person".*

Item 1

A notice in the *New Zealand Gazette* is not required by legislation for obligations to have effect under tax law.

Successive New Zealand Parliaments have been validly held and have passed valid legislation, including the various Inland Revenue Acts.

Inland Revenue was originally established through the enactment of the Inland Revenue Department Act 1952 and is now constituted by section 5 of the Tax Administration Act 1994 (TAA).

The general legislative authority for imposing and collecting taxes lies in the various Inland Revenue Acts, which are listed in the Schedule to the TAA. More specifically, Part B of the Income Tax Act 2007 provides for the imposition of tax on income, and Part R provides for payment of tax by customers on their own behalf and by way of source deductions. Section 8 of the Goods and Services Tax Act 1985 provides for the charging of GST on goods or services supplied in the course of carrying on a taxable activity.

As tax obligations are imposed by statute, persons cannot opt out of them, and tax obligations remain obligations whether people comply with them voluntarily or not.

This position is supported by the Court of Appeal decision in *Shaw v Commissioner of Inland Revenue* [1999] 3 NZLR 154. The appellant in the case argued that particular tax legislation was invalid. The Court dismissed the appeal.

Item 2

The word "person" is defined in section 13 of the Legislation Act 2019 and includes a corporation sole, a body corporate, and an unincorporated body. The definition of person is an inclusive definition and includes a natural person as well as all the other entities referred to in the section.

In addition to the natural and everyday usage of the word, there is considerable textual support in the Income Tax Act 2007 which makes it clear that the word "person" includes a human being.

You can read the Revenue Acts on the New Zealand Legislation website (legislation.govt.nz).

Publishing of OIA response

We intend to publish our response to your request on Inland Revenue's website (www.ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, will be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of enabling more effective participation in the making and administration of laws and policies, and promoting the accountability of officials.

Thank you for your request.

Yours sincerely



Josh Green

Domain Lead, Governance and Ministerial Services