

OPERATIONAL STATEMENT

Section 17B Notices

Issued: 26 June 2025

OS 25/05

Operational statements set out the Commissioner of Inland Revenue's view of the law in respect of the matter discussed and deal with practical issues arising out of the administration of the Inland Revenue Acts.

This operational statement outlines the procedures the Commissioner will generally follow when issuing notices, including to third parties, under s 17B of the Tax Administration Act 1994. Section 17B, which relates to information demands, contains one of the Commissioner's information-gathering powers. The Commissioner can use other information-gathering powers (such as s 17) in conjunction with s 17B, but they are not discussed in this statement.

All legislative references in this statement are to the Tax Administration Act 1994 (TAA), unless specified otherwise.

START DATE 26 June 2025

REPLACES

- [OS 13/02](#): Section 17 notices (operational statement, Inland Revenue, August 2013)

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Introduction

1. Section 17B empowers the Commissioner to require any person to provide any information and produce any documents considered necessary or relevant for any purpose relating to the administration or enforcement of an Inland Revenue Act or a function lawfully conferred on the Commissioner.
2. Section 17B is most often used in the context of an investigation of a taxpayer's tax position but can also be used for any function lawfully conferred on the Commissioner; for example, in liquidation or bankruptcy situations to obtain information.
3. Section 17B allows the Commissioner to require information directly from taxpayers. It also authorises the Commissioner to require information from third parties.
4. Information collected using s 17B is treated as confidential and kept secure.

Discussion

Section 17B notices

5. Section 17B gives the Commissioner the power to require a person to provide any information that the Commissioner considers necessary or relevant for any purpose relating to the administration or enforcement of:
 - an Inland Revenue Act; or
 - any matter arising from or connected with a function lawfully conferred on the Commissioner.
6. The Commissioner will often request information without relying on s 17B. If information is not provided voluntarily or in a timely manner, the Commissioner can use s 17B to demand the information by issuing a notice under the section.
7. The Commissioner may also issue a s 17B notice despite not requesting the information (without relying on s 17B) first. For example, this may occur where the taxpayer and/or their advisors have previously been uncooperative.
8. Non-compliance with a s 17B notice may result in the Commissioner using the statutory remedies available, including prosecution.
9. Section 17B can be used for any function lawfully conferred on the Commissioner. However, the s 17B power to require information to be provided cannot be used for an improper purpose.
10. The Commissioner may require the information to be:
 - verified by a statutory declaration or otherwise;
 - provided to a particular office of the Commissioner; or
 - provided in a manner acceptable to the Commissioner.¹

Information demanded in a s 17B notice

11. Under s 17B, the Commissioner can demand “information” be provided. Information includes documents, and the definition of “document” in s 3 is a broad definition that covers past, current and future technologies, including any records in electronic form.

¹ Section 17B(3).

It includes all forms of information storage, including things that store or record information electronically.²

12. The Commissioner can require information in writing where no records are available, and the information sought is exclusively in a person's mind.³ This means the Commissioner can require written answers to questions relating to documents that must be provided under s 17B and written answers to other questions.
13. A person is not required to create new information in response to a s 17B demand.⁴
14. The Commissioner can use a s 17B notice to require taxpayers or third parties to provide information. Third parties include (but are not limited to):
 - employers;
 - banks or financial institutions;
 - tax agents; and
 - government agencies.
15. Only the recipient of a s 17B notice is required to provide information in response to the notice. The Commissioner cannot require a person other than the person named in the notice to also provide information in response to the notice.⁵ However, see [22] to [25] for when information held by another person will be treated as being within a recipient's possession, knowledge or control.

Contents of a notice

16. There is no prescribed form for a s 17B information demand.
17. Where information is to be demanded under s 17B, a notice is issued in writing and usually includes the:
 - correct name of the recipient;

² The Court of Appeal in *Avowal Administrative Attorneys Ltd v District Court at North Shore* [2010] NZCA 183 held that a computer hard drive came within the (then) definition of "book and document". This finding was consistent with the observations made by the Court of Appeal in *A Firm of Solicitors v District Court at Auckland* [2006] 1 NZLR 586 that a computer hard drive is a "document" that may be imaged.

³ *NZ Stock Exchange v CIR* [1990] 3 NZLR 333 (CA). This is subject to a taxpayer's right to a fair trial, see 63 to 67.

⁴ *NZ Stock Exchange v CIR* [1990] 3 NZLR 333 (CA).

⁵ *Lupton v CIR* (2007) 23 NZTC 21,204 (HC) at [43] and [44].

- fact the information is required under s 17B;
 - information sought, described with as much particularity as possible including whether tax contextual information is sought;
 - date by which the information must be provided;
 - person and place (if required) the information must be provided to;
 - form the information should be provided in (if required); and
 - name and job title of the person exercising the delegation to issue the information demand.
18. If the parties have already agreed how the information will be provided that is usually specified in the notice.
19. Notices will also mention the possibility of prosecution for failing to comply.
20. A s 17B notice usually contains a reference to the recipient or taxpayer's ability to claim either legal privilege or the non-disclosure right for tax advice documents (these are discussed further from [29]). This reference may not be included where the information required is clearly not legally privileged or a tax advice document. Although the absence of such a reference does not affect the taxpayer's ability to claim the privilege or right if the privilege or right applies.
21. Where the disclosure of tax contextual information is required in a s 17B notice, the notice will advise that the tax contextual information must be provided on form [IR520 – tax contextual information disclosure](#), which contains the required statutory declaration.⁶

Information that must be provided

22. A person must provide the relevant information that is or is deemed to be in their possession, knowledge or control. That includes information held by another person who the person can require to provide the information to them. Examples include information held by a person's solicitor or tax agent or information held by another person on the person's behalf.
23. Information in the possession, knowledge or control of a non-resident is treated as being in the knowledge possession or control of a New Zealand resident if the New Zealand resident directly or indirectly controls the non-resident.⁷ This means a

⁶ Section 20F(4).

⁷ Section 17E(1).

s 17B demand can be made to the New Zealand resident for information in the possession, knowledge or control of a non-resident.

24. Information or a document is treated as being in the knowledge, possession or control of a member of a large multinational group in an income year, if the information or document is:
- relevant to the taxation of the large multinational group; and
 - in the knowledge, possession or control of the member or another member of the large multinational group.⁸
25. This means, for example, that a New Zealand-based member of a large multinational group must provide information in respect of that group.

Information that does not have to be provided

26. A person does not have to provide information in response to a s 17B notice where the information is not (or is not deemed to be) in their possession, knowledge or control.
27. A person also does not have to provide information that is subject to:
- legal privilege; or
 - the non-disclosure right for tax advice documents.
28. Importantly, legal privilege or the non-disclosure right is claimed by the person who receives the notice. That means they consider the information sought and decide whether to claim legal privilege or the non-disclosure right.

Legal privilege

29. A person who is required under s 17B to disclose information is not required to disclose information that is legally privileged.⁹
30. The legal privilege in s 20 applies:

⁸ Section 17E(2). This provision also allows the Commissioner to disregard any law of a foreign country relating to the secrecy of information. Also see s 3 for the definition of "large multinational group".

⁹ Section 20.

- to confidential communications passing between (either directly or indirectly through an agent) a legal practitioner in the practitioner’s professional capacity and:
 - another legal practitioner in their professional capacity; or
 - their client;
 - where the communication is made or brought into existence for the purpose of obtaining or giving legal advice or assistance; and
 - the communication is not made or brought into existence for the purpose of committing or furthering the commission of some illegal or wrongful act.
31. A legal practitioner is a barrister or solicitor of the High Court of New Zealand.¹⁰ The Commissioner considers this means the person holds a current New Zealand practising certificate as a barrister or barrister and solicitor when the confidential communication passed.¹¹
32. This means the legal privilege s 20 provides does not extend to a communication between a foreign lawyer and a New Zealand practitioner and their client.
33. In practice, the Commissioner regards the s 20 legal privilege as extending to litigation privilege where New Zealand lawyers (as defined by the Lawyers and Conveyancers Act 2006) are involved. For this purpose, litigation privilege is regarded as covering documents created for the dominant purpose of advising or assisting on reasonably apprehended litigation.

Solicitor’s trust account

34. Financial information and investment records kept in connection with solicitors’ trust accounts are not privileged.¹² This means that where the information consists wholly or partly of or relates wholly or partly to:
- the receipts, payments, income, expenditure or financial transactions of any person; or
 - investment receipts of any person

¹⁰ Section 20(7).

¹¹ See the definitions of “practitioner” and “lawyer” in s 6 of the Lawyers and Conveyancers Act 2006.

¹² Section 20(2) and (3).

it is not privileged from disclosure. This applies where 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 practitioner.

Recipient of the notice has to claim privilege

35. A s 17B notice sets out the timeframe within which the information demanded is to be provided to the Commissioner. It is for the notice's recipient to consider the documents demanded during this timeframe and to claim legal privilege, should they want to.
36. However, the Commissioner recognises that a recipient of a s 17B notice should have sufficient time to seek legal advice on whether any information demanded is subject to legal privilege. If the recipient needs further time to seek legal advice, such as where a large volume of information is demanded, the recipient should contact the Inland Revenue officer who sent the s 17B notice to discuss an extension of time. Contact should be made with the Commissioner as soon as possible, but in any case, before the original due date.
37. When a person claims any information is legally privileged, the Commissioner may or may not accept the claim. It depends on the facts and circumstances.
38. If the Commissioner does not accept the claim for legal privilege, the Commissioner will engage with the person and attempt to reach agreement about whether the information is legally privileged.

District Court can determine privilege claim

39. If the claim of legal privilege cannot be resolved between the Commissioner and the person making the claim, either party may apply to a District Court Judge under s 20(5) for orders as to whether the claim for legal privilege is valid.
40. In practice, as the person will be refusing to disclose the information on the ground that it is privileged, it is likely it will be the Commissioner that applies to a District Court Judge for orders under s 20(5); although the person making the claim may also apply.

Non-disclosure right for tax advice documents

41. The non-disclosure right provides a right to not disclose certain tax advice documents provided between tax advisors and their clients.¹³ Broadly, this right applies to

¹³ Section 20B.

confidential documents (tax advice documents) that are brought into existence for the main purpose of giving or receiving advice on the operation and effect of New Zealand tax laws.

42. The advisor must have been subject to an approved advisor's group code of conduct and disciplinary procedures when the tax advice document was created.¹⁴
43. Importantly, the person or tax advisor authorised to act on the person's behalf must claim the non-disclosure right in accordance with s 20D.
44. Examples of documents (including those attached to another document that is a tax advice document) that are generally not eligible to be tax advice documents include, but are not limited to:
 - business and management records;
 - financial statements, work papers and notes to financial accounts;
 - letters of engagement;
 - numerical calculations compiled for the purpose of calculating a taxpayer's tax liability;
 - transfer pricing documentation;
 - legal transaction documents such as contracts, licence agreements, loan documentation, guarantees, deeds, title documents, tax indemnity agreements and letters between the transaction parties;
 - databases and spreadsheets;
 - diagrams demonstrating transactions; and
 - documents the tax advisor created for main purposes other than giving a taxpayer advice on the operation and effect of tax laws, such as advising on employment law, company law, securities law, other regulatory requirements, or the accounting or financial treatment of transactions.
45. For further information on the non-disclosure right, see [OS 18/02: Non-disclosure right for tax advice documents](#). OS 18/02 sets out the Commissioner's approach to tax advice documents, how to claim a non-disclosure right for tax advice documents and how claims are managed.

¹⁴ Typically, a tax advisor is subject to an approved advisor group's code of conduct and disciplinary procedures because they are a member of the approved advisor group.

Factors the Commissioner considers before issuing a s 17B notice

46. When deciding whether to issue a s 17B notice, the factors the Commissioner considers depend on the circumstances and may include:
- the information and the reason for requiring it;
 - whether the information has been or could be the subject of a voluntary request;
 - the impact of the demand on the suppliers of information;
 - whether the disclosure of tax contextual information is required;
 - the possible impact on a taxpayer's fair trial rights; and
 - whether the information is being sought from a third party where arrangements are in place for the supply of information.

Information and the reason for requiring it

47. The Commissioner can require only information that the Commissioner considers necessary or relevant for any purpose relating to:
- the administration or enforcement of an Inland Revenue Act; or
 - the administration or enforcement of any matter arising from, or connected with, a function lawfully conferred on the Commissioner.¹⁵
48. This criterion is concerned only with whether the Commissioner considers it necessary or relevant.¹⁶
49. The Commissioner considers that, in line with his duties (especially his duty to protect the integrity of the tax system), any information demand should be:
- reasonably required in the circumstances of the case; and
 - reasonable in relation to the quantity of information sought and the timeframe for providing that information.
50. In determining whether the information is necessary or relevant and the information demand is reasonable Inland Revenue officers will generally consider:

¹⁵ Section 17B(1).

¹⁶ *NZ Stock Exchange v CIR* [1990] 3 NZLR 333 (CA).

- the reason the information is needed and how it relates to the Commissioner's functions;
- what information is actually needed and the appropriate timeframe for providing that information given the complexity of what is sought;
- whether the collection will deliver the required outcomes and the implications of not collecting the information; and
- what alternatives (if any) exist, including, whether the information is accessible from other internal, government or public sources in a form the Commissioner can readily use.

Voluntary requests

51. The Commissioner will often request information without relying on s 17B. Unlike a 17B demand, the Commissioner considers it is voluntary for a person to provide information in response to such a request. As the request is voluntary, not providing the information does not give rise to statutory consequences under the TAA (eg, it is not an offence). Generally, the Commissioner will make one of these requests (where the response is voluntary) before issuing a s 17B notice.
52. However, sometimes a s 17B notice will be issued without a prior request for the information. For example, this may occur where the:
 - taxpayer has previously been uncooperative, which may include having failed to provide information when required (eg, failing to file a return) or requested by the Commissioner (eg, where the Commissioner asks for information without issuing a s 17B notice);
 - Commissioner considers a risk of non-compliance may exist; for example, from a delay in requiring the information to be provided;
 - Commissioner considers there may be prejudice to the maintenance of the law; or
 - taxpayer has already been non-compliant with their tax obligations; for example, the Commissioner may issue s 17B notices on banks or other persons where a taxpayer has outstanding tax debt or outstanding returns.

Impact of the demand on the holders of information

53. The Commissioner may require **any** information the Commissioner considers necessary or relevant for any purpose in s 17B(1)(a) or s 17B(1)(b) (that is, the purposes set out at [47]).
54. The Commissioner will consider the impact of the demand on the holders of information. However, a requirement to provide information being difficult, expensive, time consuming, or giving rise to practical difficulties to comply with, does not make the requirement to provide information unreasonable in the circumstances or in other ways unlawful or improper.¹⁷

Disclosure of tax contextual information

55. Even when the non-disclosure right applies, the Commissioner can request the tax contextual information relating to a tax advice document.
56. Tax contextual information means information relating to a tax advice document that falls into any of the following categories, as defined in s 20F(3):
 - facts or assumptions relating to the transaction identified in the information demand and to which the advice relates, whether the transaction has occurred or is expected to occur or is assumed to have occurred by the creator of the tax advice document (that is, either the tax advisor or the taxpayer);
 - description of steps involved or expected to be involved in the performance of the transaction;
 - advice related to the operation and effect of laws, other than tax laws, on the taxpayer and any related facts or assumptions that this advice is based on;
 - advice related to the operation and effect on the taxpayer of tax laws which relate to the collection of debts payable to the Commissioner (that is, debt recovery issues) and any related facts or assumptions that this advice is based on; and
 - facts or assumptions from, or relating to the preparation of, the taxpayer's financial statements, supporting worksheets or other source documents or documents containing information that the taxpayer is required to provide the Commissioner under an Inland Revenue Act and including a tax advisor's

¹⁷ *Blakeley v CIR* (2008) 23 NZTC 21,865 (HC) and *NZ Stock Exchange v CIR* [1992] 3 NZLR 1 (PC).

accounting and tax workpapers that support the financial statements and/or tax return.

57. Generally, the Commissioner will seek tax contextual information to establish the facts relating to a transaction or series of transactions. The information sought will include relevant information such as whether the transaction took place, the names of the parties involved, the purpose of the transaction, relevant dates, amounts, conditions and formulae.
58. Tax contextual information may be required to be disclosed where the Commissioner:
 - issues a subsequent s 17B notice requiring disclosure of the tax contextual information after the taxpayer or their authorised tax advisor has made a claim for the non-disclosure right in respect of information requested in a notice; or
 - requires, in rare cases, the tax contextual information as part of the original notice.
59. Generally, the Commissioner will require the disclosure of tax contextual information in a subsequent s 17B notice where:
 - material gaps appear to exist in the information available;
 - there is an issue of credibility in respect of the information Inland Revenue already holds;
 - inconsistent information already provided needs to be verified; or
 - considerable factual complexity requires clarification and there are no other reasonable sources for that information.
60. Where the Commissioner considers it necessary to protect the integrity of the tax system, an original s 17B notice may require the tax contextual information to be disclosed at the same time the information demand is given. This is likely to occur where:
 - the circumstances involve suspected evasion or other suspected criminal action;
 - s 17 (Commissioner may obtain information by accessing property or documents) is being applied;
 - the transactions in question are particularly complex and the evidence is inconsistent, and there may be insufficient time for Inland Revenue staff to properly complete the investigation within the time bar period; and/or
 - there is a history of non-compliance by the taxpayer or associated persons.

61. The Commissioner does not routinely require the disclosure of tax contextual information.
62. If the disclosure of the tax contextual information is required, the tax contextual information must be provided on form [IR520 – Tax contextual information disclosure](#), which contains the required statutory declaration.

Possible impact on a taxpayer’s fair trial rights

63. Everyone who is charged with an offence (including offences under the Inland Revenue Acts) has the right to a fair trial. A taxpayer also has other related rights in criminal proceedings.¹⁸ For example, a defendant cannot be compelled to be a witness or to confess guilt and is entitled to adequate time to prepare their defence.
64. The Commissioner recognises that where criminal proceedings have been commenced or are contemplated, issuing a s 17B notice could impact on a taxpayer’s fair trial rights. However, it is possible to issue a s 17B notice in these circumstances without impacting on a taxpayer’s fair trial rights.
65. For example, provided that responding to a notice does not affect the taxpayer’s ability to prepare for trial, the Commissioner considers that issuing a s 17B notice to the taxpayer or a third party in relation to pre-existing documents does not have an impact on the taxpayer’s fair trial rights. This is because the taxpayer’s rights (such as the right against self-incrimination) do not apply to pre-existing documents (other than documents prepared for obtaining legal advice or those subject to litigation privilege).
66. This means that where criminal proceedings have been commenced or are contemplated, the Commissioner will consider the taxpayer’s fair trial rights when deciding to issue a s 17B notice.
67. A taxpayer’s fair trial rights in the context of the disputes process is discussed in [CS 20/04: The disputes resolution process and fair trial rights](#).

Where information is being sought from a third party where arrangements are in place for the supply of information

68. The Commissioner can use a s 17B notice to require information about a taxpayer that a third party holds.

¹⁸ Sometimes all these rights are described as the right to a fair trial.

69. The Commissioner can and does enter into arrangements with third parties about how information requests to that third party will be handled.
70. These arrangements may cover:
- whether a s 17B notice is required;
 - the form of any notice;
 - how the information will be supplied to the Commissioner; and
 - the timeframe for responding to any notice.
71. When considering whether to issue a s 17B notice to third parties and what form any notice should take, the Inland Revenue officer will:
- confirm whether an agreed process is in place; and
 - follow that process where appropriate in the circumstances.

External datasets

72. The Commissioner has an external dataset framework for determining whether and how to use s 17B to obtain bulk data relating to individuals, entities or groups of taxpayers from businesses, organisations (including central and local government) or individuals.
73. Examples of external datasets are:
- all credit card transactions for a defined period from a credit card supplier; or
 - a copy of the Charities Services charities register.
74. Decisions to issue a s 17B notice for an external dataset and the form it will take are made under this framework. Importantly, this framework covers off consideration of the information required and the form it is provided in.
75. More information about the external dataset framework is on Inland Revenue's website, see [Privacy policy](#).

Timeframe for responding

76. As part of the s 17B notice, the Commissioner sets the date by which the information needs to be provided. There is no set timeframe in the legislation. However, the Commissioner will set a reasonable timeframe for responding, considering the information sought.

Commissioner usually allows at least 21 calendar days

77. The Commissioner's usual practice is to allow at least 21 calendar days for a response to a s 17B notice (unless agreement is reached to allow a shorter timeframe). However, if it is information that the non-disclosure right could apply to the Commissioner will allow 28 days to respond to the request.
78. The timeframe may be less for responding under arrangements that are place in with some third parties.
79. In some circumstances, the Commissioner will allow a longer period to respond, for example, if the:
 - demand involves complex information; or
 - Commissioner considers it will take longer to collect the information.

Extension of time and other changes to a s 17B notice

80. The Commissioner will make every attempt to maintain contact with the recipient of a s 17B notice to give them an opportunity to raise concerns.
81. A recipient should contact the Inland Revenue officer who issued the s 17B notice at the earliest possible time if they are having genuine difficulty in complying with the demand and not when the time for compliance has passed.
82. Any change to the notice (including the date for compliance) must be agreed to by the Commissioner before the original date expires. Beyond this, the offence for non-compliance may have already occurred.¹⁹
83. Where a change to the s 17B notice is agreed, it will be recorded in writing.
84. Any change to the date for compliance set out in the s 17B notice also requires consideration of the impact the change of date may have on the periods allowed for claiming the right of non-disclosure of tax advice documents. That is, the periods allowed for claiming the right of non-disclosure are adjusted to the newly agreed date for compliance with the s 17B notice.

¹⁹ Section 143(1)(b).

Security of information

85. The Commissioner recognises the need to protect the security of information provided. It is likely to be personal, confidential or commercially sensitive. This means that the Commissioner will consider what is an appropriate manner of delivery, storage and management of information being sent to the Commissioner in compliance with s 17B.
86. The Commissioner acknowledges that the provider of the information has a legitimate interest in ensuring its security during delivery to the Commissioner.
87. If the Commissioner contacts the recipient of a s 17B notice before issuing the notice, the Commissioner will, where appropriate, discuss any security issues. The Commissioner will seek to reach resolution with the recipient about an acceptable manner of delivery. If agreement is reached, the Commissioner will set it out in the s 17B notice.
88. If the Commissioner has not been in communication with the recipient of a s 17B notice about the notice before issuing it, the recipient should raise any issues the recipient has about security in transit with the Commissioner before the due date for complying with the notice. The Commissioner will seek to reach agreement with the recipient on resolving the security in transit issue. A failure to reach agreement by the date to comply with the notice does not excuse non-compliance by the due date.
89. The Commissioner will not agree to security in transit solutions that may compromise the Commissioner's information security requirements. This is particularly relevant for electronic information. The Commissioner's information technology requirements may mean the recipient's desired solutions may not be agreed to. For example, if a USB stick is used to deliver the documentation, the Commissioner will agree only to Inland Revenue security-compatible encryption technology.
90. Given the rapid development of technology, security in transit solutions acceptable to the Commissioner are not itemised in this statement. What is acceptable depends on the facts and circumstances of the s 17B demand and the information to be provided.

Non-compliance with a s 17B notice

91. Serious consequences can arise if a s 17B notice is not complied with by the due date. If the recipient of a notice realises they have not complied with a notice, they should contact the Inland Revenue officer named in the notice as soon as possible.

92. Provision of the information required as soon as possible is an important step in mitigating the consequences of not complying with a s 17B notice within the required timeframe.
93. The Commissioner has various options he can pursue if a s 17B notice is not complied with. These options include:
- prosecution for non-compliance, including for aiding and abetting;
 - obtaining the information another way, for example, by a third-party request or a court order; and
 - deciding that the onus of proof has not been satisfied.
94. When a s 17B notice has not been complied with within the required timeframe, the Commissioner usually seeks an explanation as to why the notice was not complied with if the circumstances allow. However, this does not prevent the Commissioner from starting to take other steps to get the information.
95. A request for an explanation does not entitle the taxpayer or their authorised tax advisor to claim (for the first time or to make a subsequent claim) the non-disclosure right for tax advice documents if the time limit for making that claim has expired.
96. There are also additional consequences that can arise from not complying with a s 17B notice in relation to:
- a multinational group or a member of a multinational group; and
 - an offshore payment for which a deduction may be allowed.

Prosecution

97. It is an offence to not comply with a s 17B notice. An offence occurs where a person:
- does not provide the information;²⁰
 - knowingly does not provide the information;²¹
 - knowingly does not provide the information and does so:
 - intending to evade the assessment or payment of tax;
 - to obtain a refund or payment of tax, knowing the person is not lawfully entitled to it; or

²⁰ Section 143(1)(b).

²¹ Section 143A(1)(b).

- to enable another person to obtain a refund or payment of tax, knowing the other person is not lawfully entitled to it.²²
98. Depending on the offence, if the recipient is found guilty, they could be liable to either or both:
- imprisonment for a term not exceeding 5 years; or
 - a fine not exceeding \$50,000.²³
99. However, a person cannot be convicted of an offence for failing to provide information demanded in a s 17B notice if the person proves:
- they did not have that information in their knowledge, possession or control; and
 - a non-resident the person controlled directly or indirectly did not have the information in their knowledge, possession or control.
100. The Commissioner considers that control is used in the wider sense and includes information held by others on the person's behalf.
101. If the Commissioner decides to prosecute a person for not complying with a s 17B notice, time limits differ depending on the offence. The time limits for filing charging documents to begin prosecution action are as follows:
- Within 5 years after the date on which the offence was committed for the offence of knowingly not providing information when required to do so (s 143A(1)(b)).²⁴
 - Within 10 years after the termination of the year in which the offence was committed for the offence of not providing information when required to do so (s 143(1)(b)).²⁵ Note that the 10 year limit applies where the offence relates to the Income Tax Act 2007 or the Goods and Services Tax Act 1985. Therefore, for example, a failure to comply with a 17B notice in the context of the Child Support Act 1991 does not result in the 10 year limit in s 150A applying. In other cases (eg, child support) it will be 6 months or 12 months (depending upon whether it is a first or subsequent offence).²⁶

²² Section 143B(1)(b).

²³ Section 143B(4).

²⁴ Section 25(3)(c) of the Criminal Procedure Act 2011.

²⁵ Section 150A. See also *Harris v The District Court at Auckland* HC Auckland CIV 2008-404-003398, 4 September 2008.

²⁶ Section 25(3)(a) and (3)(b) of the Criminal Procedure Act 2011.

- No time limit for the offence of knowingly not providing information when required and the offender does so with the intention to evade the assessment or payment of tax (s 143B(1)(b)).²⁷

102. Generally, prosecution action will be commenced within a reasonable time of the date of non-compliance (as well as being inside the statutory time limits for filing charges).

Failing to provide tax contextual information

103. If the non-compliance with a s 17B notice relates to a requirement to disclose tax contextual information from tax advice documents, as required by s 20F, the offences that may have occurred also include obstruction²⁸ and, as the tax contextual information must be in a statutory declaration, providing a false statement or declaration.²⁹

Aiding and abetting

104. A person who aids, abets, incites or conspires with another person to commit an offence by not complying with a s 17B notice also commits an offence.³⁰
105. A person convicted of an offence of aiding, abetting, inciting or conspiring is liable for up to the same maximum fine or term of imprisonment or both that could apply to a person who commits the principal offence.
106. This means, for example, that the directors, officers or managers of a company who decide the company will not comply with a s 17B notice can be prosecuted for the company's failure to comply with the notice. They would be subject to the same maximum fine or term of imprisonment or both that could apply to the company.

Obtaining the information another way

107. When a person does not comply with a s 17B notice within the timeframe, the Commissioner may explore other options to collect the information.

²⁷ Section 25(2)(b) of the Criminal Procedure Act 2011.

²⁸ Section 143H.

²⁹ Section 111 of the Crimes Act 1961.

³⁰ Section 148.

108. These options include:

- seeking the information from someone else including a tax agent or another third party (eg, a bank or party to a transaction), which may involve s 17B notices to that person;
- applying to the District Court for an order requiring compliance; and
- considering a compulsory inquiry before a District Court Judge or the Commissioner.

109. The extent to which any those options are explored or utilised depends on the facts and circumstances of each case.

110. Applications for a District Court order and compulsory inquiries are discussed further below.

Application for a District Court order requiring compliance

111. When a person does not fully comply with a s 17B notice, the Commissioner may apply to the District Court for an order requiring the person to provide the information under s 17H(1).

112. Not fully complying with the s 17B notice includes not providing some or all of information required by the s 17B notice. It also includes not fully complying with any of the requirements made by the Commissioner under s 17B(3) (see [10]).

113. It is an offence to fail to comply with the terms of a court order made under s 17H.³¹

114. A person is not excused from complying with a court order on the ground that:

- providing the information could or might prove a breach of a tax obligation or subject the person to a fine, penalty or conviction; or
- the person could claim another privilege in relation to the provision of the information in proceedings in a court.³²

Consider a compulsory inquiry

115. To obtain the information, the Commissioner can require the person to attend and provide information to the Commissioner or to produce documents in their possession

³¹ Section 143G(1).

³² Section 17H(10).

or control that contain the information or that the Commissioner considers are likely to contain the information.³³

116. Another way of describing this inquiry is a compulsory interview.
117. The Commissioner could also apply to a District Court Judge to hold an inquiry for the purposes of obtaining the information.³⁴ The Judge may:
- summon a person who the Commissioner or another interested person requires to be examined; and
 - examine the person on oath in chambers regarding any matter relevant to the subject matter of the inquiry.
118. In either case, a person can be prosecuted for failure to appear and comply with the inquiry.³⁵

Deciding the onus of proof has not been satisfied

119. Generally, in tax matters the onus of proof is on the taxpayer to prove a tax position they have taken is correct. This means it is up to the taxpayer to prove that what they say is correct.
120. If a taxpayer has not provided the information the Commissioner considers is necessary to support a tax position, the Commissioner may decide the onus of proof has not been satisfied and seek to adjust the taxpayer's tax position. This is because the taxpayer has not proven the position they have taken is correct.

Additional consequences for failing to comply with a s 17B notice in relation to multinational group

121. Additional consequences for failing to comply with a s 17B notice exist in relation to a multinational group.³⁶

³³ Section 17I.

³⁴ Section 17J.

³⁵ Section 143F.

³⁶ Section 17G.

122. A member of a large multinational group is liable to pay a penalty if the:
- Commissioner requires the member to provide information or a document that is treated under s 17E(2) as being in the knowledge, possession or control of the member; and
 - member fails to provide the information or document within the time allowed by the Commissioner.³⁷
123. The penalty is the amount the Commissioner specifies, which must not exceed \$100,000.³⁸
124. In addition, the Commissioner must notify the member by a further notice that, if the member does not provide a satisfactory response to the information demand before the date (the information deadline) that is 1 month after the date of the further notice:
- the Commissioner may rely on the information the Commissioner holds in exercising the Commissioner's power to prosecute, penalise, assess or reassess the member or other members of the large multinational group for a tax year to which the information required by the information demand relates; and
 - information required by the information demand and not provided to the Commissioner by the information deadline is not allowed as evidence for use by the member or other members of the large multinational group in a dispute concerning an action of the Commissioner referred to in the above subparagraph.
125. If that subsequent notice is not complied with by the information deadline (1 month after the date of the further notice), the consequences in [123] apply.

Additional consequences for failing to comply with a s 17B notice in relation to offshore payments

126. Additional consequences exist for failing to comply with a s 17B notice in relation to offshore payments for which a deduction may be allowed.³⁹
127. If a person fails to provide a response, or a sufficient response, to the information demand by the date that is 3 months after the information demand (the demand date),

³⁷ Section 139AB(1).

³⁸ Section 139AB(2).

³⁹ Section 17F.

the Commissioner may disallow the deduction and the taxpayer cannot dispute the assessment.⁴⁰

128. If the Commissioner gives the required notice, stating that the Commissioner does not consider a sufficient response has been given to the s 17B notice, the information (which has not been provided) is not admissible in proceedings⁴¹ in which a deduction for an offshore payment is at issue.⁴²

Specific issues

Issuing a s 17B notice during the disputes process

129. The dispute process set out in part 4A supports full and frank communication between the parties in a structured way.⁴³
130. The use of s 17B prior to commencement of the dispute process, particularly where information from the taxpayer has not been provided when requested, may mean the number of matters entering the dispute process is reduced.
131. However, the legislation allows the Commissioner to use a s 17B notice to get information relating to a dispute even after the dispute has commenced.⁴⁴ This will be rare in practice as the Commissioner will already have made enquires and have the information going into the disputes process (particularly in the case of Commissioner initiated disputes). Even so, matters may arise during the dispute that necessitate the issuing of a s 17B notice.
132. Importantly, the disputes resolution process may be truncated and an amended assessment made where a taxpayer has failed to comply with a s 17B notice issued during the dispute process.⁴⁵

⁴⁰ Unless they can show the information was provided or contained in other material in the Commissioner's possession when the s 17B notice was issued and the Commissioner can reasonably verify it; see s 17F(3).

⁴¹ Under part 8 or part 8A.

⁴² Section 17F(3) and 17F(4).

⁴³ SPS 23/01: Disputes process.

⁴⁴ Section 89N(1)(c)(vi).

⁴⁵ Section 89N(1)(c)(vi) and SPS 23/01.

Issuing a s 17B notice when civil litigation is under way

133. The Commissioner can issue a s 17B notice up until civil litigation has commenced. A s 17B notice, on occasion, may be exercised after the proceedings are commenced provided it is being used for a proper purpose and not to gain an otherwise unachievable advantage or to extract information for use in the proceedings.
134. Several court judgments have considered whether the Commissioner can require information to be provided under (what is now) s 17B from or about a person when that person is the subject of civil litigation with the Commissioner (eg, challenge proceedings).⁴⁶
135. The Commissioner's approach, based on this case law, is that:
- **before proceedings are commenced** the Commissioner may use the information-gathering power in s 17B until civil proceedings start, including for preparing a case for a hearing; and
 - **after proceedings are commenced** the Commissioner may use the information-gathering power in s 17B provided it is used for a proper purpose and may not use the information-gathering power in s 17B:
 - for the sole purpose of extracting information for use in the proceedings; or
 - to gain an otherwise unachievable advantage.
136. This means that whether to use the information-gathering power in s 17B after civil proceedings have commenced is considered on a case-by-case basis and involves consideration of the reasons for wanting to issue the notice.

Issuing a s 17B notice to access external auditor's audit workpapers

137. The Commissioner can issue a s 17B notice to an external auditor for audit workpapers and they must be made available to the Commissioner.
138. However, it is the Commissioner's operational practice not to routinely request audit working papers. Section 17B demands to a taxpayer's auditor for access to audit working papers will arise in only special cases and will first go through the

⁴⁶ *Vinelight Nominees Ltd v CIR* (2005) 22 NZTC 19,298 (HC), *Chesterfield Preschool Ltd v CIR (No 2)* (2005) 22 NZTC 19,500 (HC), *Next Generation Investments Ltd (in liq) v CIR* (2006) 22 NZTC 19,775 (HC), *Foxley v CIR* (2008) 23 NZTC 21,813 (HC) and *Tauber v CIR* (2011) 25 NZTC 20,071 (HC).

Commissioner's internal sign-off processes to ensure such demands are necessary and relevant.

Issuing s 17B notices to a tax agent for a list of clients who have entered into particular transactions or arrangements

139. The Commissioner can seek information from tax agents under s 17B where he becomes aware of particular transactions or arrangements entered into by taxpayers in order to identify other taxpayers who may have entered into similar transactions or arrangements.
140. Inland Revenue officers first attempt to identify those taxpayers without requesting information from tax agents. However, the Commissioner may ask tax agents likely to have some involvement with the arrangements in question to provide a list of clients who may have entered into a particular (or similar) arrangement.
141. These requests are usually made in only limited circumstances and usually only where it is considered the transactions or arrangements are likely to involve tax avoidance or evasion.
142. Before making such requests to tax agents, the Commissioner generally first takes all reasonable steps to obtain the necessary or relevant information from the taxpayers or other third parties.
143. The relevant but non-exhaustive considerations that the Commissioner will consider before requesting this information include:
 - the impact of the request on taxpayer perception of the integrity of the tax system;
 - the size of client bases involved, and the practicalities and the relative cost of compliance with the s 17B notice;
 - the level of perceived risk of taxpayers seeking to remove assets or leave the jurisdiction;
 - the complexity of the arrangement, and the reasonableness of the expectation that the advisor will be able to identify the taxpayers in question;
 - the level of revenue considered to be at risk; and
 - Inland Revenue's ability to obtain the information from other sources.

144. Before issuing a s 17B notice the Commissioner will generally arrange to meet with the particular tax agent to:
- advise that a s 17B notice is to going to be issued;
 - provide a draft copy of the notice;
 - explain the scope and matters to be covered in the notice; and
 - discuss whether a s 17B notice is the best way to achieve the Commissioner's objectives.
145. Subject to any changes made to the draft notice, the final notice will be sent to the tax agent. The tax agent has the option to provide the information without a s 17B notice.
146. The s 17B notice will offer, where practicable, Inland Revenue assistance to extract the information.
147. Before any request for information of this type is made, appropriately authorised Inland Revenue officers will independently review the proposed request. As part of considering whether issuing a s 17B notice is appropriate in the circumstances, this review will consider whether the arrangement is clearly described and the parameters of the request are clear (eg, the scope of the request, period covered, form of the response and level of detail required).

Issuing a s 17B notice to get access to health records

148. In rare instances, the Commissioner may seek access to an individual's health records. For example, the taxpayer may have given medical reasons for failing to provide information or documents or for not meeting tax obligations. In some cases, the Commissioner may consider it necessary to verify the medical reasons given for such failures.
149. Such s 17B notices are issued only after careful consideration and go through an internal review and sign-off process.
150. The Commissioner will consider whether a medical certificate or letter from a relevant health professional is enough before requiring access to a person's health records.

Issuing a s 17B notice to a liquidator or the Official Assignee

151. The Commissioner considers he can issue a s 17B notice to obtain information from a liquidator rather than obtaining a court order under s 256(1)(a) of the Companies Act 1993.⁴⁷
152. The Commissioner also considers he can, in principle, use s 17B to obtain information from the Official Assignee in relation to a bankrupt person.
153. The Commissioner cannot use s 17B unreasonably or for questionable or improper reasons.⁴⁸
154. The Commissioner is aware of the various rules under the Insolvency Act 2006 pertaining to creditors' and other persons' ability to access information from the Official Assignee. For example, the creditor's right to:
- inspect documents;⁴⁹
 - inspect the record of examination by the Official Assignee;⁵⁰
 - inspect the record of examination by the court;⁵¹
 - inspect the Official Assignee's accounting records for a particular bankruptcy,⁵² and
 - obtain a copy of the final statement of receipts and payments.⁵³
155. Where the Commissioner can access information from the Official Assignee under the Insolvency Act 2006, the Commissioner will generally use that Act rather than s 17B.
156. Requests for information from the Official Assignee are made in accordance with any process the Commissioner has entered into with the Official Assignee for the provision of information.
157. Note that under s 185 of the Insolvency Act 2006, a statement made by a person examined or questioned under that Act is not admissible in criminal proceedings against that person.

⁴⁷ *Next Generation Investment Ltd (in liq) v CIR* (2006) 22 NZTC 19,775.

⁴⁸ *Next Generation Investment Ltd (in liq)*.

⁴⁹ Section 100 of the Insolvency Act 2006.

⁵⁰ Section 168 of the Insolvency Act 2006.

⁵¹ Section 178(2) of the Insolvency Act 2006.

⁵² Section 227(2) of the Insolvency Act 2006.

⁵³ Section 228(3) of the Insolvency Act 2006.

Third party does not require taxpayer permission to respond to a s 17B notice

158. When a s 17B notice is issued to a third party, the TAA does not require the third party to advise the taxpayer whose information is being sought about the s 17B notice or obtain their permission before providing the information to the Commissioner.⁵⁴ However, the TAA also does not prevent the third party from advising the taxpayer about the s 17B notice.
159. The Commissioner does not have to let that taxpayer know that a s 17B notice will or has been issued or get the taxpayer's permission before issuing a s 17B notice to a third party.

Section 17B notice not used to get outstanding returns

160. Generally, the Commissioner will not use s 17B for the sole purpose of requiring taxpayers to provide outstanding returns.
161. Rather, the Commissioner can apply, under s 17H, for a court order requiring a person to provide a tax return.

Issuing a s 17B notice to get publicly available information

162. The Commissioner will generally not use s 17B where information held by public bodies such as Land Information New Zealand or the Companies Office is available publicly.
163. However, public availability of information does not prevent the Commissioner from requiring information to be provided under s 17B.
164. Generally, the Commissioner uses s 17B to request otherwise publicly available information in bulk form in a manner that he can use.
165. Where the request is for an electronic dataset of information that is publicly available the Commissioner will follow the operational procedures for approving such a request.

⁵⁴ In some instances, a third party may be under an obligation to advise the taxpayer about the s 17B notice for other reasons. For example, if the terms of a contract between the third party and the taxpayer requires the third party to do so.

The recipient of s 17B notice cannot refuse to provide information because the Commissioner has not paid for it

166. There is no basis in s 17B for the recipient of a s 17B notice to refuse to provide information to the Commissioner unless the Commissioner pays for the information.
167. This also means where a person provides information for a fee to subscribers or the public (eg, a credit or property reporting agency), they cannot refuse to provide that information in response to a s 17B notice in the absence of payment.

Process where a significant amount of information is required

168. Where a significant amount of documentation is required, the Commissioner will consider the appropriate Inland Revenue office for the documentation to be provided to and, if appropriate, require the information be sent to that office.⁵⁵
169. If the documentation is all in electronic form, then the office closest to the person the s 17B notice is issued to may not necessarily be the most appropriate office, whereas if the documentation is in hard copy in multiple boxes, then the closest office may be appropriate. Which is the appropriate office depends on the facts and circumstances.

Commissioner cannot be required to sign a confidentiality agreement

170. The Commissioner cannot be required to sign a confidentiality agreement before information is provided in response to a s 17B notice. If the notice is not complied with by the due date, then non-compliance has occurred.
171. It is the Commissioner's practice to not sign confidentiality agreements in these circumstances.
172. The Commissioner already has confidentiality requirements. Under s 18, a revenue officer must keep confidential all sensitive revenue information (which includes information that might reasonably be regarded as private, commercially sensitive or otherwise confidential) and must not disclose the information unless the disclosure is a permitted disclosure.⁵⁶
173. A revenue officer can be prosecuted for intentionally breaching the confidentiality provisions in the TAA.

⁵⁵ Section 17B(3).

⁵⁶ That meets the requirements of ss 18D to 18J.

Application of information privacy principles

174. Section 22 of the Privacy Act 2020 includes information privacy principles relating to personal information.

Commissioner's collection of personal information

175. Information privacy principle 2 provides that personal information must be collected from the individual concerned but it is not necessary to do so where the agency believes, on reasonable grounds, any of the factors set out in the principle apply.
176. However, the Commissioner will not breach principle 2 if the Commissioner issues a s 17B notice demanding personal information not from the person concerned but from someone else.⁵⁷

Agency's disclosure of personal information

177. Information privacy principle 11 sets limits on when an agency that holds personal information can disclose that information to another agency or person.
178. However, where the Commissioner has issued a s 17B demand to a third party requesting personal information it holds about someone else, the third party providing the information to the Commissioner will not be a breach of information privacy principle 11.⁵⁸

Correcting information provided

179. Where information has been provided to the Commissioner in compliance with a s 17B notice, the person whom the information is about, or their representative, can seek access to and correction of their personal information the Commissioner holds.

Invalid parts of a notice can be severed

180. If parts of an otherwise valid s 17B notice are determined to be invalid, the invalid parts can be severed from the valid notice, meaning the recipient would still be required to provide the information demanded in the valid parts of the notice.⁵⁹

⁵⁷ See s 24(2) of the Privacy Act 2020.

⁵⁸ See s 24(1) of the Privacy Act 2020.

⁵⁹ *Lupton v CIR* (2007) 23 NZTC 21,204 (HC) at [65].

181. However, if such a situation arises, the Commissioner will consider whether the existing notice should be withdrawn, and a fresh one issued in the interests of clarity.

Other powers

182. In some cases, rather than demanding information under s 17B the Commissioner accesses the information under s 17. Section 17 gives the Commissioner the power to enter all places (in the case of a private dwelling, either the consent of an occupier or a warrant is required) for the purposes of inspecting documents. The procedures the Commissioner follows when exercising the s 17 search power are outlined in [OS 25/04: The Commissioner of Inland Revenue's search powers](#).

This operational statement is signed on 26 June 2025.

Rob Falk
Technical Lead, Technical Standards, Legal Services

Appendix: Summary of key updates

Table 1 summarises key updates included in this operational statement. It is not intended to be an exhaustive list of every difference between this operational statement and OS 13/01.

Table 1 – Summary of key updates

Topic	Description	Relevant paragraphs of this operational statement
Rewrite of the Commissioner's information collection powers	<p>The information collection powers in the TAA were rewritten with effect from 18 March 2019, with s 17B replacing s 17. This operational statement has been updated to reflect this rewrite.</p> <p>The rewrite was to make the information collection rules clearer and easier to navigate. The new law is intended to have the same effect as the old law: s 227F of the TAA.</p> <p>For a comparison of the TAA information collection provisions pre-18 March 2019 and post-18 March 2019, see New legislation: Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Act 2019 Tax Information Bulletin, Vol 31, No 5 (May 2019): 53-59.</p>	Various
Non-disclosure right	<p>OS 18/02: Non-disclosure right for tax advice documents was published in August 2018 and replaced SPS 05/07. This operational statement reflects OS 18/02.</p>	Paragraphs 41 to 45
Requesting information from large multinational groups	<p>New rules relating the Commissioner requesting information from members of a large multinational group were inserted in the TAA with effect from 27 June 2018. This operational statement</p>	Paragraphs 24, 25, 96 and 121 to 125

	<p>comments on these rules and the consequences of not complying with them.</p>	
Fair trial rights	<p>CS 20/04: the Disputes Resolution Process and Fair Trial Rights was published in July 2020.</p> <p>This operational statement comments on the Commissioner’s view on the possible interaction between issuing a s 17B notice and a taxpayer’s fair trial rights.</p>	<p>Paragraphs 63 to 67</p>
Third-party arrangements	<p>This operational statement recognises that the Commissioner can and does enter into arrangements with third parties about how information requests to that third party will be handled. It also comments on what such arrangements may cover.</p>	<p>Paragraphs 68 to 71</p>
External datasets framework	<p>This operational statement comments on the Commissioner’s external dataset framework for determining whether and how to use s 17B to obtain bulk data.</p>	<p>Paragraphs 72 to 75</p>
Response timeframes	<p>This operational statement notes that the Commissioner’s usual practice is to allow at least 21 days for a response to a s 17B notice (OS 13/01 did not specify a usual response timeframe).</p>	<p>Paragraphs 77 and 78</p>
Security of information	<p>This operational statement comments on the Commissioner’s approach to the delivery, storage and management of information sent in response to a s 17B notice.</p>	<p>Paragraphs 85 to 90</p>

Privacy Act 2020	The Privacy Act 2020 replaces the Privacy Act 1993. This operational statement comments on the relationship between information privacy principles in s 22 of the 2020 and the s 17B power.	Paragraphs 174 to 179
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References

Legislative references

Child Support Act 1991

Companies Act 1993, s 256

Crimes Act 1961, s 111

Criminal Procedure Act 2011, s 25

Goods and Services Tax Act 1985

Income Tax Act 2007

Insolvency Act 2006, ss 100, 168, 178, 185, 227, 228

Lawyers and Conveyances Act 2006, s 6 ("lawyer", "practitioner")

New Zealand Bill of Rights Act 1990, s 21

Privacy Act 2020, ss 22, 24

Search and Surveillance Act 2012, s 71

Tax Administration Act 1994, ss 3 ("document", "large multinational group"), 17, 17B, 17E to 17G, 17H to 17J, 18, 18D to 18J, 20, 20B, 20D, 20F, , part 8, part 8A, 139AB, 143, 143A, 143B, 143F, 143G, 143H, 148, 150A

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Tauber v CIR (2011) NZTC 20,071 (HC)

Vinelight Nominees Ltd v CIR (2005) 19,298 (HC)

Other references

CS 20/04: The disputes resolution process and fair trial rights
taxtechnical.ird.govt.nz/commissioner-s-statements/cs-20-04

OS 13/02: Section 17 notices (operational statement, Inland Revenue, August 2013)
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OS 18/02: Non-disclosure right for tax advice documents (operational statement, Inland Revenue, August 2018)
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OS 25/04: The Commissioner of Inland Revenue's search powers (operational statement, Inland Revenue)

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www.ird.govt.nz/managing-my-tax/audits