

Privacy Commissioner's submission to the Finance and Expenditure Committee on the Taxation (Transformation: First Phase Simplification and Other Measures) Bill 41-1

1. Introduction

- 1.1. The Taxation (Transformation: First Phase Simplification and Other Measures) Bill is an omnibus bill which introduces amendments to a number of Acts including the Income Tax Act 2007; the Tax Administration Act 1994; the KiwiSaver Act 2006; the Student Loan Scheme Act 2011; the Goods and Services Tax Act 1985; the Child Support Act 1991; the Gaming Duties Act 1971; and the Accident Compensation Act 2001.
- 1.2. I support the aim of this Bill to simplify the collection of revenue and administration of the tax system. I also support its purpose to encourage initiatives focused on enabling a more collaborative, cross-agency public sector approach, as part of the Government's Better Public Services reforms.
- 1.3. My submission focusses on the proposed amendments to the tax secrecy provisions in the Tax Administration Act. I consider they help to maintain an appropriate balance between the need to ensure the continued integrity of the tax system and the desire to deliver better, more efficient public services.
- 1.4. The Privacy Act will continue to apply to any personal information collected or shared outside the scope of the provisions prescribed in the above Acts. I am comfortable that further additional privacy protections within this Bill are not required.

2. Proposed amendments to section 81 of the Tax Administration Act

Supporting work in collocated offices

- 2.1. I support the Bill's intent to address issues concerning the realities of working in open plan, co-located offices while still maintaining obligations on Inland Revenue employees to maintain a reasonable standard of confidentiality in respect to taxpayer information.
- 2.2. Inland Revenue is investigating co-location opportunities with other public services. It aims to standardise processes, reduce duplication of effort and deliver prioritised services to meet local needs. However, some co-locations cannot always physically separate agencies working in co-located premises, such as was the case in Christchurch. In other cases, architectural changes to accommodate this concern may undermine the benefits of co-location.

- 2.3. Currently there is a risk of Inland Revenue employees inadvertently disclosing taxpayer information to staff from other agencies working with Inland Revenue in co-located premises. The current secrecy provisions in section 81 of the Tax Administration Act do not allow Inland Revenue employees to communicate taxpayer information to other parties except in limited, defined circumstances. There are severe penalties for an Inland Revenue employee who knowingly breaches the secrecy provisions.
- 2.4. Clause 117 proposes an amendment to section 81 of the Tax Administration Act so that Inland Revenue employees are not subject to sanctions if they inadvertently breach the secrecy provisions through being overheard by other agency staff who themselves have signed a secrecy declaration. To provide this assurance, clause 122 proposes a further amendment to section 87 of the Tax Administration Act to ensure that employees of other agencies co-located with Inland Revenue are bound to maintain the secrecy of restricted information that comes to their attention.
- 2.5. It is logical to remove barriers to efficient open-plan office environments for government agencies and I have no objections to these proposed changes.

Supporting information sharing for safe workplaces

- 2.6. The proposed amendments to the section 81 secrecy provisions also enable interagency communications between Inland Revenue and the Ministry of Business Innovation and Employment and WorkSafe: where a person is authorised to receive the information; where it is not undesirable to disclose it; and the disclosure is reasonably necessary to enable the person to carry out a function in relation to workplace legislation.
- 2.7. I support the sharing of information between agencies where it is necessary to help promote and ensure safer workplaces. I consider the threshold introduced in clause 117 (2) () that requires the Commissioner to consider that “the disclosure is reasonably necessary” to support a legislative function, as is proposed for the new section 81(4)(ec) of the Tax Administration Act, is a sufficient safeguard to ensure the exchange of personal information will be appropriately constrained to support the purpose intended.

Further measures to facilitate public engagement with Inland Revenue

- 2.8. Further amendments to section 81 proposed in this Bill also provide for non-personally-identifying information to be disclosed in the public interest, and for the Commissioner of Inland Revenue (rather than the Minister of Finance) to be able to approve the release of general statistical information held by Inland Revenue.

- 2.9. I support the use of de-identified and statistical information to increase the transparency of government processes. The proposed amendment to enable decisions on the release of information in this context to be made by the Department, rather than requiring Ministerial approval, is a pragmatic approach to facilitate the release of information where it is desirable to do so.
- 2.10. A further amendment to the secrecy provisions enables Inland Revenue to test with the Ministry of Social Development (MSD) a new shared Inland Revenue/MSD service for biometric voice validation for customers. This system will involve the recording of customer voices. The purpose of this system is to make it easier for customers to verify their identity and reduce administration costs for the agencies.
- 2.11. I have no issues with enabling the proposed use of voice biometric technology provided appropriate controls are in place. I support the current restriction in the Bill which makes it clear that the information is to be used only for the purpose of voice recognition.
- 3. Other provisions in the Bill that have potential privacy impacts that are manageable or minor**
- 3.1. There are a number of other provisions in the Bill that have privacy implications because they require some form of information sharing between agencies or require changes to the way in which personal tax payer information is collected, used or shared between agencies.
- 3.2. Clause 169 of the Bill amends section 157 of the Tax Administration Act (*Deduction of tax from payments due to defaulters*). Clause 169 removes the obligation on Inland Revenue to advise both a tax-due defaulter and their employer where it plans to initiate deductions from a defaulting taxpayer's salary or wages if the defaulter has not kept their personal address details up to date with Inland Revenue. This addresses administrative issues arising where tax payers do not comply with their existing obligations to keep Inland Revenue informed of changes in their contact details.
- 3.3. Clause 213 replaces the current section 220B of the KiwiSaver Act 2006 (*Information sharing*). Clause 213 enables the sharing of more information between the Commissioner and KiwiSaver providers to support the administration of the scheme. This may be useful where some transfers are not successfully completed, particularly where there are questions over the identity of the member being transferred between providers.
- 3.4. I am comfortable that this information collection is appropriate and the proposals give me no cause for concern.

4. Concluding comment

- 4.1. I do not request to appear to speak to this submission, but would be pleased to address the Committee on the matters raised in this submission if it would assist the Committee in its considerations.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a 'B' and a long horizontal stroke extending to the right.

John Edwards
Privacy Commissioner