

Submission to the Finance and Expenditure Committee on the Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Bill 130-1

1 Introduction

- 1.1 The Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Bill (the Bill) is an omnibus Bill that amends a number of enactments. This submission relates only to clause 292 of the Bill that amends the tax secrecy exemption under section 81A of the Tax Administration Act 1994.
- 1.2 I support the amendment proposed in clause 292 as I consider it will ensure Inland Revenue can take full advantage of the intended flexibility of the approved information sharing mechanism provided for under Part 9A of the Privacy Act 1993.

2 Section 81A of the Tax Administration Act currently hampers Inland Revenue's ability to share information to support agency collaboration

- 2.1 Section 81A of the Tax Administration Act was introduced in February 2013, concurrent with introduction of Part 9A of the Privacy Act 1993. Part 9A provides a framework to enable agencies to share personal information through approved information sharing agreements (AISAs) to facilitate the provision of public services.
- 2.2 Section 81A provides an exception to tax secrecy rules allowing Inland Revenue to share information in the context of AISAs approved under the Privacy Act. However, the exception under section 81A refers only to personal information. This means Inland Revenue can not share information that is not personal information (for example, information about companies or partnerships).
- 2.3 Section 81A currently provides that:

Despite any other enactment in the Inland Revenue Acts, the Commissioner may supply personal information about an identifiable individual under an information sharing agreement approved by an Order in Council made under section 96J of the Privacy Act 1993 that is for the time being in force. The information sharing agreement may extend a restricted information sharing provision in an Inland Revenue Act, as contemplated by the Privacy Act 1993, without further authority than this section. [stress added]

3 The Privacy Act provides for sharing of both personal and non-personal information under an AISA

3.1 Section 96C of the Privacy Act defines an information sharing agreement as

an agreement between or within agencies that enables the sharing of personal information (whether or not the sharing also includes information that is not personal information) to facilitate the provision of a public service [stress added].

3.2 Inland Revenue is currently party to two operational AISAs. Nonetheless, the defined scope of the section 81A secrecy exemption impedes Inland Revenue's ability to participate in AISAs that require the sharing of non-personal information. This not only undermines the potential benefits of the AISA mechanism for Inland Revenue but for other agencies as well.

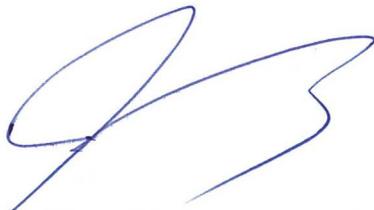
4 Clause 292 provides certainty that Inland Revenue can share both personal and non-personal information under an AISA

4.1 Clause 292 of the Bill proposes to replace the current reference in section 81A to "personal information about an identifiable individual" with the word "information".

4.2 I support this proposed amendment as it will clarify that Inland Revenue may share both personal and non-personal information under an AISA without breaching its secrecy obligations to tax payers.

4.3 This simple change will eliminate the concerns about the scope of section 81A that have to date hampered Inland Revenue's ability to take full advantage of the AISA mechanism's flexibility and support the wider public sector benefits provided by the AISA framework.

4.4 I do not seek to speak to this submission but would be pleased to appear before the Committee should the Committee find that helpful in its consideration of this Bill.



John Edwards

Privacy Commissioner