

If you disagree with an assessment

How to dispute an assessment

Introduction

Inland Revenue makes every effort to apply the tax laws fairly and correctly. However, there may be a time when you disagree with how your tax liability has been assessed.

If there's been a simple error (on your part or ours) that has caused us to adjust your return, simply point it out to us, give us any missing information (if necessary) and we'll fix it.

Make sure you know what's going on

It's important that you understand exactly what any adjustments to your assessment are for. Ask us for an explanation straightaway in any of these situations:

- if you find an error such as a transposition of numbers or an arithmetical mistake
- if you aren't sure about any part of a letter or decision
- if you think an adjustment or assessment is incorrect
- if you think we are taking too long to reply.

Disputes resolution process

If you disagree with an assessment or adjustment made by either yourself or the Commissioner, you may use the disputes resolution process to amend the assessment. This process is designed to resolve disagreements quickly by early identification of all issues, full disclosure of the facts and evidence, and consultation between you and Inland Revenue.

This factsheet gives you a quick summary of the steps and time limits in the disputes resolution process.

Steps in the disputes resolution process

Follow these steps if we send you an assessment that you disagree with, or you want to amend your self-assessment, and after you have discussed it with us, we don't accept that the assessment is incorrect.

1. You send us a *Notice of proposed adjustment* (IR 770)

If you are issuing a notice of proposed adjustment (NOPA) to your self-assessment you must do so within four months of the date your return is received by Inland Revenue—the self-assessment date. You will find this on the return acknowledgment form that we sent you after processing your return.

If you are issuing a NOPA in response to an assessment issued by the Commissioner you must send it to us within four months of the date of issue of the notice of assessment.

Note:

If the dispute relates to a GST period that commenced prior to 1 April 2005, you must issue your NOPA within two months from the day after the due date for filing your GST return for that period.

You must attach an IR 770 form to your NOPA. You can get an IR 770 from our website www.ird.govt.nz or order a copy by phoning INFOexpress—see “More information” at the end of this factsheet. Your NOPA must include:

- the tax adjustments that you propose
- a statement of the facts and law in sufficient detail to inform the Commissioner of the grounds for your proposed adjustments
- how the law applies to the facts
- the documentary evidence that is significantly relevant to the issues between yourself and the Commissioner that you know of at the time of issuing your NOPA.

If we accept all your adjustments we'll issue an amended assessment to agree with your figures and the matter ends there. If we disagree with any part of your notice the process continues.

Small claims

If the sum in dispute is \$30,000 or less you may elect in your NOPA to take unresolved issues to the Taxation Review Authority (TRA) in its small claims jurisdiction. If you do so, your election is irrevocable and the decision of the TRA cannot be challenged.

2. We send you a notice of response

We have two months from the date you issued your NOPA to do this. Our notice will give reasons why we reject your proposed adjustment, and specify how the adjustment could be altered so agreement is possible.

If you accept our notice, the original adjustment stands and the matter ends there. If you disagree with our notice the process continues.

3. You reject our notice of response

If you disagree with our notice of response you must write to tell us within two months of the date we issued it.

4. A conference between you and Inland Revenue

We get together to identify and clarify the facts and issues, and to allow any disputed facts to be resolved. This can be done over the phone or in person.

If we reach an agreement at the conference, we will issue an amended assessment. If we can't reach an agreement the process continues.

5. We send you a disclosure notice

The disclosure notice from the Commissioner requires you to write a statement of position if you wish to continue with the dispute.

If the dispute goes to a hearing authority you cannot introduce any evidence, facts, issues or arguments that weren't in your statement of position. This is called the evidence exclusion rule.

Judicial discretion may allow previously undisclosed material to be admitted in very limited circumstances. At this stage you do not need to include a list and types of witnesses.

6. You send us a statement of position

The statement of position must outline the facts, evidence and propositions of law you are relying on, and the issues arising from the facts and evidence. This statement must be sent within two months of when we issued the disclosure notice.

7. We send you a statement of position

Once you issue your statement of position, we have two months to issue our statement of position. If the dispute goes to a hearing authority, the evidence exclusion rule states that we can't introduce any new material that wasn't in our statement of position. However, with your agreement, we may add further information.

In most cases, if no agreement is reached by this stage the case will go to Inland Revenue's Adjudication Unit for consideration, regardless of the issue or amount of tax involved.

8. The matter goes to an adjudicator

The adjudicator is an independent expert within Inland Revenue who will take a fresh look at how the law applies to the facts of the case. The adjudicator will consider the facts, evidence, legal principles and issues raised in each of the statements of position.

The adjudicator will reach a decision and send a written copy to you and the Inland Revenue staff member involved.

- If the adjudicator decides in your favour, we will issue an amended assessment in line with your figures, and the matter ends there.
- If the adjudicator decides in our favour, the assessment will stand. If you accept this decision the matter ends there. If you are dissatisfied with this decision the process continues.

9. You file proceedings with the Taxation Review Authority or the High Court

You may take your case to the Taxation Review Authority or the High Court. You have two months to do this from the date of the letter advising of the adjudicator's decision, or the issue date of an assessment or amended assessment based on the adjudicator's decision.

Exceptional circumstances

Both you and Inland Revenue must meet the time limits throughout the disputes resolution process.

If you do not take the required action within the time limit given you are deemed to accept our position unless exceptional circumstances apply. Exceptional circumstances are events that are entirely outside the control of you or your agent, and that could not have been reasonably anticipated. Exceptional circumstances may also arise if the Commissioner considers that the lateness is minimal, or results from one or more statutory holidays falling in the response period.

Make sure Inland Revenue receives all your correspondence

Once you've written your NOPA, rejection of the Commissioner's notice of response, or statement of position, please send it to us.

If the dispute is the result of an audit or investigation you should address all mail to the person conducting the audit. Otherwise, send your correspondence to your local Inland Revenue office.

Professional assistance

We recommend that you get independent advice from an accountant or other professional tax advisor if you wish to proceed with your dispute. This is especially important if complex issues are involved.

Because of the nature of the disputes resolution process, Inland Revenue staff will not complete or draft any notices or forms required. However, they may assist you by explaining such things as the required forms and time limits, or by referring you to our booklets on the disputes process.

More information

This factsheet is a summary of the disputes process—it is not a comprehensive description of your obligations. For full details see our booklet *Disputing an assessment (IR 776)*. You can get this and the *Notice of proposed adjustment (IR 770)* form from our website www.ird.govt.nz or by phoning INFOexpress on 0800 257 773.