

Disputes process initiated by the Commissioner

We may start the disputes process if we disagree with a return you've filed and have been unable to resolve the issue with you. This is called a Commissioner initiated dispute.

The disputes process is designed to resolve disagreements as quickly as possible by early identification of all issues, full disclosure of the facts and evidence and consultation between us.

This factsheet gives a brief overview of the steps involved in a Commissioner initiated dispute. For more information on disputes please visit our website www.ird.govt.nz (search term: "disputes").

Disputes process for a Commissioner initiated dispute

Step 1: We send you a *Notice of proposed adjustment*

If we want to adjust a return you've filed, we'll generally send you a *Notice of proposed adjustment* first. The notice will include:

- details of the amount we want to adjust
- the facts and tax laws that support the adjustment we are proposing, and
- how the law applies to the facts.

Outcome:

If you accept all our adjustments we'll issue a new assessment in line with our amounts and the matter ends there.

If you disagree with any part of our notice, the process continues with Step 2.

Step 2: You send us a *Notice of response*

You'll send us a *Notice of response* (IR771). This notice is on our website www.ird.govt.nz

This notice must be sent within two months from the date we issued our *Notice of proposed adjustment*, otherwise you're deemed by law to have accepted our *Notice of proposed adjustment*.

Your notice must include:

- the change you want to any amounts on our *Notice of proposed adjustment*
- the facts that support the change you want, and
- why you think your view is correct.

You can also list on the notice the documents you've attached.

Outcome:

If we accept your notice we'll issue a new assessment in line with your amount or the assessment in your return stands, and the matter ends there.

If we disagree with your notice the process continues with Step 3.

Step 3: Conference between us both

We get together to:

- exchange relevant information and documents about the dispute, and
- try and resolve differences about the facts, laws and legal arguments.

This can be done over the phone or in person. You can choose to have a senior Inland Revenue staff member act as facilitator for the conference. This facilitator will have had no previous involvement with the dispute.

Outcome:

If we reach an agreement at the conference, we'll issue a new assessment to reflect that agreement.

If we can't reach an agreement at the conference, you can ask for our agreement to opt out of the remainder of the disputes process if you consider that the dispute can be more efficiently resolved at the Taxation Review Authority or High Court. If we agree to your request to opt out we'll issue a new assessment and the process continues with Step 7.

If we can't reach an agreement at the conference or on your opt out request, the process continues with Step 4.

Step 4: We send you a *Disclosure notice* and our *Statement of position*

A *Disclosure notice* will be sent with our *Statement of position*. The statement will include:

- an outline of the facts, documentary evidence and propositions of law we are relying on, and
- an outline of the issues we consider are in dispute.

If the dispute goes to the Taxation Review Authority or High Court, we can't introduce any issues or propositions of law that weren't in our *Statement of position* unless

you agree to it. This is called the issues and propositions of law exclusion rule.

A judge may allow previously undisclosed issues and propositions of law to be raised in very limited circumstances.

Step 5: You send us a *Statement of position* (IR773) form

Use our *Statement of position* form from our website www.ird.govt.nz

The *Statement of position* form must include:

- the facts that support your view
- the questions that need to be answered to resolve the dispute
- why you think your view is correct, and
- a list of the evidence you're relying on.

This statement must be sent within two months of when we issued the *Disclosure notice* in Step 4, otherwise you're deemed by law to have accepted our *Statement of position*.

If the dispute goes to the Taxation Review Authority or High Court, the issues and propositions of law exclusion rule says that you can't introduce any new issues (or questions) and propositions of law (or legal arguments) that weren't in your *Statement of position*. The only way you can introduce new issues and propositions of law is if we agree to it.

A judge may allow previously undisclosed issues and propositions of law to be raised in very limited circumstances.

If your *Statement of position* discloses matters we were not previously aware of, we are allowed by law to issue an addendum to our *Statement of position* within two months of when you issued your *Statement of position*.

In most cases, if no agreement is reached by this stage the case will go to our Disputes Review Unit for consideration.

Step 6: The Disputes Review Unit completes an adjudication report

The Disputes Review Unit staff are independent experts within Inland Revenue who'll take a fresh look at the case. They'll consider the:

- facts
- evidence
- legal principles, and
- issues raised

in each of the Statements of position.

The Disputes Review Unit will reach a decision and send a copy of the adjudication report to you and the Inland Revenue staff member involved.

Outcome:

If the Disputes Review Unit decides in your favour:

- your return stands, or
- we'll issue a new assessment in line with the amount in your *Notice of response*

and the matter ends there.

If the Disputes Review Unit decides in our favour, we'll issue a new assessment in line with the amounts we proposed.

If you accept this decision the matter ends there.

If you are dissatisfied with this decision the process continues with Step 7.

Step 7: Taxation Review Authority or the High Court

You may take your case to the Taxation Review Authority or the High Court. Most people have their case heard before the Taxation Review Authority because it is less formal, usually costs less and is not open to the public.

You have two months to do this from the date of the new assessment based on the adjudication report decision.

If you miss a deadline

We must both meet a series of deadlines throughout the disputes process.

If you don't take the required action within the time limit given, you'll be deemed by law to have accepted our position unless:

- exceptional circumstances apply, or
- you have demonstrated you intended to enter into or continue the disputes process.

Exceptional circumstances are events that are entirely outside the control of you or your agent that could not have been reasonably anticipated.

Make sure we receive your correspondence

If you have been in contact with an Inland Revenue staff member about the dispute, send your *Notice of response* and *Statement of position* to that person. Otherwise send them to:

Inland Revenue
PO Box 39010
Wellington Mail Centre
Lower Hutt 5045

Do you need 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 process, we won't fill in or draft any notices or forms required. However, we can assist by explaining such things as the required forms and time limits, or by referring you to our booklets and guides on the disputes process.