



Inland Revenue
Te Tari Taake

Statement of position

Finalise your arguments in a dispute

IR773
[month] 2017

Use this form if you've received a Disclosure notice from us and you:

- still disagree with our position on your assessment, or
- still disagree with a decision made by us.

This form is used to finalise the questions or issues to be answered and the legal arguments or propositions of law in the dispute. If the dispute goes to our Disputes Review Unit, the Taxation Review Authority or the High Court, you won't be able to add any more issues or propositions of law in support of your view unless we agree. A judge may allow issues and propositions of law not finalised in this form to be raised in court, but this is in very limited circumstances.

For more information on disputes please visit our website www.ird.govt.nz (search term: "disputes"). Our website includes guides to help you complete this form and an example of a completed form.

Taxpayer's details

Full name	Joe Bloggs									
IRD number	(8 digit numbers start in the second box)									
	0	1	2	2	2	2	2	2	2	2
Address	10 Any Street									
	Street address or PO Box number									
	Suburb					City				
	Suburb, box lobby or RD					Town or city				
Contact details	01 2345678									
	Telephone					Contact person (if applicable)				

Tax agent's details (if applicable)

Name										
Address										
	Street address or PO Box number									
	Suburb, box lobby or RD					Town or city				
Contact details										
	Telephone					Contact person (if applicable)				

This notice is for the attention of:

Name	Jane Roe									
------	----------	--	--	--	--	--	--	--	--	--

Date

1	2	0	6	2	0	1	7
Day		Month		Year			

Time Limits

You must send this form to us within two months of the date our Disclosure notice was issued to you.

If you don't send this form within the two month time limit you'll generally be considered by law to have accepted our position.

You are allowed by law to send us this form outside this timeframe if there are exceptional circumstances, or you've demonstrated you intended to continue the disputes process. Please include a note explaining why it is late or how you demonstrated you intended to continue the disputes process (if this applies).

Completing this form

If there is not enough space on this form don't complete the boxes on the next 2 pages. Instead, attach your own document to this form and use the same headings used in the next 2 pages.

What facts support your view?

Give an outline of the facts and circumstances that support your view. Include any important facts you think we're missing. If you think the amounts in dispute have changed, give the updated amounts.

I run a retail business. The business has 8 employees. It also has 2 motor vehicles.

My tax returns are filed on time, and are all up to date.

Inland Revenue investigated my business and identified what it considered to be unexplained cash deposits into my personal bank account.

Inland Revenue sent me a Notice of Proposed Adjustment which proposed that all the unexplained amounts be treated as business income. It also proposed a gross carelessness shortfall penalty.

I issued a Notice of Response in reply explaining that the cash deposits were loans from my parents.

I attended a facilitated conference but Inland Revenue was not satisfied with the evidence I provided and still considered the amounts to be unexplained cash deposits.

Inland Revenue's Statement of Position says that I have still not provided evidence of where the cash deposits came from. I am now providing a recent letter from my parents setting out the details of the loans (ie dates, amounts, terms, interest rates, repayments). I am also now providing copies of their bank statements which show they did withdraw cash amounts. There are some amounts that don't exactly match the amounts and timing of the cash deposits into my personal bank account because some of the cash did not come from my parents' bank account.

I needed the loans because I sold goods to a client who did not pay me. There is little chance of getting paid and I have sent the debt to a debt collecting firm. This unpaid debt has resulted in cash flow problems.

The reason why I deposited the cash amounts into my personal bank account was because I thought it would be easier to keep track of them that way.

What questions need to be answered to resolve this dispute?

Give an outline of the questions or issues you think our Disputes Review Unit, the Taxation Review Authority or the High Court would need to consider before this dispute could be resolved. In tax disputes these are usually questions of how a tax law or principle applies to the facts of the dispute.

The main question is whether the cash deposits are my business income.

The other question is whether I am liable for a gross carelessness shortfall penalty.

Why do you think your view is correct?

Explain why you think your view is correct. You'll need to provide details of the law you're relying on to support your view. If you can't do this, then you'll need to provide enough detail so we can identify any relevant provisions for you. You'll also need to explain how the law applies to the facts.

You can find examples to help you answer this question and information about tax laws by searching our website. You can also refer to publications, court cases and legal principles that support your view.

We can't help you answer this question. If you need help we recommend you get advice from a professional tax advisor.

I searched the IR website and found Case TRA 26/11 [2014] NZTRA 09. The judge said that if there was proof that an amount was from a non-taxable source then it was not business income.

As far as I can tell, a loan is not a taxable source.

I borrowed the cash from my parents. The cash deposits are loans that I have to repay.

The cash deposits are not income that was earned by my business.

The attached letter from my parents shows the date, amount, term, interest rate and expected repayment for each of the loans.

The letter from my parents and the copies of my parents' bank statements indicate the nature of the transaction and where the money came from.

The cash loans are not unexplained deposits, and therefore they are not business income.

I don't think there is a tax shortfall in my tax returns. As far as I know, my tax returns are correct.

I did not get any advice when I completed my tax returns because I didn't think I needed any.

I don't think I should be liable for a shortfall penalty.

List the evidence you're relying on

In tax disputes **you** have the responsibility to prove the assessment or our decision or proposed change is wrong. List the evidence you're relying on in the space below. Attach copies of documents you haven't already provided to us.

You don't have to provide copies of any law, cases or publications you're relying on. Just refer to these sources by name with enough detail so we can find them.

Letter from my parents setting out the details of the loans (ie dates, amounts, terms, interest rates, repayments)

Copy of my parent's bank statements

Proof of the unpaid debt from the debt collecting firm

My Notice of Response

My tax returns

Consent for email communication (if not already provided)

I consent to two-way communication with Inland Revenue by email throughout the disputes process. I understand this email consent will also cover any communication with Inland Revenue's Disputes Review Unit. ☒ I also understand these emails may be encrypted, password protected and may contain confidential and/or commercially sensitive information. Inland Revenue will take all reasonable steps to reduce any risk of unauthorised access or release of confidential information, but can't guarantee emails won't be intercepted or read while in transit.



Email address:

Joe.bloggs@email.address

Checklist

Under the law you need to provide a sufficient amount of information for this form to be valid. The checklist below will help you meet those legal requirements:

My *Statement of position* form:

gives an outline of the facts I intend to rely on



gives an outline of the questions or issues I think will arise in resolving this dispute



describes the law and legal principles I intend to rely on, and



gives an outline of the evidence I intend to rely on



(Tick each circle to confirm)

Next steps

Once you've completed this form, please send it to us (with any attachments).

If you have been in contact with an Inland Revenue staff member about the dispute, send this form to that person. Otherwise send this form to:

Inland Revenue
PO Box 39010
Wellington Mail Centre
Lower Hutt 5045

You'll usually receive an acknowledgment once we receive this form. We will consider the points you've made. You'll be advised if we decide that your position is correct.

If we still think you're wrong we'll send you our *Statement of position* if we haven't already or we may send you another *Statement of position*.

The dispute will usually be referred to our Disputes Review Unit for consideration. The Disputes Review Unit are independent experts within Inland Revenue who'll take a fresh look at the dispute. They'll consider our *Statement of position* as well as your responses in this form. The Disputes Review Unit will reach a decision based on the:

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

The Disputes Review Unit will send the Inland Revenue staff member involved and you a copy of an adjudication report that gives a decision on whether we or you are correct. This decision is binding on us but if you disagree with the Disputes Review Unit's decision you can go to the Taxation Review Authority or the High Court.

For further information about the disputes process, go to our website www.ird.govt.nz (search term: "disputes").