Inland Revenue
Te Tari Taake

26OIA2360

1 July 2026

[redacted]

Dear [redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 28 May 2026. You requested the following information:

> *What is the process when an allegation of tax avoidance is made against a taxpayer? Who has the delegated authority to make such an allegation?*

On 8 June 2026, you clarified your request to be for the following information:

> *I am interested in Inland Revenue's internal process regarding tax avoidance (either the general anti-avoidance rule in section BG 1 of the Act, or a specific anti-avoidance rule in subpart GB of the Act). Specifically, I am interested in the checks and balances that need to occur before Inland Revenue takes the position that one of these provisions apply. I understand at one stage there was some sort of sign-off required?*

**Anti-avoidance process**

Inland Revenue has a standard process that is followed when exercising the general anti-avoidance provisions of sections BG 1 and GA 1 of the Income Tax Act 2007 (ITA) and section 76 of the Goods and Services Tax Act 1985 (GST Act) - the general anti-avoidance rules - in conjunction with Interpretation Statement 23/01 (IS 23/01) issued 3 February 2023, which sets out Inland Revenue's standard approach to the general anti-avoidance rules.

When considering whether the tax avoidance provisions could apply to a customer, Customer and Compliance Services staff with relevant experience and training are generally responsible for collecting and collating relevant facts and evidence. During this stage, they may raise their concerns with avoidance specialists within the Legal Services unit of Inland Revenue. Once Legal Services agree that there may be avoidance, the staff may then disclose that they are considering whether those provisions apply with the customer and / or their advisors. This can assist in clarifying why certain information is being obtained or to ensure that the non-tax reasons for arrangements and the application of the black letter law are adequately explored.

Once the facts and evidence have been identified, the staff member prepares a summary and obtains a legal opinion from Legal Services on the application of the anti-avoidance provisions. They also consider the impact of any time bars. If that opinion concludes that the anti-avoidance provisions do apply, a summary is prepared along with a draft of any dispute documents proposed to be issued. These documents are subject to review by the leader overseeing the case and sign off by a member of Legal Services. It is then submitted to a 'BG1 delegation holder' to exercise that delegation.

**Delegated authority holders**

The Commissioner under section 7 of the Tax Administration Act 1994 has the statutory authority to delegate his powers. Revenue delegations are the technical name for the legal authority an Inland Revenue staff member has to make decisions on behalf of the Commissioner while administering tax and social policy, including the sharing of information, day-to-day.

Reserved decisions are decisions only certain people can make. They are administratively reserved for specific delegated authority holders and roles because they are considered high-risk or they require specialist technical knowledge.

Decisions to invoke the general anti-avoidance rule in sections BG 1 and GA 1 of the ITA and section 76 of the GST Act are reserved decisions. The current roles designated as BG1 delegation holders includes Group Leads, Customer Segment Leads, Segment Management Leads, Legal Services Leader, Group Tax Counsel, Tax Counsel and Deputy Commissioners. Although described as a 'BG1 delegation holder', the delegations under section 76 of the GST Act are also restricted to these people. Not all people in these roles will exercise the delegation, as the delegation holder does need to hold the requisite skills, experience and knowledge to do so.

Specific anti-avoidance provisions are mainly found in Subpart GB of the ITA. Fourteen are reserved decisions. For the rest, staff must act within the general limits of their delegated authority and have the necessary knowledge, skill and capability. If not, an appropriately skilled person must exercise the delegation.

**Right of review**

If you disagree with my decision on your OIA request, you have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the OIA. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz.

**Publishing of OIA response**

We intend to publish our response to your request on Inland Revenue's website (ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, may be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of enabling more effective participation in the making and administration of laws and policies and promoting the accountability of officials.

Thank you again for your request.

Yours sincerely

Tony Morris
**Customer Segment Leader - Significant Enterprises**