Inland Revenue
Te Tari Taake

26OIA1969

17 March 2026

[redacted]

Dear [redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 17 February 2026. You requested the following documents (numbered for ease of response):

1. *IR2025/475 Software Subsidy for SMEs*
2. *BN2025/497 NZ Initiative proposal to reduce tax debt and address phoenixing issues*
3. *IR2025/447 Summary of tax treatment of carried interest*
4. *BN2025/424 Compliance update: Shareholder loans*

Information being released

I am releasing, item four attached as **Appendix A.**

Some information in this document has been withheld under section 18(c)(i) of the OIA, as making the requested information available would be contrary to the provisions of a specified enactment, namely Inland Revenue's confidentiality obligation in section 18(3) of the Tax Administration Act 1994 (TAA). Disclosure of this information does not fall within any of the exceptions to the confidentiality obligation listed in sections 18D to 18J of the TAA.

Information withheld or refused

I am withholding, items one and two under section 9(2)(f)(iv) of the OIA, to maintain the current constitutional conventions protecting the advice tendered by Ministers of the Crown and officials.

I am refusing item three under section 18(d) of the OIA, as the information is publicly available on Inland Revenue's website: https://www.ird.govt.nz/-/media/project/ir/home/documents/oia-responses/february-2026/2026-02-19-copy-of-ir2025-447-summary-of-tax-treatment-of-carried-interest.pdf?modified=20260303222450

As required by section 9(1) of the OIA, I have considered whether the grounds for withholding the information requested is outweighed by the public interest. In this instance, I do not consider that to be the case.

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

Emma Grigg
Policy Director

Appendix A

Inland Revenue
Te Tari Taake

Briefing note

Reference:	BN2025/424
Date:	21 October 2025
To:	Revenue Advisor, Minister of Revenue – Angela Graham Private Secretary, Minister of Revenue – Melissa Zhen
From:	Tony Morris, Segment Lead, Significant Enterprises, Inland Revenue
Subject:	**Compliance update: Shareholder loans**

Purpose

1. Ministers have been considering a draft officials' issues paper which could be used to publicly consult on improving the taxation of company loans to shareholders (IR2025-219 and BN2025-406 refer). The Ministers of Finance and Revenue are meeting on Thursday 23 October to discuss this tax policy project.

2. To support that discussion, you asked for a briefing on existing shareholder loans and the compliance actions Inland Revenue takes to enforce the current rules. This note provides an overview of the compliance activity that Inland Revenue currently undertakes. This briefing should be read together with BN2025/425, which provides more information on the policy proposals.

Compliance activity: Shareholder loans

3. Inland Revenue provides clear guidance on the tax treatment of shareholder loans. Our publications confirm the requirement to charge interest, and that a loan may be considered under our avoidance provisions if the loan cannot be repaid.

    - IS 24/09 issued in 2024 outlines the tax consequences of overdrawn shareholder account balances, this is intended to educate customers and promote voluntary compliance with the obligation to charge interest on the balance.

    - Courts have established principles about avoidance as it pertains to shareholder loans[1], which are relevant when considering if an arrangement exhibits characteristics of tax avoidance. Applying the general anti-avoidance provisions is a resource intensive enquiry and turns on the specific facts of each customer and situation.

4. Customers are responsible for voluntary compliance and self-assessment in the first instance and should be charging interest on loans to shareholders, with the company returning income and the shareholder unlikely to be able to claim a

[1] Krukziener v Commissioner of Inland Revenue (No 3) (2010) 24 NZTC 24,563

deduction. A company has the option to treat the value of interest not charged (or charged below the prescribed interest rate) as a fringe benefit, if the shareholder is also an employee.

5. Under the current law, Inland Revenue has no powers to require that a shareholder loan be on arm's length terms or be subject to mandatory / regular repayment or otherwise guaranteed or secured. Our only tax mechanism is to prescribe a particular rate of interest, which may not reflect what arms-length parties would agree when no other terms can be negotiated.

6. Inland Revenue requires companies to disclose, in their annual income tax return, the balance of any loan made to a shareholder, director or relative of a shareholder. The information collected captures the IRD number of the shareholder, director or relative, and the value of the loan from the company.

7. Inland Revenue does not currently require customers to confirm how the loan recipient is connected to the company, what the terms of the loans are, whether the recipient is capable of making repayment or whether they are paying the prescribed rate of interest (or accounting for FBT). If IR collected more information, our compliance enforcement activity could be more efficiently targeted. While it is possible to collect more information under the current law, this needs to be balanced against additional compliance costs for customers.

8. If customers have not charged at least the prescribed rate of interest or accounted for FBT, the value of interest not charged is a transfer of value, and therefore a dividend, to the shareholder. Dividends that arise in this way are referred to as 'deemed dividends' and Inland Revenue's policy is not to allow retrospective attaching of imputation credits. This means the shareholder is liable for the full tax impost to their marginal rate (up to 39%) essentially resulting in double taxation if the company otherwise had sufficient imputation credits that could have been attached. This consequence of non-compliance is outlined in our Interpretation Statement on non-cash dividends (IS 21/05).

9. 18(c)(i)

10.

11. Where loans are used in substitution for income, under the current law we are limited in our recourse other than to ensure the prescribed rate of interest is charged. When we identify instances of loans that exhibit characteristics of avoidance, we may devote additional resources to pursuing those, provided the revenue gain warrants the investment of resources. Where interest has been charged on the loan, that weakens the argument that an arrangement has been entered into with a purpose of avoiding tax and we would be less likely to direct further resources.

Compliance activity: Company liquidations / strike-offs

12. When companies are liquidated or struck off, they are responsible for voluntary compliance and self-assessment of the tax outcome. We assist customers to understand what those tax consequences might be in our operational statement (OS 22/01) which sets out the record keeping requirements for available subscribed capital (ASC) and available capital distribution amount (ACDA), these are amounts that can be paid to a shareholder tax free on liquidation.

13. Customers are required to maintain ASC and ACDA records for the entire life of a company, which may be considerably longer than the standard record retention period of 7-years. Whilst this places an additional compliance burden on customers, Inland Revenue does not collect or review information about ASC/ACDA so must rely on the customer to substantiate their position on liquidation.

14. We review company cessations where there is clear evidence that there were loans to shareholders, or that the final distribution to shareholders has not been taxed correctly, however the lack of consistent and timely information makes identification of risk difficult.

15. We do not currently collect information from companies in a structured or consistent way when they cease, and we acknowledge that the interaction between IR, customers and MBIE at the time a company wishes to be struck off can be challenging and is a point of frustration for customers.

16. As a result, we are developing a streamlined process that will be implemented in early 2026. The new process will:

    a. Collect the necessary information to confirm that the customer has turned their mind to the tax consequences arising from the liquidation / strike-off.

    b. Capture information about the existence of shareholder loans.

    c. Include a declaration that the customer has complied with their obligations and treated any portion of the final distribution to shareholders as taxable if required.

    d. Provide additional instructions for our people to ensure consistent and timely processing of these tasks.

17. A further enhancement to enable the provision of information directly through myIR is still in the scoping phase.

18. Collection of this additional information in a standardised way will ensure IR can direct compliance activities to the areas of highest perceived risk and will help customers to comply with their obligations.