



1 May 2023

[Redacted]

Dear [Redacted]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 28 April 2023. You requested the following:

1. Any IRD internal communications to its staff that relate the definition of a "seasonally affected business" as defined in the application process for Covid Support Payments and or Covid Resurgence Payments. Including any references to terms and conditions.
2. Any IRD internal communications to its staff that relate to results, targets, values, numbers, quantity, and expected outcomes of any audits conducted of businesses defined as self-employed or sole trader.
3. Please provide the number of businesses that made applications as "seasonally affected business" for Covid Support Payments and or Covid Resurgence Payments.
4. Please provide by category and or type the businesses that made applications as "seasonally affected business" for Covid Support Payments and or Covid Resurgence Payments.
5. Please provide the number of self-employed and or sole trading businesses that have been audited by IRD for compliance to the terms and conditions of the Covid Support Payments and Covid Resurgence Payments.
6. Please provide the number of self-employed and or sole trading businesses that have been audited by IRD for compliance to the terms and conditions of the Covid Support Payments and Covid Resurgence Payments and have been found in breach of the terms and conditions of the Covid payments.

Question 1

The information you have requested is attached in Appendix A. Internal communications we have provided include e-learning pages, knowledge pages and Microsoft Teams group posts. Some information relating to the provision of legal advice is withheld under section 9(2)(h) of the OIA, to maintain legal professional privilege. Some information is also withheld under section 9(2)(g)(i) of the OIA, to maintain the effective conduct of public affairs through the free and frank expression of opinions. No public interest in releasing the withheld information has been identified that would be sufficient to outweigh the reasons for withholding.

Question 2

The COVID-19 Post-Payment Verification (PPV) work programme (similar to an audit work programme) did not set any specific results, targets, values, numbers or expected outcomes. It focused on customers who were at a higher risk of not being entitled to the COVID-19 funds they received. Therefore, your request for any internal communications to staff that relate to results, targets, values, numbers, quantity, and expected outcomes of any audits conducted of businesses defined as self-employed or sole trader is refused under section 18(e), the information does not exist.

Question 3

When making an application for the COVID-19 Support Payment (CSP), applicants could select one of two specified comparator periods – if they chose a period outside of those specified periods, this is an indicator that they may be a seasonal business. We have used this indicator

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to identify a business as being seasonally affected. However, it is possible that some businesses incorrectly used a different comparator period and should have used the specified periods as their income was not seasonal. Based on this indicator, a total of 34,419 seasonally affected businesses made applications for one or more CSP.

The total number of businesses that made a COVID-19 Resurgence Support Payment (RSP) application as a seasonally affected business is unavailable as the information is not held by Inland Revenue, and we do not believe it is held by another agency. Your request for this information is therefore refused under section 18(g) of the OIA.

Question 4

The information you have requested is outlined in Appendix B. Where the total numbers of businesses are less than 10, the information is considered to be sensitive revenue information. These businesses have been merged with "other services" as making the information available would be contrary to the provisions of a specified enactment, namely Inland Revenue's confidentiality obligation in section 18 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 section 18D to 18J of the TAA.

Questions 5 and 6

Part of the COVID-19 Post-Payment Verification work programme involves reviewing cases to determine whether a business was entitled to receive the CSP or RSP. Inland Revenue selected applications for a review based on their likely risk of not meeting the terms and conditions of a payment. We have used a full-time equivalent band to establish whether an applicant was self-employed or a non-individual sole-trading entity with 0 or 1 employees. Applicants were allowed to claim the business owner as an employee. As at 14 April 2023, a total of 414 PPV risk based reviews have been completed for self-employed customers or sole traders. Of this, a total of 412 businesses did not meet the Terms & Conditions for at least one payment of either CSP or RSP.

Right of review

If you disagree with my decisions on your OIA request, you can ask an Inland Revenue review officer to review my decisions. To ask for an internal review, please email the Commissioner of Inland Revenue at: CommissionersCorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decisions. You can contact the office of the Ombudsman by email at: info@ombudsman.parliament.nz. If you choose to have an internal review, you can still ask the Ombudsman for a review.

Publishing of OIA response

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider this response is of public interest so will publish this response in due course. Your personal details or any information that would identify you will be removed prior to it being published.

Thank you for your request.

Yours sincerely

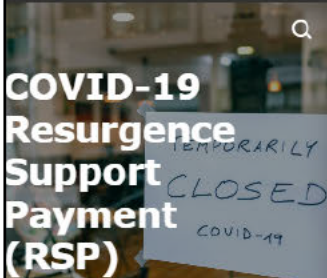


Sharyn Rea
Customer Segment Leader, Significant Enterprises

Appendix A

Ātea – e Learning

COVID-19 Resurgence Support Payment (RSP): COVID-19 Resurgence Support Payment - eLearn




COVID-19 Resurgence Support Payment (RSP)

Seasonal businesses and organisations

Businesses or organisations with highly seasonal revenue could select a 7-day comparison period outside the six weeks prior to the alert level increase from a past year that reflected their typical revenue.

COVID-19 Support Payment: COVID-19 Support Payment



COVID-19 Support Payment

Seasonal business and organisations

Businesses or organisations with highly seasonal revenue must meet the drop in revenue test set out above. However, they could select a 7-day comparison period which was before 5 January 2022 and from a past year, which reflected their typical revenue.

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COVID-19 Post-Payment Verification guidance

What is seasonal & irregular?

- There is scope for applicants who earn their revenue on a "seasonal" (irregular) basis to use a week outside of this 6 week period as being the comparator week if the 6 week period does not reflect what they typically earn from their business.
- A seasonal business is one which earns the majority of their income in a certain period within the year as compared to the rest of that year. For example, ski field which derives the majority (if not all) of their income during the winter.
- Seasonal does not include businesses who generate regular revenue throughout the year and then have a busy period, for example over Christmas. This also does not apply to businesses who have the usual peaks and troughs of business revenue.
- The comparator week chosen still needs to be a "typical" week. Inland Revenue's web-site states, in this regard:
"Seasonal businesses and organisations Businesses or organisations with highly seasonal revenue must meet the revenue decline test as set out above. However, they may select a 7 day comparison period outside the six weeks prior to 17 August 2021 and which may be from a prior year, which reflects their typical revenue."
- Below is an example of how the revenue decline test can be applied in the context of seasonal businesses (i.e. businesses who derive their revenue irregularly throughout the year).

Example 1 – Business earning majority of revenue in September - March

An applicant applies for a RSP on 24 October 2021 choosing an affected week of 17-23 October 2021.

The applicant derives their revenue irregularly throughout the year. They earn the majority of their revenue in the Spring/Summer months (September-March) than the Autumn/Winter months (April-August).

The applicant has contended they should be able to use a comparator week outside of the 6 week period prior to 17 August 2021. This is because this 6 week period falls in the period of the year when they earn significantly less revenue, so it is not a good comparison for the revenue they would have earned in the affected week.

The applicant has asked whether they can use the week of 17-23 October 2020 as the comparator week for the purposes of the RSP revenue decline test

In this instance they are able to choose a comparator week from the same point in the seasonal cycle as the affected week (the week of 17-23 October 2020).

They will then need to show their revenue in the affected week (17-23 October 2021) was 30% lower than their revenue in the comparator week (17-23 October 2020) due to the raise in alert levels.

Teams chat posts

Hi all

Just another bit on highly seasonal businesses. Whether a business is highly seasonal will be assessed on a case by case basis and you can use various means to validate this. For some businesses, such as ski fields, it will be intuitively obvious that they are seasonal and you won't need to consider it further. Other business that can operate year-round may require some analysis. As an example, one such case was for a [REDACTED]. When reviewing the two-monthly GST returns, the sales pattern looked like this:



Here you can see large swings in the revenue earned, with large spikes in summer and dips in winter. In this particular case, I would accept that this operation is highly seasonal.

If you cannot use the GST returns to determine whether they are highly seasonal (i.e. they are not filed or are 6 monthly), you can ask the customer for a monthly breakdown of their sales.

If you are unsure whether a business is highly seasonal, please contact one of the key user team.

IMPORTANT

Comparative periods - what can be used

Applicants must use the comparative period beginning on 5 January 2022 and ending at close of 15 February 2022. They can use the alternative option of 5 January 2021 to 15 February 2021 when the Order in Council has been made (to use the alternative date).

If they are a highly seasonal business they may choose a different comparator period which represents typical revenue for that business.

If the business (for whatever reason, eg owners went on holiday, a sole trader is on ACC or PPL etc) the 2022 and 2021 comparator periods do not reflect typical revenue, and the business is not highly seasonal, then they will not be eligible for the CSP.

Policy are aware of this and comfortable that it fits with the intention of the scheme.

Revenue decline document

Applicants that derive their income on a irregular basis for the purpose of identifying the "typical" 7-day revenue comparator, to choose a 7-day period within a prior year (that most closely approximates their typical weekly earnings over that period). Applicants will have to determine what "typical" revenue is in relation to their revenue generating cycle, and relevant to their business activity. One way is to calculate the average revenue earned over the period in the seasonal cycle in which they are generating revenue, then select a 7-day period that most closely reflects that average.

Applicants that derive income on a highly seasonal or irregular basis

Applicants that derive their income on a highly seasonal or irregular basis may find it difficult to meet the revenue decline test. These Applicants are able, for the purpose of identifying the "typical" 7-day revenue comparator, to choose a 7 day period within a prior year (that most closely approximates their typical weekly earnings over that period). Applicants will have to determine what "typical" revenue is in relation to their revenue generating cycle, and relevant to their business activity. One way in which to do this is to calculate the average revenue earned over the period in the seasonal cycle in which they are generating revenue, then select a 7-day period which most closely reflects that average.

Example 1:

David has been carrying on business as a sole trader for the last 5 years and applies for the RSP. He is working out how to apply the revenue decline test.

David typically closes his business for two months over January and February Christmas/New year's period. Therefore, he does not earn any income over that period, which overlaps with the 6 week comparator period that would otherwise apply for the February 2021 RSP. He is able to choose a 7 day period within a prior year that most closely approximates his average weekly earnings (over that March- December revenue generating period) when applying the revenue decline test.

Example 2:

Erin has been carrying on business as a fruit grower for 3 years and supplies fruit to a number of cafes in Auckland. Erin applies for the RSP and is working out how to apply the revenue decline criteria.

Erin's revenue was very low in the 6 week comparator period because of the timing of when she harvests her fruit, which falls outside of that period. Erin typically sells fruit for 4 months of the year and her average weekly revenue over that four months is \$5000. Erin is able to choose a 7 day period within a prior year that most closely approximates her average weekly earnings (of \$5000) when applying the revenue decline test.

Te Mātāwai – Knowledge Pages (RSP)

Determining the 7-day period

The affected revenue, the revenue which has dropped, was measured over a continuous 7-day period where the first day was on or after the first day of elevated alert levels and all days were within the same elevated alert level period.

- The comparative period revenue was measured over a continuous 7 day period that is within the 6 weeks prior to the elevated alert levels, and is a 'typical' period of revenue for the business. If the business is new, but in operation for at least one month before 17 August, the 7 day period must be within the time the business is in operation.
- Where extra payments during an alert level rise were made available, the revenue drop period started from the date announced - e.g. for the second payment of RSP August the date is 8 September with customers able to apply from Friday 17 September. See the [Availability table above](#)
- The affected revenue must be no more than 70% of the comparative period revenue in order to satisfy the requirement of a 30% revenue drop.
- Both the affected revenue and the comparative period revenue were measured retrospectively. They must be based on what has happened, not a forecast of what might happen.
- The comparative 7-day period should reflect the typical income of the business
- For entities that generate revenue on a seasonal cycle during the year, the affected revenue could be compared with a period that is at a similar point in the seasonal cycle. This allowed sensible comparisons for businesses that suffered a drop of revenue as a result of elevated alert levels. This similar point in the seasonal cycle should be within the last year. If the impacts of COVID-19 during 2020 mean the business didn't have a similar period to compare to in 2020, they could use a similar point from 2019 as long as its within 2 years of the period they are applying for.

Standard accounting principles with respect to income recognition apply. For a business whose revenue is uneven, income needed to be spread over the relevant period. This applies for both the revenue drop period and the alert level 1 comparison period.

If a business only invoiced on specific basis (such as a monthly basis), the income needs to be accounted for if the work has been carried out, even if it hadn't been invoiced at that time.

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Appendix B

Business activity	Distinct Customers
Accommodation and food services	4,618
Construction	4,395
Transport, postal and warehousing	2,887
Professional, scientific and technical services	2,958
Other services	2,833
Not specified	2,681
Retail trade	2,334
Rental, hiring and real estate services	1,722
Administrative and support services	1,771
Arts and recreation services	1,602
Health care and social assistance	1,403
Manufacturing	1,427
Education and training	889
Information media and telecommunications	833
Wholesale trade	806
Agriculture, forestry and fishing	582
Financial and insurance services	306
Public administration and safety	60
Electricity, gas, water and waste services	42
Total	34,149