

# Regular dataset collection from payment service providers

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*A Government discussion document*

**Hon David Parker**  
Minister of Revenue



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Regular dataset collection from payment service providers: a Government discussion document.

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# CHAPTER 1

## Introduction

- 1.1 Access to good quality, accurate information is essential to the smooth running of the tax system. Such information allows Inland Revenue to see whether the correct amount of tax has been paid and provide quicker, simpler, and more accurate services to taxpayers such as automatic refunds without the need for a tax return.
- 1.2 Information (or data) is also crucial for ensuring that the correct amount of income has been declared by a business. One way that Inland Revenue can check on business income is to receive information about sales. This consultation document therefore asks for public views on Inland Revenue being able to collect bulk lots of data from payment service providers. This information will only be used to verify business income. The customer's details will not be collected or identifiable.
- 1.3 Inland Revenue has been collecting datasets (a package of data relating to a particular business) from payment service providers since 2005 enabled under section 17B of the Tax Administration Act 1994 (TAA).
- 1.4 Electronic payment has grown exponentially in New Zealand and is now the main way that most businesses make sales. These electronic transactions are facilitated by payment service providers. The legislative provision for data collection is now out-dated in this context and does not allow for regular information collection from a third-party. Currently, Inland Revenue is required to issue a notice each time such data is required.
- 1.5 The proposals in this discussion document represent the second stage of improvements to the rules about dataset collection. In 2019 amendments were introduced to allow repeat requests for data via Order in Council, creating a more transparent, accountable, and fair application of this data collection power (section 17L of the TAA). The amendment followed extensive consultation with a variety of stakeholders to ensure that an appropriate mechanism for the repeat collection of datasets from third parties had been identified and the rules were fit for purpose, minimising compliance costs. The submissions received in response to this were largely favourable and emphasised that the proposed amendment would provide transparency around collection.
- 1.6 This current round of consultation considers the detail of that Order in Council to understand potential impacts on payment service providers and ensure that changes remain effective, comprehensive, and sustainable. Legislation requires that this consultation document, along with the draft Order in Council (see appendix 2), is part of the consultation process with interested parties on implementing the collection of bulk datasets from payment service providers. This document therefore seeks your feedback and welcomes all comments.

## Summary of proposal

- 1.7 The Government is proposing for Inland Revenue to collect datasets on a regular basis from payment service providers to enable initiatives that improve income reporting for tax purposes and service provision. This would be a shift from current ad hoc dataset collection. Information collection would be enabled by Order in Council and would allow for the collection of bulk data on a regular and repeating basis.
- 1.8 In discharging its duties to administer the tax system, Inland Revenue must correctly determine the amount of tax payable by taxpayers. Regular dataset collection from payment service providers is considered necessary to enable the Commissioner to fulfil these duties. Regular dataset collection would also enable Inland Revenue to improve compliance by providing insights that enable the better targeting of education initiatives.

## How to make a submission

- 1.9 Submissions are invited on the proposals in this discussion document.
- 1.10 The closing date for submissions is **20 August 2021**.
- 1.11 Submissions can be made:
- by email to [policy.webmaster@ird.govt.nz](mailto:policy.webmaster@ird.govt.nz) with “Regular dataset collection from payment service providers” in the subject line; or
  - by post to:  
  
Regular dataset collection from payment service providers  
C/- Deputy Commissioner, Policy and Regulatory Stewardship  
Inland Revenue Department  
PO Box 2198  
Wellington 6140
- 1.12 Submissions should include a brief summary of the major points and recommendations. They should also indicate whether it is acceptable for officials from Inland Revenue to contact submitters to discuss the points raised, if required.
- 1.13 Submissions may be the subject of a request under the Official Information Act 1982, which may result in their release. The withholding of a submission, or parts thereof, on the grounds of privacy, commercial sensitivity, or for any other reason, will be determined in accordance with that Act. Those making a submission should clearly indicate if they consider any part of their submission should be withheld under the Act. Answers to question 11 will be withheld in full.

## CHAPTER 2

### Detailed proposal

- 2.1 The proposal is for the Government to make an Order in Council authorising information collection on a regular basis from payment service providers. This information will consist of merchants' aggregated transactions – not individual customer transactions – and account information. Individuals' payment data will not be collected or identifiable in the data collected.
- 2.2 This information is considered necessary for the purpose of administering the Revenue Acts, as it will enable Inland Revenue to ensure that business taxpayers comply with their tax obligations by paying the correct amount of tax. This will protect and uphold the integrity of the tax system. Collecting this information will also allow Inland Revenue to offer improved services and support such as more focussed education and marketing initiatives if the information collected allows the department to better target its resources.

#### Persons to whom the regulation applies

- 2.3 The proposals are aimed at payment service providers. A payment service provider is defined as a third-party business who facilitates payment for goods and services between customers and merchants. It includes, but is not limited to:
- merchant acquirers
  - entities who provide switch services
  - entities who provide settlement services
  - entities who provide online payment gateways, and
  - entities who provide alternative payment methods.
- 2.4 This definition does not include bank-to-bank payments (such as direct debits, standing orders or transfers between accounts) or the provision of payment hardware. The Government is exploring the potential to request data that is currently excluded from this definition (such as direct debits). This will be subject to a separate round of public consultation and a separate Order in Council.
- 2.5 New Zealanders are high users of electronic payment types and the payment service provider market continues to change, with several smaller players rapidly emerging. Given this shift, it is timely to broaden the number of payment service providers information is received from.
- 2.6 The regulation will require payment service providers to provide Inland Revenue with information on merchants. A merchant is defined as a person or entity that is engaged in a business activity. However, information will not be gathered on large merchants, who are defined as those whose value through the payment service

provider is greater than \$30 million.<sup>1</sup> The Commissioner may seek to vary this threshold amount and will provide appropriate notice in this case.

- 2.7 An exemption will be granted to a payment service provider who has subcontracted another payment service provider to undertake the processing of the payments where the required information is held by the contracted provider. This is intended to avoid the double collection of data. Where entities feel they fall within this category, they will be required to articulate that they are exempt. As part of this, they must be specific on the types of transactions this involves and who these have been subcontracted to. The decision on who is exempted is at the discretion of the Commissioner of Inland Revenue.

### **Initiative benefits**

- 2.8 The benefits of regularly obtaining this information under the new provision centres on designing better policies and ensuring Inland Revenue can take a more informed approach to compliance. More timely, accurate and comprehensive insights would be made possible by the pool of data gathered. Such an approach includes everything from supporting taxpayers to get it right from the start through to taking action on those who deliberately do not comply.

### ***Benefits for payment service providers***

- 2.9 Under the proposal, regular dataset collection will apply to all parties in an industry. Broadening the number of payment service providers that Inland Revenue receives information from will introduce equality amongst providers. This is both with regards to ensuring that compliance costs apply to all players – eliminating any competitive advantage – but also ensuring that there is no commercial disadvantage through customer perception of payment service providers who provide information to Inland Revenue vs those that do not.
- 2.10 The proposal would provide a more efficient and transparent process for Inland Revenue to collect the same type of information as it does currently, but more regularly and from more providers. Currently, the payment service providers from whom data is collected under the current provision are not publicly known, and there is limited public awareness that this data is being collected by Inland Revenue. Under this proposal, the information collected is authorised by a regulation and details on what types of data it collects and from whom will be public. The purpose of publishing these details on the Inland Revenue website is to improve transparency for individuals as well as ensure that all payment service providers are equally reflected in these transparent practices.
- 2.11 This increased transparency also means the legal provision for what information can be shared with Inland Revenue, and the legal mechanism authorising this sharing, is understood and visible. Section 17L provides greater certainty of authority for disclosure of information so there is no sense of a legal ‘grey area’ in the gathering of this information or risk to reputation through the perception of dubious information sharing practices.

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<sup>1</sup> The \$30 million figure is in line with the requirements for International Financial Reporting Standards (IFRS).

### ***Benefits for the tax system***

- 2.12 The data currently obtained from payment service providers is not received regularly, as the process is very time and resource consuming. This has resulted in irregular collection that does not encompass all payment service providers in the market, reducing effectiveness. This ad hoc collection has been because the legislation enabling the gathering of this information was for one-off requests for information, not ongoing requests, requiring that the full process be repeated every time information is required. Irregular collection makes it difficult to achieve outcomes such as accurately assessing compliance over several years and providing timely support when needed.
- 2.13 This analysis is supported using benchmarking. Benchmarks are established by reviewing data from merchants who are known to be compliant or who have good controls in place to ensure accuracy of reporting. The compliant merchants benchmark is essential in order to establish expected cash ratios for an industry and area. Once established, it is simple and efficient to identify merchants who fall outside of expected cash ratios and as an indicator that further discussion with the business concerned may be appropriate. Collecting this data on a regular basis would therefore improve efficiency and so help promote compliance and maintain the integrity of the tax system.
- 2.14 Previously collected datasets on merchants have improved Inland Revenue's ability to address the complex compliance issues posed by the hidden economy. It has achieved this by identifying parties who sit outside, or partially outside, the tax system and those not fully complying with their obligations (for example, by not declaring cash sales). This information enables Inland Revenue to develop targeted compliance interventions, which range from education and assistance (for example, supporting businesses that have ceased trading to finalise their tax affairs), to audit and enforcement activity for identified non-compliant businesses. Inland Revenue is also able to rethink its compliance approach as it allows for a greater focussing of engagement and more ways to influence behaviour. This targeted approach ensures efficient use of resources and supports greater voluntary compliance with tax obligations.

### ***Type of information collected***

- 2.15 The information collected from payment service providers will relate to merchants and will be the aggregate monthly income data of a merchant. The aggregated information for a merchant's transactions would include debit, credit, cash out and refunds (both volume and value) for the previous three-month period as well as their identity and contact information. These datasets would not go to the level of individual transactions ensuring that it is not possible to identify customers' payment data in what is collected. Some account-specific information will be collected to enable accurate matching. Any further follow-up activities will be undertaken with the merchant directly.
- 2.16 As payment service providers vary in size, market capture and technological architecture, the level of information they hold will vary as well as how they hold it. To address this, Inland Revenue would be seeking the minimum information set out in table 1, with the intention of having it supplemented by additional fields that individual payment service providers may hold where possible.

**Table 1: Minimum information sought**

<b>Data collected</b>	<b>Details</b>	<b>Reason for collection</b>
Merchant unique identifier	The unique identifier given by the payment service provider's system to identify each merchant account in their records.	This enables the unique identification of merchants and provides a link back to the source provider.
Merchant's identity and contact information	Any data that identifies a merchant or trading entity, including: <ul style="list-style-type: none"> <li>• the IRD/GST number</li> <li>• the NZBN number</li> <li>• the Companies Office number (or the date of birth of an individual if the merchant is not an entity)</li> <li>• all account address information, including physical and postal, phone numbers, and</li> <li>• all terminal address information (site information including name, contact name, addresses).</li> </ul>	This data is key to correctly identifying a merchant. Date of birth is a key identifying attribute for individuals who are merchants. Inland Revenue can validate if the correct IRD number has been provided to the payment service providers.
Legal name, trade name, merchant name, or other names	All the names under which the business operates and/or is known by in the payment service provider systems, including an individual's names where the merchant is not an entity.	Assists with uniquely identifying a merchant.
Merchant contact person and details, including locations	Contact person or person who set up the contract with the payment service providers. Must be a natural person. This includes the full name, registered business address, phone number which is provided for business purposes of the person.	Provides a better understanding of who is behind the business. If the business is not registered for tax purposes, then it provides a contact for who might be running the business.

<b>Data collected</b>	<b>Details</b>	<b>Reason for collection</b>
Aggregated monthly data on payments	Debit, credit, cash out, refunds – both volume and value, per merchant, per month/year.	Identify compliant and non-compliant merchants (including unregistered merchants). Assists in identifying under-reporting of income. Compliant merchant information provides a benchmark for industry performance to identify where things do not look quite right. Information can also be used to target Inland Revenue services to compliant merchants (for example, assistance in commencing or ceasing a business).
Merchant bank account(s)	Bank account or settlement account to which the transaction is paid.	Aids with the data matching. Also allows us to calculate total transaction values. Access to records.

- 2.17 Most of the information collected relates to merchants and the individuals who run those businesses. Only the minimum personal information necessary will be included in the data request. The personal information relates to merchants who are undertaking business in their own name, as well as individuals who are the contact point for the merchant.
- 2.18 The information collected relates to all merchants who engage a payment service provider and whose activity through the payment service provider is up to \$30 million. In order to prevent data for entities that exceed \$30 million per year being collected, we are proposing that payment service providers not provide data on entities they reasonably believe will exceed this amount of revenue at the start of the year. Where a merchant is approaching this threshold, payment service providers can cease to provide data on that entity in the quarter they exceed the threshold for the remainder of the year.
- 2.19 Information on merchants will be used to determine industry benchmarks, such as cash ratio percentages, and identify other potential indicators that merchants might need help in meeting their tax obligations.
- 2.20 There are potential compliance costs that come with meeting prescribed data standards for sharing, and so a goal of this consultation exercise is to work with payment service providers to keep these as low as practicable.

### **Frequency of collection**

- 2.21 The data itself will be provided by the payment service providers every three months covering each financial quarter. The provider will be given a period of a month to provide the requested data following the given three-month period.

## **Compliance costs**

- 2.22 The proposed increase in the frequency of information sharing with Inland Revenue would be expected to give rise to some additional compliance costs for payment service providers. Feedback on expected compliance costs and potential mitigations is requested later in this document.
- 2.23 The potential for compliance cost increases are mostly due to the increased frequency of data collection. Efficiency improvements can be realised to mitigate these expected cost increases. Most notably, increased frequency means that payment service providers can establish ongoing processes to provide the requested information, instead of responding ad hoc each time they receive a request. Such practices would mean that payment service providers can undertake their obligations more efficiently. Where adjustments are required to any reports that are produced by the payment service providers' systems, these represent a one-off cost with ongoing savings realised once this is in place.
- 2.24 Timeframes for making needed system changes will factor in the need to make changes to multiple computer systems as well as fit these changes alongside other system change priorities. These will also take into account that payment service providers may not be able to make the system changes until the requirements have been fully determined. Inland Revenue will work with payment service providers to establish the time needed to make necessary system changes to ensure adequate time to comply.

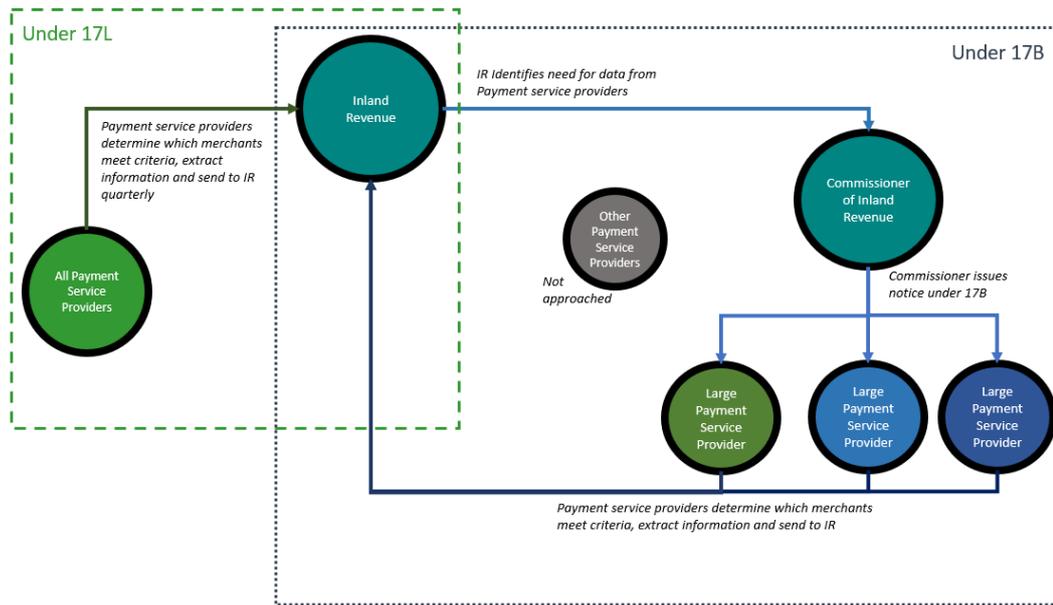
## **Penalties for failing to supply requested information**

- 2.25 Collecting information under the new provision would be a power lawfully conferred on the Commissioner of Inland Revenue. If a payment service provider fails to provide the information requested in the time allowed by the Commissioner, they will have committed an offence under the TAA.
- 2.26 Failing to provide information is an offence with criminal penalties ranging from fines to imprisonment. Such penalties would apply for each failure to provide requested information.

## **Information flows**

- 2.27 The proposed information flow between payment service providers and Inland Revenue would follow the same model as is currently in place for requests for bulk data (made under section 17B). Under the new provision (section 17L), information would be provided by all payment service providers quarterly, without requiring ad hoc notices from the Commissioner of Inland Revenue to each payment service provider every time information is required.
- 2.28 Figure 1 illustrates the proposed regular mechanism of bulk data collection under section 17L compared with under the ad hoc collection provision.

**Figure 1: Comparative overview of the mechanism for bulk data collection under sections 17L and 17B**



### Specifications for the reporting method

- 2.29 As technologies change, so too may the reporting methods in the future. The intention therefore is for flexibility so that reporting methods will be dependent on the technological capability of the payment service providers but may include web services and email.
- 2.30 The information will be required to be supplied in a format that Inland Revenue can upload into its systems and that meets certain security standards. Separate operating protocols will be developed for and entered into with each of the payment service providers, reflecting the information they hold and their technology architecture. This will be agreed with payment service providers.

### Examples

- 2.31 Examples 1–3 illustrate scenarios where regular sharing of bulk data from payment service providers with Inland Revenue would be of value.

**Example 1**

A new business has recently started trading and, due to a predicted annual turnover of \$40,000, is not GST registered. After a successful start-up period, they receive \$75,000 of income in their first six months.

Inland Revenue can verify the business' income through the information provided by the relevant payment service provider and takes proactive steps to remind the business owner that they are now required to register for GST, providing education and support earlier and enabling them to fulfil their tax obligations. The business is able to meet their tax obligations and embed best practices, rather than receiving an unexpected tax bill for the oversight.

**Example 2**

By collecting bulk payment data, Inland Revenue can establish that most bakeries in a given area receive on average X% of their income through electronic payments, with the remaining percentage accounted for through cash transactions. This establishes a benchmark for the proportion of income legitimate bakeries receive as cash, which can then be used to identify unusual ratios of cash vs electronic payment for other bakeries, which could reveal underreporting of income.

Applying the verified benchmark to the data means Inland Revenue can quickly identify statistical outliers and focus resources on understanding these differences. If avoidance is detected, this could lead to further investigation. By improving the compliance of non-compliant businesses, the tax competitive advantage they had over their compliant competitors is removed, ensuring a fairer and more competitive market for all players.

**Example 3**

There are two companies, each operated by a sole director, that offer gardening and landscape services in nearby districts. Their declarations of income are accurate and verifiable.

In checking their declarations against the information provided by the appropriate payment service provider, it is flagged that both businesses are registered to the same address. This prompts Inland Revenue to investigate further, which reveals that both businesses are owned by the same person.

Each company had been paying deductions to Inland Revenue monthly as their gross annual PAYE (including ESCT) was less than \$500,000. However, group companies should be counted as a single company for PAYE purposes, and all amounts of tax withheld by the two companies are aggregated. This puts the total gross annual PAYE over \$500,000 and means that the companies now have an obligation to pay their deductions to Inland Revenue at least twice a month.

By identifying that apparently distinct business are subject to aggregation rules, Inland Revenue is able to provide specific and targeted educational interventions to support these businesses to understand why these rules apply to them.

### Questions for submitters

1. Is the definition(s) of a payment service provider, as set out in the draft Order in Council, fit for purpose and able to capture all the players in this space? Is there room for misunderstandings or diverse interpretations of these terms?
2. Is the proposed information required from payment service providers adequate?
  - a) Can all payment service providers provide this information?
  - b) Are there other fields of information that would add value or that Inland Revenue might require?
3. Is the proposed method for bulk data collection fit for purpose? Comments are especially welcome about the:
  - a) proposed format for providing information
  - b) mode of reporting
  - c) frequency of data collection, and
  - d) proposed definition of 'large merchants' (those whose annual value through the payment service provider is greater than \$30 million – see paragraph 2.18).
4. What security specifications do you feel are needed for transferring and handling this information? Are the safeguards outlined below adequate to protect the privacy of individuals?
5. What compliance costs do you see for payment service providers and wider costs for merchants and consumers? Can these be mitigated?
6. Do you consider that the proposal in paragraph 2.18 about the non-provision of data for merchants that exceed \$30 million in revenue in a year is workable?
7. Do you have any concerns around the degree of transparency Inland Revenue intends to provide around collecting this data?
8. What future technology changes do you foresee that will disrupt and change the landscape for payment service providers? Will this impact what data is held and by whom?
9. Are there any other things that should be considered as part of the proposed regular bulk collection of information held by payment service providers, or wider comments you wish to make?
10. What are your thoughts on reporting e-commerce data, such as bank-to-bank, bill payments and direct debits? (This is not within the scope of this proposal but is being explored for the future).
11. **For payment service providers:** The Government would also be grateful if you could provide detail regarding how your processes work, with regards to what information is collected, processed and how. This will help inform initial conversations between Inland Revenue's data scientists and each payment service provider around what data is requested. This information will be kept confidential.

## CHAPTER 3

### Information handling

#### Retention and disposal of information

- 3.1 The information collected will not be retained longer than is necessary to achieve the purpose for which it was collected. The original datasets will be held for three years, before being reviewed as to whether they are obsolete and therefore need to be disposed of or, in the cases of significant evasion, require longer retention. In this instance, only information relating to suspected merchants would be retained, not the entire dataset. This is in accordance with the Retention and Disposal Authority as approved by Archives New Zealand.
- 3.2 If the decision is made to dispose of the information, Inland Revenue follows the process set out in its Retention and Disposal Authority, which is approved by Archives New Zealand.

#### Safeguards

- 3.3 The Government takes the protection of personal information seriously. The proposed collection would include controls and processes to minimise any risk of a privacy or secrecy breach occurring. In addition, Inland Revenue has an excellent track record in managing datasets from external entities and other government departments. Well-defined processes described in this section are therefore already in place around data receipt and handling practices.
- 3.4 Inland Revenue has been working closely with the Office of the Privacy Commissioner throughout this project and will continue to do so through the creation of the Order in Council.
- 3.5 Operational protocols between Inland Revenue and each payment service provider would be in place following the Order in Council being made and before information collection begins. This agreement would set out the collection process and the safeguards to ensure the confidentiality of information.
- 3.6 Information would be available only to authorised Inland Revenue staff, to ensure that information is treated appropriately. Under current legislation, staff who knowingly disclose information outside what is legally permitted face employment action and potential criminal liability for breaching taxpayer confidentiality. Where convicted, individuals would face a monetary penalty and/or a term of imprisonment.
- 3.7 If, despite the safeguards, a breach occurs, measures will be put in place to identify any affected merchants or individuals as quickly as possible and the necessary steps taken to minimise and mitigate any risk to them. Also, the Office of the Privacy Commissioner would be notified and involved where appropriate.<sup>2</sup>

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<sup>2</sup> If the breach is for a legal entity (company) then the Office of the Privacy Commissioner is not notified.

- 3.8 Under the proposal, several pieces of information would be required to be collected to effectively confirm the identity of a merchant and associated individuals. This amount of information is needed to minimise any potential for, and impact of, errors in data or data matching. It is important to minimise these types of errors as they could negatively impact on legitimate merchants, or risk revealing the personal information of merchants unconnected to each other.
- 3.9 The data collected from payment service providers will be held within Inland Revenue's new data intelligence platform. This platform can restrict access to certain types of data. In addition, there are strong safeguards for storage, and audit trails to monitor unauthorised use. Access is controlled by the platform's administrators which, together with Inland Revenue's data governance policies, ensures that the data is only used for the purpose it was collected for, is held securely and is disposed of appropriately.
- 3.10 The new provision contains a statutory review requirement (section 17L (4)) that requires the Commissioner to conduct a review of the operation of the provision, in consultation with the Privacy Commissioner. This review would be required to be carried out within five years of section 17L coming into force. The review acts as an effective safeguard against potential risks, should the operating of section 17L not be fit for purpose.

## APPENDIX 1

### **Tax Administration Act 1994: Section 17L Regulations providing for regular collection of bulk data**

#### *What this section does*

- (1) This section provides a regulation-making power in relation to the administration of this Act and the other Inland Revenue Acts to authorise the Commissioner to collect bulk information in the form of datasets from a person who is the holder of the information if the collection of the information is considered necessary or relevant for a purpose relating to the administration or enforcement of a matter arising from or connected with a function lawfully conferred on the Commissioner.

#### *Orders in Council*

- (2) The Governor-General may, by Order in Council on the recommendation of the Minister of Revenue, make regulations—
  - (a) authorising the Commissioner to collect on a continuing and regular basis, information in the form of datasets from a person, or a class of persons:
  - (b) prescribing—
    - (i) the type of information that may be collected:
    - (ii) the person or the class of persons to whom the regulations apply:
    - (iii) the frequency of reporting by the person or class of persons:
    - (iv) the form of the information:
    - (v) the specifications for the reporting method that must be used:
  - (c) setting out the way in which the information is necessary for the purposes set out in subsection (1):
  - (d) specifying a person or class of persons who may be given an exemption from some or all of a requirement under paragraph (a), (b), or (c):
  - (e) prescribing how provisions of this Act or another Inland Revenue Act must be applied or modified for the purpose set out in section 17B.

#### *Requirements*

- (3) The Minister may recommend the making of regulations under this section only if satisfied that—
  - (a) the regulations are necessary for a purpose relating to—

- (i) the administration or enforcement of any of the Inland Revenue Acts;
- (ii) the administration or enforcement of any matter arising from or connected with a function lawfully conferred on the Commissioner; and
- (b) the proposed use of the information is consistent with the purposes of the Inland Revenue Acts; and
- (c) the type and quantity of information collected is no more than is necessary for a purpose relating to—
  - (i) the administration or enforcement of any of the Inland Revenue Acts;
  - (ii) the administration or enforcement of any matter arising from or connected with a function lawfully conferred on the Commissioner; and
- (d) the regulations do not unreasonably impinge on the privacy of individuals, and contain safeguards that adequately protect the privacy of individuals; and
- (e) a consultative process has been undertaken that—
  - (i) includes the distribution of draft regulations and an explanation of the way in which the regulations would meet the requirements of paragraphs (a), (b), (c), and (d) to the Privacy Commissioner, information holders, and other persons or organisations with whom the Commissioner considers it is reasonable to consult for the purposes of this section; and
  - (ii) provides a period of consultation of at least 6 weeks.

*Review*

- (4) Within the period of time set out in subsection (5), the Commissioner must—
  - (a) review the operation of this section; and
  - (b) assess the impact of this section, in consultation with the Privacy Commissioner; and
  - (c) consider whether amendments to the law are necessary or desirable, and in particular, whether this section is needed; and
  - (d) report the findings to the Minister of Revenue.

*Timing of review*

- (5) The review must occur after the expiry of five years from the commencement of this section but before the expiry of six years from the commencement of this section.

## APPENDIX 2

### Draft Order in Council

#### DRAFT FOR CONSULTATION

### Tax Administration (Regular Collection of Bulk Data) Regulations 2021

Governor-General

#### Order in Council

At Wellington this            day of            2021

Present:  
in Council

These regulations are made under section 17L(2) of the Tax Administration Act 1994—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Revenue made in accordance with section 17L(3) of that Act.

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Consultation draft 1

**Schedule 1  
Transitional, savings, and related provisions**

5

**Regulations**

**1 Title**

These regulations are the Tax Administration (Regular Collection of Bulk Data) Regulations 2021.

**2 Commencement**

These regulations come into force on [*date*].

**3 Interpretation**

In these regulations, unless the context otherwise requires,—

**Act** means the Tax Administration Act 1994

**merchant** means a person engaged in a business activity

**payment** means an electronic payment

**payment service provider**—

- (a) means a business that participates in a payment system by facilitating payments:
- (b) includes an acquirer (for example, the merchant's bank):
- (c) includes an entity that provides any of the following services:
  - (i) switch services:
  - (ii) settlement services:
  - (iii) online payment gateways:
  - (iv) alternative payment methods; but
- (d) excludes the following, except to the extent that the business also provides a service referred to in paragraph (b) or (c):
  - (i) an issuer (for example, the customer's bank that issues a payment card):
  - (ii) a business that provides payment service hardware.

**4 Commissioner may collect bulk information from payment service providers**

- (1) The Commissioner may collect from a payment service provider, in the form of datasets, the information referred to in regulation 5 on a continuing and regular basis.

- (2) Nothing in these regulations authorises the Commissioner to collect identifying information about an individual unless the information is of a kind that is specified in regulation 5.

**5 Type of information that may be collected**

- (1) The information that may be collected from a payment service provider is information, about a merchant on behalf of whom the payment service provider processes payments, of all or any of the following types:
- (a) the name of the merchant, including legal and trading names:
  - (b) contact information for the merchant, including physical and postal addresses and telephone numbers:
  - (c) the name of any individual who acts as a contact person for the merchant in relation to the payment service provider:
  - (d) contact information for an individual referred to in paragraph (c), including registered business addresses and business telephone numbers:
  - (e) the unique identifier for the merchant in the payment service provider's system:
  - (f) other identity information for the merchant, including the merchant's IRD number, GST number, New Zealand Business Number, Companies Office number, and date of birth (if the merchant is an individual):
  - (g) bank account numbers used by the merchant:
  - (h) information about payments processed on behalf of the merchant:
  - (i) any other information that is incidental to the information specified in paragraphs (a) to (h).
- (2) The information referred to in subclause (1)(h) must only show, for each month in the relevant quarter—
- (a) the total value of all payments processed; and
  - (b) the total value of all payments processed in each transaction category, including the following categories:
    - (i) debits:
    - (ii) credits:
    - (iii) cash outs:
    - (iv) reversals:
    - (v) refunds; and
  - (c) the total number of all payments processed:
  - (d) the total number of all payments processed in each transaction category, including the categories in paragraph (b).
- (3) However, a payment service provider need not provide any information about a merchant if the payment service provider reasonably expects that—

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- (a) the total value of payments that they will process on behalf of the merchant in the relevant financial year will exceed \$30 million; or
- (b) the information they are required to provide under this regulation will show that the total value of payments processed relating to the merchant in the relevant financial year has exceeded \$30 million.

**6 Frequency of reporting**

A payment service provider must provide the information to the Commissioner no later than 20 working days after the end of each quarter.

**7 Form of information**

A payment service provider must provide the information in the form of a structured formatted electronic file that has been agreed to between the Commissioner and the payment service provider.

**8 Reporting method that must be used**

A payment service provider must provide the information using a secure electronic method that has been agreed to between the Commissioner and the payment service provider.

**9 Exemptions from the requirement to provide information**

The Commissioner may grant an exemption to a payment service provider (E) from the requirement to provide information about a merchant if, in the opinion of the Commissioner,—

- (a) another payment service provider (Z) processes payments for the merchant; and
- (b) Z holds the same, or more, information than E about the merchant, of the types of information referred to in regulation 5; and
- (c) collecting information about the merchant from both E and Z would be more than is necessary for a purpose relating to—
  - (i) the administration or enforcement of any of the Inland Revenue Acts;
  - (ii) the administration or enforcement of any matter arising from or connected with a function lawfully conferred on the Commissioner.

**10 Transitional, savings, and related provisions**

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

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Consultation draft

**Schedule 1  
Transitional, savings, and related provisions**

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**Part 1  
Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions in these regulations as made.

Clerk of the Executive Council.

**Explanatory note**

*This note is not part of the regulations, but is intended to indicate their general effect.*

To come.

Issued under the authority of the Legislation Act 2012.

Date of notification in Gazette:

These regulations are administered by the Inland Revenue Department.