

Regulatory Impact Statement: Regular dataset collection from payment service providers

Coversheet

Purpose of Document	
Decision sought:	Analysis produced for the purpose of informing: final Cabinet decisions on the collection of information from payment service providers on a recurrent basis.
Advising agencies:	Inland Revenue
Proposing Ministers:	Minister of Revenue
Date finalised:	29 July 2022
Problem Definition	
<p>Inland Revenue's ability to access good quality, accurate information is essential to the smooth running of the tax system. Inland Revenue currently cannot easily access information on merchants' sales on a regular basis to ensure merchants comply with their tax obligations. Previous limited information received regarding merchant sales in the hospitality industry has identified significant non-compliance.</p>	
Executive Summary	
<p>Prior to 2019, Inland Revenue's legislative information collection provision was not intended for repeat collection of the same information from the same person or organisation and therefore only infrequent information was collected. This constrained Inland Revenue's ability to collect information on merchant sales data to ensure merchants comply with their tax obligations. In 2019, legislative changes were made to enable Inland Revenue to collect information on an ongoing basis from groups of entities. In order to collect information, the legislation requires an Order in Council be promulgated outlining what information is required and which groups of entities are required to report this information.</p>	
<p>To date, Inland Revenue's access to information held by payment service providers (PSPs) has only occurred in relation to some PSPs. It has also been sporadic, and enabled only one sector's compliance to be verified, namely the hospitality industry. This has resulted in an inconsistent approach to compliance and information being requested only from some PSPs and not a wider group.</p>	
<p>The preferred option should:</p> <ul style="list-style-type: none"> Provide the ability for Inland Revenue to access information on an ongoing basis to ensure merchant compliance Remove any perceived competitive disadvantage for PSPs who comply with the information request. 	
<p>The preferred option is to use the new information gathering power to collect aggregated merchant sales information from a wider group of PSPs on an ongoing basis (option 2).</p>	

Limitations and Constraints on Analysis

Legislation was introduced in 2019 to enable the collection of bulk datasets by way of regulation. A Regulatory Impact Statement (RIS) [Making Tax Simpler: Proposals for modernising the Tax Administration Act – collection, use and disclosure of information](#) was developed at that time and dealt with the policy and legislative options for the collection of bulk datasets. Whether or not Inland Revenue should generally be able to collect bulk information from third parties is therefore not part of this RIS. This RIS is focussed on the specific collection of information from PSPs

This RIS deals with a proposal to collect merchant sales data from Payment Service Providers (PSPs) through an Order in Council under the enabling legislation. This has limited the options outlined in this RIS to either the status quo of not collecting information and the other two proposals to collect merchant sales information from PSPs.

The proposed collection of data from PSPs is evaluated against a set of criteria and objectives. These are outlined in this RIS.

Responsible Manager(s) (completed by relevant manager)

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Carolyn Elliott

Policy Lead

Policy and Regulatory Stewardship

Inland Revenue

29 July 2022

Quality Assurance (completed by QA panel)

Reviewing Agency:	Inland Revenue
Panel Assessment & Comment:	The Quality Assurance Panel at Inland Revenue has reviewed the Regulatory Impact Assessment Regular dataset collection from payment service providers, prepared by Inland Revenue, and considers that the information and analysis summarised in the Regulatory Impact Assessment meets the quality assurance criteria.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Electronic payments have grown exponentially in New Zealand, and it is now the main payment mechanism for merchants selling goods and services. All electronic transactions flow through the hands of PSPs who facilitate these electronic transactions between merchants and their customers. Therefore, PSPs are a good source of information to assist Inland Revenue to identify whether merchants are complying with their obligations or whether merchants need assistance in order to comply with their tax obligations. Macro analysis of this information is also used in research and to inform policy. Access to this information will contribute to the effective administration and ensure the integrity of the tax system.

Previously Inland Revenue could only practically access information from a small number of PSPs using the information gathering power in the Tax Administration Act 1994. This information gathering power provided for one-off requests to PSPs but not ongoing provision of information. The data collected related to approximately 16,000 merchants in the hospitality industry. This data identified 1,825 high risk merchants which were investigated and resulted in 1,200 merchants being assessed for under reporting their income for both Income tax and GST.

The information gathered from former measurement systems on the benefits from using PSP data showed better targeting of Inland Revenue resources, an increased strike rate (identifying non-compliant taxpayers), increased tax revenue for the Government of \$37.5M, a 20% reduction in staff hours being spent on each case, and an 11% increase on return on investment.

What is the policy problem or opportunity?

Inland Revenue's ability to access 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.

Unlike taxpayers who have tax deducted at source, such as employees or recipients of interest income, merchants who sell goods and services receive income prior to it being taxed. This gives them the ability to decide whether to declare this income for tax purposes.

Also, information obtained from a small number of PSPs in the past on a subset of merchants has demonstrated non-compliance by some merchants and this is expected to be the case when compliance by all merchants is checked.

The policy problem is that information is not collected on all merchants in a consistent and ongoing basis to enable Inland Revenue to ensure compliance by all merchants. The opportunity is that accessing this information would increase the integrity of the tax system by ensuring merchants comply with their obligations and increased perception of fairness and equity between taxpayers.

Inland Revenue considers there are around 50 organisations in the financial service market providing services to an estimated 180,000 merchants.

What objectives are sought in relation to the policy problem?

The objective is to protect the integrity of the tax system by identifying merchants who are not complying with their tax obligations as well as identifying merchants who need assistance to enable them to comply.

Section 2: Deciding upon an option to address the policy problem

What criteria will be used to compare options to the status quo?

The criteria used to assess the proposal to collect information against the status quo are as follows:

- Administration costs – the effort required to administer the proposal should be kept to a minimum to maximise the benefits to the Government.
- Compliance costs – The costs in complying with this intervention for PSPs and merchants should be kept to a minimum.
- Fairness or equity – all taxpayers should comply with their tax obligations. Those businesses who do not comply enjoy a competitive advantage over those businesses who do.
- Integrity of the tax system or perceptions of integrity – Inland Revenue should have access to information necessary to ensure taxpayer compliance and taxpayers are incentivised to voluntarily comply with their obligations.

In general, these criteria work together and do not require significant trade-offs. However, the criterion of integrity, as defined in section 6 of the Tax Administration Act, includes the “rights of taxpayers to have their affairs kept confidential”. When it comes to exceptions to confidentiality,

including information sharing, there is an inherent trade-off between confidentiality and fairness or equity. It should be noted however, particularly in relation to disclosures for tax-related purposes, that the statutory concept of integrity also includes the responsibility of taxpayers to comply with the law.

What scope will options be considered within?

The existing legislative settings provide the scope that the options will be considered within. These settings enable Inland Revenue to collect information more regularly from groups of people by way of a regulation.

What options are being considered?

There are three options being considered in this RIS. The first is the status quo of not collecting the information. The other two options are to collect merchant sales information from PSPs by way of a regulation either collecting aggregated merchant data (option 2) or raw merchant data (option 3).

Not all PSPs will be required to report as some of their information is held by other associated PSPs and some do not provide the services that this policy is targeting, for example, those who provide software services to PSPs. Inland Revenue will be discussing with PSPs what services they provide and therefore whether they will be required to report on or not.

Consultation was undertaken with the industry and other interested parties on the detailed features of the proposals to collect information from PSPs. Those who submitted on the discussion document generally wanted changes to the proposal to reduce the compliance costs that PSPs would face. Officials consider that most of the changes suggested by submitters would reduce compliance costs while ensuring the objective is met. These include removing the threshold on which merchants need to be reported on, extending the reporting period, and filing date, clarifying the exemption process and the definitions. Appendix 1 outlines the feedback from submitters and officials' response to the issues raised.

The following table compares the three options against the criteria and provides an overall assessment of the options.

Criteria	Status quo	Collection of aggregated merchant data from PSPs	Collection of raw merchant data from PSPs
Administration costs	There are some administrative costs for Inland Revenue in trying to identify non-compliant merchants and in issuing ad hoc information requests to some PSPs -	Administration costs of processing and analysing information increase - Reduction in current costs of identifying non-compliant merchants + Overall assessment is neutral	Receiving a very large number of transactions for all merchants in NZ would impose high administration costs in storing and using the information and poses risks to Inland Revenue's IT systems. -
Compliance costs	No additional compliance costs +	Compliance costs are imposed on PSPs (-) For those PSPs that favoured the collection of aggregated data, compliance costs would be kept to a minimum. (+) For those PSPs that favoured the collection of raw data, compliance costs would not be reduced. (-) Overall assessment is (-)	Collection costs are imposed on PSPs. (-) For those PSPs that favoured the collection of raw data, compliance costs would be kept to a minimum. (+) Other PSPs that favour the collection of aggregated data, compliance costs would not be reduced. (-) Overall assessment is (-)
Fairness and Equity	Compliant merchants face higher costs (Revenue and compliance) than non-compliant merchants. -	Greater merchant compliance increases actual and perceived fairness and equity of the tax system. Collecting information on all merchants and from a wider group of PSPs will increase perceptions of fairness and equity +	Greater merchant compliance increases actual and perceived fairness and equity. +
Integrity of the tax system	Undermines the integrity of the tax system Pressure on other sources of revenue to provide funds for public services -	Improved merchant compliance improves the integrity of the tax system +	Improved merchant compliance improves the integrity of the tax system +
Overall score	--	+	Neutral

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

The proposal to collect aggregate merchant sales information from PSPs, option 2, is the preferred option. It achieves the objective of increased compliance with tax obligations, whilst the incorporation of a lot of the suggestions from submitters during the consultation process should keep compliance costs for PSPs to a minimum.

What are the marginal costs and benefits of the option?

The preferred option for improved compliance by businesses improves tax revenue collected, increases the fairness and equity of the tax system, and contributes to maintaining the integrity of the tax system.

The preferred option will impose some compliance costs on PSPs. PSPs have not given an indication of the quantum of these costs, and this was not unexpected as these costs are commercially sensitive. PSPs may pass these costs onto merchants by way of increased charges. However, in Inland Revenue's consultations with the industry on the features of the proposal, many of the suggested changes proposed by submitters to reduce compliance costs have been included in the design of the proposal and this should keep compliance costs to a minimum.

Although the administration costs of processing and the evaluation of merchant information will increase, the existing administrative costs associated with identifying struggling or non-compliant merchants is likely to reduce.

Benefits of proposal to PSP

Levels the playing field which increases fairness: information will be collected from a greater number of PSPs thereby increasing fairness. Due to legislative constraints and resource demands in the past, information was only requested from a small number of PSPs, resulting in unequal obligations across the industry and potentially placing reporting PSPs at a competitive disadvantage.

Certainty of legal authority which reduces compliance costs: The proposed regulation will provide greater detail and certainty to PSPs around what information is required, the due date for reporting information, and the format for providing the information to Inland Revenue. Certainty enables PSPs to automate what used to be an ad hoc manual reporting process, thereby reducing compliance costs.

Benefits to the tax system

Obtaining data and having the ability to analyse it more regularly benefits both Inland Revenue and merchants. It allows Inland Revenue to identify and provide support to merchants earlier where they are at risk of non-compliance. It also allows Inland Revenue to identify and understand the signs/triggers of non-compliant behaviour so that it can develop effective solutions more easily.

There should be positive effects on merchants' compliance as they understand how the changes will close opportunities for under-reporting.

Inland Revenue will benefit from a more extensive and timelier source of data to support its role of administering the Revenue Acts and protecting the integrity of the tax system.

The public will benefit through improved tax compliance. More of the tax collected that should be increases the Government's options to improve public services for New Zealanders and reduces the pressure on other parts of the tax system to fund these public services.

Examples of the benefits of the proposed collection of merchant sales information for both merchants and the integrity of the tax system were included in the [discussion document](#)

What are the marginal costs and benefits of the preferred option (Option 2).

Affected groups (identify)	Comment <i>nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks.</i>	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low, and explain reasoning in comment column.</i>
Additional costs of the preferred option compared to taking no action			
Regulated groups (Payment Service Providers)	<p>PSPs have not given an indication of the quantum of these costs. This is not unexpected as they are commercially sensitive. These costs will be ongoing.</p> <p>Feedback from consultation with PSPs has been incorporated into the design of the proposal to keep compliance costs to a minimum.</p>	<p>Low</p> <p>Low</p>	<p>Low</p>
Regulators (Inland Revenue)	<p><u>Implementation</u> Cost of system and process changes.</p> <p><u>Ongoing</u> Costs of processing and evaluating merchant information will increase costs. However, these costs will be reduced by savings in the costs of identifying non-compliant merchants and enabling better targeting of compliance interventions.</p>	<p>Low. This cost will be absorbed as part of baseline costs.</p> <p>Low. This cost will be absorbed as part of baseline costs.</p>	<p>High</p> <p>High</p>
Others (Merchants)	<p>Information will be obtained from PSPs. Merchants will not be required to provide any more information than they are required to provide now.</p>	<p>Low</p>	<p>Medium.</p>

	However, costs may increase for non-compliant merchants due to penalties imposed, thereby removing the current competitive advantage they have over compliant merchants.		
Total monetised costs		N/A	N/A
Non-monetised costs		Low	Medium
Additional benefits of the preferred option compared to taking no action			
Regulated groups (Payment Service Providers)	All PSPs will be subject to the same reporting requirements which increases equity and removes any perceived market disadvantage. The change would also provide certainty of obligations and requirements. Previous ad hoc requests did not provide certainty of obligations and allow for costs to be reduced by automation.	Low Low	Medium, as raised by submitters in submissions. Medium, as raised by submitters in their submissions.
Regulators (Inland Revenue)	Better use of resources by moving from identifying non-compliance to assisting merchants to get it right from the start.	Low	High
Others (Merchants)	Assisting merchants to comply with their obligations will reduce the costs of Inland Revenue imposed sanctions and use of money interest for merchants.	Low	Medium
(Tax system)	Electronic transaction data provides visibility of businesses that are potentially unregistered and/or operating	Medium	High information gathered from former measurement

	<p>outside the tax system. It also improves verification of reported GST taxable supplies. Increased compliance by businesses improves the fairness and equity of the tax system and relieves the pressure elsewhere in the tax system to collect the revenue required by the Government.</p> <p>Previous evidence from obtaining information from PSPs shows benefits to the tax system.</p>		<p>systems on the benefits from using PSP information showed a 20% reduction in audit case hours, an 11% increase in audit return on investment and overall increase of \$37.5M in revenue.</p>
Total monetised benefits		N/A	N/A
Non-monetised benefits		Low	Medium

Section 3: Delivering an option

How will the new arrangements be implemented?

Consultation with PSPs

The outcome from consultation with PSPs will be considered by Ministers prior to the proposal being considered by Cabinet. The issues raised and officials' responses are outlined in appendix 1.

Feedback from submitters was that to assist them to comply with their obligations PSPs would like certainty on whether they would be required to report. Officials agree and propose that submitters be able to seek clarification from Inland Revenue on whether they are required to report.

Submitters felt that the imposition of only criminal penalties for a PSPs non-compliance with reporting obligations was harsh. Instead, they suggested that either the legislation be amended to provide for both civil and criminal sanctions or provide clarity on when criminal sanctions would be applied. Additionally, submitters stated that PSPs should not be penalised for inaccurate information provided by the merchant that was subsequently reported to Inland Revenue.

Other taxpayers who do not comply with tax obligations may face criminal penalties. The ability to alter the tax penalties regime to also impose civil penalties on PSPs would require changes to primary legislation and involves a fundamental review of how non-compliance by taxpayers is penalised and is not considered further in this RIS.

However, Inland Revenue's existing administrative practice and processes around penalising non-compliance generally reserves criminal penalties for the most serious cases of non-compliance. Communicating this administrative practice when implementing the collection proposal should address submitters' concerns. Officials are also considering whether the Order in Council could be amended to outline this practice and processes.

Regulation

The Tax Administration Act enables regulations to be enacted specifying a person or class of person who are required to provide information for tax administration purposes. If Ministers agree with the preferred proposal, a regulation will be enacted to provide for the collection of information. The

regulation will also specify the type of information requested, the reporting method, the frequency of collection, and the form the information is required in.

Implementing the proposal

An Inland Revenue manager is responsible for this proposal and has a project team currently in place to develop and deliver the implementation of the proposed regulation. As well as the policy process, there are several streams of work that need to be undertaken:

- (1) Engagement with the PSPs,
- (2) Data specifications and requirements,
- (3) Ingesting the data,
- (4) Matching and analysis of the data,
- (5) Insights and use of the data to inform interventions,
- (6) Ongoing operational and compliance support.

The areas within Inland Revenue that have responsibility to deliver the above streams of work are part of the project. Once implemented these streams of work will become part of each area's business as usual work. For example, the data matching will be part of the existing data matching programme and the engagement with PSPs will be incorporated into the external relationship area to manage. The insights gained from collecting this information will inform and be used in the compliance programme.

Managing the external data will follow Inland Revenue's existing processes.

The Inland Revenue manager responsible for delivering this stream of work and the technical specialists have oversight of the project and are responsible for it being implemented and then utilised.

How will the new arrangements be monitored, evaluated, and reviewed?

This data and insights will inform a stream of work sitting within the compliance programme. The data on merchant sales will be a significant source of information and insights that will be used to support the achievement of the vision for addressing income suppression. There will be a lead person with responsibility and oversight, with a planned approach for utilising this data and information. Both the business owner and the lead person will have oversight of monitoring the regulation, ensuring compliance with it, and ultimately seeking an evaluation of the outcomes being achieved with the use of the data.

Appendix 1 the outcome of consultation with PSPs and other submitters and officials' responses.

Proposed	Feedback from submitters	Officials recommend
<p>Threshold It was proposed that reporting would be required on merchants whose income was below \$30m.</p>	<p>There was an overwhelming amount of feedback from submitters that the threshold would create compliance costs in identifying which merchants to report on.</p>	<p>To remove the threshold, therefore requiring PSPs to report on the transactions of all merchants.</p>
<p>Data Merchant data provided to Inland Revenue is either raw (each transaction) or aggregated.</p>	<p>There was a mixed response from submitters as to which option would reduce compliance costs. Some submitters consider it is easier to provide the raw data to IR or that the raw data would enable Inland Revenue to identify duplicate information which it receives from two PSPs.</p>	<p>Aggregate data is currently the best way for Inland Revenue to receive data due to the costs involved with processing and storing raw data.</p> <p>In identifying which PSPs are required to report, consideration is given to reducing duplicate information.</p> <p>Officials recommend that PSPs provide aggregate data on each merchant to Inland Revenue.</p>
<p>Frequency of reporting Data to be provided to Inland Revenue every 3 months.</p>	<p>There was overwhelming feedback from submitters for the frequency to be extended to reduce compliance costs.</p>	<p>Although Australia has annual reporting, officials recommend 6-monthly reporting to maximise benefits from early intervention initiatives. For example, education and assistance initiatives as well as identifying non-compliance earlier.</p> <p>The 6-monthly reporting periods would be 1 April to 30 September and 1 October to 31 March to align with the end of the tax year.</p>
<p>Due date for reporting Due date to be 20 working days following the end of the reporting period.</p>	<p>Some submitters wanted more time to file the information after the reporting period.</p>	<p>There is a trade-off between providing more time for PSPs to report and Inland Revenue being able to act on the information sooner.</p> <p>Officials recommend moving the due date for reporting to a month and seven days from the end of the reporting period, namely, 7 November and 7 May.</p>
<p>Merchant identifying data A merchant's IRD number is required to identify the merchant.</p>	<p>Submitters commented that merchant IRD numbers were infrequently captured and could not be relied on to be correct.</p>	<p>Merchant IRD numbers or NZBN remain the best way to correctly identify merchants.</p> <p>Officials recommend that PSPs be required to provide merchant IRD number/NZBN where the information is available. No</p>

		<p>sanction will apply if information is not provided or is incorrect.</p> <p>PSPs will be encouraged to capture and supply the IRD number/NZBN.</p>
<p>Publication of PSPs' names</p> <p>Inland Revenue to publish the names of those PSPs required to report and the types of information reported.</p>	<p>Submitters were concerned that publication could create unfair market competition, especially with international providers who are not captured by these rules.</p>	<p>Officials agree that the names of PSPs should not be published.</p> <p>Note that the publication of the types of information being reported is set out in the regulation and no further publication is necessary.</p>
<p>Definition of PSP</p> <p>The current definition of a PSP is wide to take account of market and technology changes in the future.</p>	<p>Submitters were concerned that the definition is too broad and ambiguous, and Inland Revenue would receive duplicate information where multiple PSPs are involved in the same transaction. Also, submitters wanted certainty regarding whether a PSP is required to report or not.</p>	<p>Officials recommend that the definition of a PSP remain broad to cater for future changes in the payments industry.</p> <p>Also, if requested, Inland Revenue will confirm whether a PSP is required to report as well as notifying those PSPs that are exempt from the reporting requirements. This should reduce duplication of information where multiple PSPs are involved in the same transaction and provide certainty to PSPs of their obligations.</p>
<p>Exemption of PSPs</p> <p>PSPs be exempt from requirement to provide information about a merchant if the information is gathered by another PSP.</p>	<p>Submitters suggested that the current exemption provision is ambiguous as it could refer to an exemption applying to a specific merchant rather than to a PSP or part of the PSPs business.</p>	<p>Officials agree and recommend that the exemption provision be amended so that the exemption applies to a PSP only and not to certain merchants. The exemption can apply to all or some of the PSP's business.</p> <p>Officials also recommend that the exemption application should be on a prescribed form to ensure all the relevant information is provided to the Commissioner to assist in deciding whether to exempt a PSP.</p> <p>The Commissioner may revoke an exemption at any time if there are changes in payments system or with the PSP's business.</p>
<p>Penalties that apply to non-compliance.</p> <p>The standard penalties regime applies to PSPs compliance</p>	<p>Submitters felt that criminal penalties being imposed on PSPs for non-compliance with reporting obligations was harsh.</p>	<p>Officials consider that criminal penalties would apply to PSP non-compliance. A criminal sanction would only be imposed as a last</p>

<p>with the obligations in the regulation.</p>	<p>They wanted certainty on whether they were required to report.</p> <p>Also, PSPs should not be penalised for inaccurate information provided by the merchant that was subsequently reported to Inland Revenue.</p>	<p>resort when all other avenues have been exhausted or where the severity of the offence warrants it.</p> <p>Also, on commencement of the regulation, all existing PSPs will be advised whether they are required to report. New PSPs will be able to ask Inland Revenue to confirm whether they are required to report. This should provide certainty.</p> <p>Where merchant information is available PSPs are required to report that information. However, PSPs will not be penalised for reporting inaccurate information that was provided to them by a merchant.</p>
<p>Future information requests</p> <p>Inland Revenue can request information under the proposed regulation and under existing production order section 17B of the Tax Administration Act 1994.</p>	<p>Submitters raised concerns that they may be required to provide the same information repeatedly to Inland Revenue, once as part of this PSP initiative, and as part of a production order issued by the Commissioner. Submitters sought assurance that production orders would not be used in the future for the same PSP information.</p>	<p>Inland Revenue will provide an operational understanding to PSPs that information already requested under the regulation will not subsequently be requested under a production order.</p> <p>However, Inland Revenue may need further information than provided under this Order and therefore a production order may be used.</p>
<p>Definitions</p> <p>The regulation defines a merchant, and a payment service provider.</p>	<p>Submitters and officials have suggested inserting new or amending existing definitions in the Order to ensure the scheme will work as intended.</p>	<p>Officials recommend minor changes to the definitions for clarity.</p>