

2 July 2019

M P Ross  
fyi-request-10452-583d09dd@requests.fyi.org.nz

Dear Mr Ross

Thank you for your request made under the Official Information Act 1982 (OIA), received on 4 June 2019. You requested the following:

*...It was reported today that "450,000 people have been paying the wrong rate of tax on their KiwiSaver accounts and other managed funds".*  
[\(<https://www.stuff.co.nz/business/113227446/450000-people-have-been-paying-wrong-rate-of-tax-on-kiwisaver-and-other-investments-ird-discovers>\)](https://www.stuff.co.nz/business/113227446/450000-people-have-been-paying-wrong-rate-of-tax-on-kiwisaver-and-other-investments-ird-discovers)

- 1) Who is/are responsible at the IRD for this gigantic mistake/oversight above?
- 2) Have the IRD been "asleep at the wheel" in regards to this issue, whilst receiving billions of dollars a year to collect tax, from taxpayers in this country?
- 3) Who is/are going to be held accountable for this (Q1) at the I.R.D. ?
- 4) Are they (in Q3) going to be dismissed from their employment with the Inland Revenue Department?
- 5) Will people that have paid too much tax in terms of PIR, get refunded by the I.R.D.
- 6) Could overpayment and then non refund/repayment be classed as Theft by a Government department, in this case, by the Inland Revenue Department?
- 7) Does the I.R.D. believe in a fair tax system, where you should only pay the tax that you are required to? If people make mistakes and pay too much tax, should they be refunded?
- 8) How much money did the Inland Revenue Department spend on Marketing (Events / TV/ Radio/Social Media/Newspapers/Magazines/Billboards/Mail Drops/Influencers /etc) in 2018?
- 9) How much money did the Inland Revenue Department spend on Alcohol in 2018
- 10) How much money did the Inland Revenue Department spend on Food in 2018
- 11) The number of employees dismissed from the IRD for Misconduct in the last 5 years and their role in the organisation.

### **Requests 1 to 7**

There has been no negligence by Inland Revenue regarding the use of incorrect Prescribed Investor Rates (PIR) and accordingly, there will be no dismissals in relation to this issue. The changes made to Inland Revenue's systems and processes in April 2019 mean that Portfolio Investment Entity (PIE) income can now be associated with individual customers. This means that Inland Revenue is now able to identify people who were using incorrect PIRs. This did not happen automatically with Inland Revenue's previous systems and processes.

When PIEs were established in 2006, the PIR was designed as a final tax for people using the correct or a higher PIR to help ensure they did not have to file tax returns. At that time, the revenue system was designed so that people did not have to file returns if they only had income that had withholding tax deducted from it and the tax they paid was approximately right.

Under section HM47 of the Income Tax Act 2007 (ITA), the PIE is taxed on the PIE income attributable to an investor at the PIR provided by the investor (or the default rate if the investor does not provide a rate).

Section CX56 of the ITA excludes PIE income if the PIR provided by an investor is the same as or higher than their actual PIR. This means that investors are not subject to any further tax on their PIE income and are not able to get a refund.

The exclusion under section CX56 does not apply if investors use a PIR that is too low. In that case, investors are required to include PIE income in their taxable income and pay tax on it at their marginal tax rate.

The PIE rules require investors to choose a PIR. This is supported by the legal requirement on PIE providers to ask investors to check that they are on the correct PIR every year. Individuals are responsible for working out what PIR they should be on and giving it to their investment provider. People must include their PIE income as taxable income if they use a PIR that is too low. PIR is a final tax for people who use a PIR that is too high. Under current legislation, amounts that have overpaid cannot be refunded. These rules were designed to incentivise people to choose the correct rate.

Inland Revenue's Charter outlines the standards of service you can expect when dealing with Inland Revenue. Inland Revenue's charter states that the law will be applied consistently, so everyone receives their entitlements and pays the right amount, and that we will take your particular circumstances into account as far as the law allows. The Charter is available on Inland Revenue's website (<https://www.ird.govt.nz/>) by searching *IR614*.

### **Request 8**

The table in Appendix 1 shows Inland Revenue's advertising spend between 1 January 2018 and 31 December 2018 (inclusive).

The data provided in the table below has been obtained directly from our financial reporting system. Our system does not break down advertising spend by advertising platform. I have therefore decided to refuse this part of your request under section 18(e) of the OIA, as this information is not held by Inland Revenue.

While we cannot provide specific expenditure data by advertising platform, we have used our business knowledge to provide estimated expenditure based on three broad categories: online advertising, traditional advertising, and combined online and traditional advertising.

Where spending on specific advertising platforms has been identified (Facebook, Google, and LinkedIn), the amounts indicate direct in-house spend on those platforms. We are unable to further breakdown our traditional advertising spend to specify which media outlets were used.

### **Requests 9 and 10**

Inland Revenue will not generally meet the cost of alcohol (with or without meals) of any managers or staff whilst travelling, or on secondment. As Inland Revenue is a public sector organisation, and adopts professional standards of conduct, appropriate limitations also apply whenever alcohol is consumed on its premises, whether or not it bears the cost of the alcohol.

Expenditure on alcohol should comply with Inland Revenue's alcohol policy and must be pre-approved by a Tier 3 manager or above. Inland Revenue is accountable to taxpayers and the Government for how funding is used, and any purchase of alcohol must be very limited, reflect prudence, and clearly support the achievement of the Inland Revenue's role and objectives.

Inland Revenue will meet the cost of food in certain circumstances and within parameters. Entertainment (including food) expenditure should provide organisational benefits and be a justifiable use of public funds. Expenditure should be prudent, justifiable, reasonable and supported by receipts.

Budget managers are required to apply judgement to determine whether entertainment expenditure is appropriate. They must ensure expenditure receives the required approval.

Expenditure on staff farewells or retirements must be moderate and conservative and must be pre-approved in writing by a Tier 3 manager or above for each event.

The cost of alcohol and food, when incurred, is not specifically recorded in individual cost codes in Inland Revenue's financial records. These costs may be included in a variety of other cost codes related to entertainment, travel, kitchen supplies, conferences, training courses, meetings and contractor or consultant expenses depending on why the food or alcohol was purchased.

The details of specific costs related to alcohol and food cannot be made available without substantial research and collation work. Therefore, in accordance with section 18(f) of the OIA, I have decided to refuse your requests for the amount Inland Revenue spent on alcohol and food in 2018.

### **Request 11**

The table below provides the number of employees dismissed from Inland Revenue for misconduct for the previous five years.

<b>Year</b>	<b>Number of employees</b>
2015	9
2016	7
2017	4
2018	8
2019	1

I have decided to refuse your request for the role of the employees under section 9(2)(a) of the OIA, to protect the privacy of the individuals. In making my decision, I have weighed up the public interest considerations in section 9(1) of the OIA.

### **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](mailto: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 decision. You can contact the office of the Ombudsman by email at: [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz).

Thank you for your request.

Yours sincerely



Kerryn McIntosh-Watt  
**Manager, Government and Executive Services**

## **Appendix 1**

Note: The figures provided are for advertising placement only. Strategy, planning and production costs are not included.

<b>Type</b>	<b>Amount (\$)</b>	<b>%</b>
<b>Online advertising</b>	<b>1,724,283.24</b>	<b>71%</b>
Facebook	90,615.49	4%
Google	12,396.06	1%
LinkedIn	6,912.57	0%
LinkedIn & Facebook	32,967.65	1%
Other online advertising <sup>1</sup>	1,581,391.47	65%
<b>Traditional advertising</b>	<b>241,597.02</b>	<b>10%</b>
<b>Online + traditional advertising<sup>2</sup></b>	<b>455,343.73</b>	<b>19%</b>
<b>Total</b>	<b>2,421,223.99</b>	<b>100%</b>

<sup>1</sup> Includes online advertising campaigns run across digital platforms such as Facebook, Google, etc., that cannot be further broken down.

<sup>2</sup> Includes campaigns that were run across both forms of media but are unable to be broken down further.