Hon Simon Watts

Minister of Climate Change
Minister of Local Government
Minister of Revenue
Minister for Auckland

2 1 JUL 2026

MOIA 164-26

Marcus
By email: fyi-request-34995-cf942655@ requests.fyi.org.nz

Dear Marcus

Thank you for your request made under the Official Information Act 1982 (OIA), received on 28 June 2026. You requested copies of the following documents:

1. *BN2026/120 Software development expenditure – NZGDA correspondence*
2. *BN2026/125 Background to current information sharing agreement challenges*
3. *BN2026/156 Issuing IRD Numbers*

Document one is released to you, attached as an **Appendix**. Some information has been withheld under the following sections of the OIA, as applicable:

- 6(c) – the withholding of the information is necessary to not prejudice the maintenance of the law,
- 9(2)(a) – the withholding of the information is necessary to protect the privacy of natural persons,
- 9(2)(f)(iv) – the withholding of the information is necessary to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials, and
- 9(2)(g)(i) – the withholding of the information is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty.

I am withholding document two in full under section 9(2)(h) of the OIA, to maintain legal professional privilege.

I am also withholding document three in full under section 9(2)(f)(iv) of the OIA.

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

If you disagree with my decision, you have the right under section 28(2) of the OIA to ask the Ombudsman to investigate and review my decision. The office of the Ombudsman can be contacted by email at: info@ombudsman.parliament.nz.

Yours sincerely

Hon Simon Watts
Minister of Revenue

Appendix

Briefing note

Reference	BN2026/120
Date	23/04/2026
To	Revenue Advisor, Minister of Finance – Carl Harris Revenue Advisor, Minister of Revenue – Angela Graham Private Secretary, Minister of Revenue – Melissa Zhen
From	Graham Tubb
Subject	**Software development expenditure – NZGDA correspondence**

Purpose

1 This briefing note updates you on the correspondence from the New Zealand Game Developers Association (NZGDA) dated 30 March 2026, our preliminary assessment of its requests, and how officials propose to manage next steps.

Background

2 The tax treatment of software development expenditure has evolved over time in response to changes in technology and commercial practice. In 1993, Inland Revenue issued a Commissioner's policy statement that treated certain software development costs as trading stock, allowing deductions when the software was sold or licensed. That approach was developed in the context of physical software distribution models (for example, shrink-wrapped products such as CDs) and was later regarded as concessionary as the industry moved to licence-based and service-based models.

3 In 2016, Inland Revenue consulted on an interpretation of the law to better reflect contemporary software commercialisation models. To allow for further consideration through a policy process, that work was not finalised. More recently, concerns about the continued reliance (if any) on the 1993 statement, and its consistency with current law and practice, led to the formal withdrawal of that statement on 29 November 2024.

4 In December 2025, officials released an issues paper consulting on the problem definition for software development expenditure, and the treatment of software as a service (SaaS). The consultation document did not contain proposed policy solutions but was designed to better understand the specific concerns of the software development industry so that officials could develop options to address those concerns.

5 NZGDA participated in the consultation process and subsequently wrote to multiple Ministers on 30 March 2026. That correspondence reflects concerns specific to the game development sector, particularly the interaction between current depreciation rules, the withdrawal of the 1993 statement, and the sector's revenue model.

NZGDA letter

6 The 30 March letter raised the following issues, broadly consistent with the separate submissions made during the consultation:

- New Zealand's game development sector rebate (GDSR) is not competitive with the Australian equivalent, the digital games tax offset (DGTO), because of the taxable nature of the GDSR in New Zealand.
- It is not appropriate to group the game development sector under the broad term "software development".
  - The gaming sector has a specific revenue model that causes a "launch spike", meaning most revenue from any one product is earned within the first year of release, meaning depreciation over three years creates a revenue mismatch.
  - Games often require constant "live updates", and it is not practical to track and recognise these as separate capital assets to be depreciated.
- NZGDA is seeking three principal policy changes:
  - **Tax treatment of the GDSR:** Confirmation that the GDSR should be treated as non-taxable income, consistent with the treatment of Australia's DGTO and certain New Zealand screen production rebates.
  - **Timing of deductions for game development costs:** A rule allowing capitalised game development costs to be written off immediately on commercial release, analogous to timing rules available in the screen production sector.
  - **Treatment of "live operations" and content updates:** Clearer policy boundaries so routine live operations, updates, and seasonal content are treated as deductible operating expenditure rather than capital assets.

Comment

7 Officials met with NZGDA on 19 March 2026 to discuss its submission.

8 s 6(c) [redacted] A revised statement has not been finalised while the current consultation proceeds.

9 s 9(2)(g)(i) [redacted]

10 Outside the gaming sector, our consultation with other stakeholders did not raise any fundamental issues surrounding the timing of depreciation and capitalisation of assets. There have been suggestions of some streamlining of the depreciation regime, but most stakeholders were more concerned with issues surrounding SaaS given the associated compliance costs and number of taxpayers.

Change request 1: Tax treatment of GDSR

11 NZGDA has argued that the rebate should be treated as a non-taxable grant. It does not appear that Inland Revenue has issued any kind of ruling on the rebate specifically.

12 We are currently engaging our legal teams to determine the specific classification of the GDSR and its taxable treatment. At first glance it appears that there is at least a case that the GDSR is a government grant under existing legislation.

13 If the GDSR is considered a grant, it would mean it is non-taxable with no deductions allowed for any expenditure that corresponds with the grant. This is linked to NZGDA's second, and main concern, that cashflow suffers when the grant is taxable in the year received but expenditure must be depreciated over several subsequent years. In theory there should be no long-term fiscal difference to the Government or taxpayer whether

the treatment of the payment and corresponding expenditure is taxable/non-deductible or taxable/deductible.

Change request 2: Recognising tax impacts due to timing of deductions

14 As noted above, a key issue highlighted by the NZGDA is how its revenue model does not match the requirement to depreciate capital assets over a three-year period due to the subsequent revenue from the game assets peaking and dropping off markedly within the first six to twelve months. This essentially creates an artificial profit (a "launch spike").

15 s 9(2)(f)(iv) [redacted]

16 As part of its submission in the letter, NZGDA pointed to the tax regime that applies to New Zealand films, which it says are analogous to gaming software. The NZGDA is seeking a similar immediate deduction of costs.

17 Currently, the film production industry has bespoke deduction rules allowing them to immediately deduct costs in the income year the film is completed, essentially accelerated deductions. These rules are complex and linked to concepts such as film completion, involving certification by the New Zealand Film Commission, and whether the film is a "feature film or a New Zealand film". Replicating these for the gaming industry would not be a simple undertaking.

18 s 9(2)(f)(iv) [redacted]

Change request 3: Live updates

19 The NZGDA has argued that its live updates constitute operational expenses as opposed to capital expenses and therefore should be immediately deductible.

20 Inland Revenue's current interpretation of the law only allows for deductions when maintenance and "bug fixing" is done. When seasonal products are implemented, such as a Halloween-specific add-on to a game, capitalisation would likely need to occur to depreciate the relevant expenditure.

21 This is consistent with the usual approaches to capital expenditure, and applies to other software developer s 9(2)(f)(iv) [redacted]

Australian approach

22 Australia, like New Zealand, does not have specific rules governing software development costs and depreciation; instead, general depreciation rules apply. The applicable depreciation rates for software assets appear to be broadly comparable between New Zealand and Australia.

23 As noted above, Australia also directly supports the gaming sector through its DGTO. This scheme works as a 30% federal tax offset that is also stackable with state level incentives, which can provide an effective rebate of up to 50%. New Zealand's GDSR was largely modelled on this scheme and offers a 20% rebate on eligible expenditure.

24 s 9(2)(f)(iv) [redacted]

Next steps

25 s 9(2)(f)(iv) [redacted]

26 s 9(2)(f)(iv) [redacted]

27 We recommend the Minister provides a response to the NZGDA clarifying the consultation status and encouraging it to continue engaging with officials as policy options are developed.

28 Inland Revenue will also engage directly with NZGDA on the tax treatment of the GDSR. Some operational options exist that companies could potentially use to soften the effects of the depreciation regime, possibly including Investment Boost, and applications for special depreciation rates. We will report back to Ministers if that outcome raises further concerns.

Graham Tubb

Principal Policy Advisor

s 9(2)(a) [redacted]

Hon Simon Watts

Minister of Climate Change
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s 9(2)(g)(i)

[redacted]

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