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Taxpayers' Rights in New Zealand

Abstract

This article is primarily concerned with provisions of the Tax Administration Act 1994. In particular, it discusses the Commissioner's duty to collect tax, corresponding duties of the taxpayer, the Commissioner's powers to obtain information, the Inland Revenue Department's code of secrecy, binding rulings on taxation, new rules on disputing assessments and review of the Commissioner's actions outside of the objection procedure.

Keywords

taxpayers rights, New Zealand, tax, law

TAXPAYERS' RIGHTS IN NEW ZEALAND



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This article is primarily concerned with provisions of the Tax Administration Act 1994. In particular, it discusses the Commissioner's duty to collect tax, corresponding duties of the taxpayer, the Commissioner's powers to obtain information, the Inland Revenue Department's code of secrecy, binding rulings on taxation, new rules on disputing assessments and review of the Commissioner's actions outside of the objection procedure.

Introduction

The statutory basis of income tax in New Zealand is the Income Tax Act 1994 and the Tax Administration Act 1994.

The Tax Administration Act 1994 contains provisions relating to the Inland Revenue Department and the administration of income tax matters.

The Commissioner's duty to collect tax

Section 6A (3) of the Tax Administration Act 1994 provides:

In collecting the taxes committed to the Commissioner's charge, and notwithstanding anything in the Inland Revenue Acts, it is the duty of the Commissioner to collect over time the highest net revenue that is practicable within the law having regard to -

- (a) The resources available to the Commissioner; and
- (b) The importance of promoting compliance, especially voluntary compliance, by all taxpayers with the Inland Revenue Acts; and
- (c) The compliance costs incurred by taxpayers.

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The Commissioner is thus under a statutory duty to collect the highest revenue that is practicable. He or she cannot exercise a discretion to reduce a taxpayer's liability unless there is specific statutory authority to do so. Estoppel cannot be raised against the Commissioner and an intra vires exercise of the assessment function is not amenable to judicial review.¹

The taxpayer's duties

A recent amendment to the Tax Administration Act 1994 has introduced a new s 15, which provides that a taxpayer must do the following:

- (a) Correctly determine the amount of tax payable by the taxpayer under the tax laws:
- (b) Deduct or withhold the correct amounts of tax payable by the taxpayer when required to do so by the tax laws:
- (c) Pay tax on time:
- (d) Keep all necessary information (including books and records) and maintain all necessary accounts or balances required under the tax laws:
- (e) Disclose to the Commissioner in a timely and useful way all information (including books and records) that the tax laws require the taxpayer to disclose:
- (f) To the extent required by the Inland Revenue Acts, co-operate with the Commissioner in a way that assists the exercise of the Commissioner's powers under the tax laws:
- (g) Comply with all the other obligations imposed on the taxpayer by the tax laws.

This section identifies in general terms obligations which if breached will attract a penalty or interest or both under the new Parts VII and IX of the Act. It also equates with Part II of the Act and, in particular, s 6, which sets out the role and general powers of the Commissioner.

¹ *CIR v Lemmington Holdings* (1982) 5 NZTC 61,268. For further discussion on the scope of judicial review, see below. See also the discussion on the Ombudsman.

The Commissioner's powers to obtain information

Extensive powers to obtain information

Part III of the Tax Administration Act 1994 gives the Commissioner and officers of the Inland Revenue Department extensive powers to obtain information. The power to inspect books and documents is set out in s 16 (1), which provides as follows:

Notwithstanding anything in any other Act, the Commissioner or any officer of the Department authorised by the Commissioner in that behalf shall at all times have full and free access to all lands, buildings, and places, and to all books and documents, whether in the custody or under the control of a public officer or body corporate or any other person whatever, for the purpose of inspecting any books and documents and any property, process or matter which the Commissioner or officer considers necessary or relevant for the purpose of collecting any tax or duty under any of the Inland Revenue Acts or for the purpose of carrying out any other function lawfully conferred on the Commissioner, or considers likely to provide any information otherwise required for the purpose of any of those Acts or any of those functions, and may without fee or reward make extracts from or copies of any such books or documents.

The section also gives the Commissioner or any officer of the Department power to require the owner or manager of any property or business which is being investigated, or any employee in connection with the property or business, to give "all reasonable assistance in the investigation and to answer all proper questions relating to any such investigation" either orally or in writing or by statutory declaration.²

In addition, the Commissioner has wide powers to require any person to furnish information. Section 17 (1) provides that:

Every person ... shall, when required by the Commissioner, furnish in writing any information and produce for inspection any books and documents which the Commissioner considers necessary or relevant for any purpose relating to the administration or enforcement of any of the Inland Revenue Acts.

A tax investigation does not have to be in respect of specific individuals. In *The New Zealand Stock Exchange v CIR; The National Bank of New Zealand Ltd v CIR*,³ the Commissioner had served notices on the New Zealand Stock Exchange and the National Bank of New

² Section 16 (2).

³ (1991) 13 NZTC 8,147 (PC).

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Zealand Limited under s 17 (1) of the Inland Revenue Department Act 1974.⁴ In the case of the Stock Exchange, individual members were asked to provide information on a fixed number of their "largest" clients. In the case of the bank, information was required on all persons who had dealt in commercial bills through the bank since 1986. Neither notice identified particular persons as being the subject of the inquiry. The Privy Council held that the Commissioner was entitled to require information concerning a class of unidentified possible taxpayers. Lord Templeman, in delivering the opinion of the Board, said⁵ that the court can only interfere if it is satisfied that in making a particular requirement the Commissioner exceeded or abused his powers.⁶ Like the Court of Appeal, the Privy Council declined to speculate on the circumstances which might lead to interference by way of judicial review.⁷

The investigatory powers of the Commissioner are subject to legal professional privilege. Section 20 specifically preserves the privilege of confidential communications passing between legal practitioners and their clients. However, it also provides that certain financial records in connection with trust account records are not privileged from disclosure.

Powers to obtain information for the purposes of litigation

The Commissioner has powers to obtain information for the purposes of litigation under the recently introduced s 89M of the Tax Administration Act 1994. If a taxpayer disputes a proposed adjustment to an assessment, the Commissioner may issue the taxpayer with a *disclosure notice* which will require the taxpayer to issue the Commissioner with a *statement of position* which will, with sufficient detail:

- (a) give an outline of the facts on which the disputant intends to rely;
- (b) give an outline of the evidence on which the disputant intends to rely;
- (c) give an outline of the issues that the disputant considers will arise; and

⁴ This section is the same as s 17 (1) of the Tax Administration Act 1994.

⁵ Above n 3 at 8,151.

⁶ See *Green v Housden* (1993) 15 NZTC 10,055 where the Court of Appeal held that notices issued by the Commissioner under s 17 of the Inland Revenue Department Act 1974 were an abuse of statutory power.

⁷ (1991) 13 NZTC 8,147 at 8,152.

- (d) specify the propositions of law on which the disputant intends to rely.

The Commissioner is under a duty to provide similar information to the taxpayer.⁸ Under s 138G, neither the Commissioner nor the taxpayer may raise in litigation any evidence or legal argument not disclosed in their statements of position. However, the Court does have a discretion to admit such evidence or legal argument if, first, the taxpayer or the Commissioner could not, with due diligence, have discovered the facts or evidence before challenging the assessment and, secondly, the weight of the new facts or evidence is such that, if admitted, they will necessarily be conclusive of the challenge.

Strict code of secrecy

The Inland Revenue Department is subject to a strict code of secrecy. Section 81 of the Tax Administration Act 1994 provides that every officer of the Department:

Shall maintain and aid in maintaining the secrecy of all matters relating to ... the Inland Revenue Acts ... which come to the officer's knowledge, and shall not, either while the officer is or after the officer ceases to be an officer of the Department, communicate any such matters to any person except for the purpose of carrying into effect the [Inland Revenue and other specified] Acts or any other enactment imposing taxes or duties payable to the Crown ...⁹

The section further provides that:¹⁰

no officer or the Department shall be required to produce in any Court or tribunal any book or document or to divulge or communicate to any Court or tribunal any matter or thing coming under the officer's notice in the performance of the officer's duties as an officer of the Department, *except when it is necessary to do so for the purpose of-*

- (a) Carrying into effect ... the Inland Revenue Acts [and other specified Acts] ... or
- (b) Carrying into effect the powers, duties, and functions of the Commissioner under the New Zealand Superannuation Act 1974.

If proceedings do not involve the Department, disclosure is prohibited, even in the situation where information is requested by a

⁸ Tax Administration Act 1994, s 89M (4).

⁹ Tax Administration Act 1994, s 81 (1).

¹⁰ Section 81 (3). [Emphasis added].

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defendant in criminal proceedings.¹¹ Where a civil claim is brought against officers of the Department arising from their conduct in the course of an inquiry, the Department may be required to disclose information on the basis that the litigation is activity in the carrying into effect or administration of the Inland Revenue Acts.¹²

There are a number of exceptions to the requirement of secrecy. Under s 81 (4), the Commissioner is entitled to provide information:

- for the purpose of a prosecution under New Zealand or overseas law of a person suspected of any indictable or summary offence;
- for the purposes of criminal investigation or prosecution in relation to any tax imposed or payable or any refund made or claimed under the Goods and Services Act 1985;
- to the Director of the Serious Fraud Office for the purpose of any investigation in relation to any suspected offence against the Inland Revenue Acts;
- to an officer of the Department of Statistics where disclosure is necessary for the officer to carry out duties under the Statistics Act 1975;
- to an officer of the Treasury who requires information for the purpose of performing duties relating to the preparation of taxation revenue forecasts;
- to the Department of Social Welfare, Accident Compensation Corporation, or Accident Rehabilitation and Compensation Insurance Corporation, where the information is communicated to enable these entities to carry out various statutory functions;
- to an authorised person under the Student Loan Scheme Act 1992 in respect of the administration of the student loan scheme;
- to the State Services Commission where the information is necessary for the effective administration of the Inland Revenue Department's responsibilities;
- to persons contracted to perform services for the Department of Inland Revenue;
- to any person authorised by the Minister of Finance where the information is of a general nature and does not identify any taxpayer;

¹¹ *R v Saint-Merat* [1958] NZLR 1147; *Daemar v Gilliland* [1979] 2 NZLR 7; *Burt v Darwin* (1986) 8 NZTC 5,026.

¹² *Knight v Barnett* (1991) 13 NZTC 8,014 (CA).

- to the government of another country pursuant to a double tax agreement or some reciprocal arrangement with the government of another country;
- to a person from whom, or on behalf of whom, or in relation to whom the information is held or was obtained if the information is readily available in the Department and it is reasonable and practical to give the information.

Binding rulings

A new system of binding rulings became effective on 10 April 1995. They were introduced as Part VA of the Tax Administration Act 1994. Their purpose, as described in s 91A, is to:

- (a) Provide taxpayers with certainty about the way the Commissioner will apply taxation laws; and
- (b) Help them to meet their obligations under those laws,

by enabling the Commissioner to issue rulings that will bind the Commissioner on the application of those laws. The Part also recognises the importance of collecting the taxes imposed by Parliament and the need for full and accurate disclosure by taxpayers who seek to obtain binding rulings.

Under Part VA, the Commissioner may make three types of rulings: public rulings; private rulings; and product rulings.

Public rulings

The Commissioner may at any time make a public ruling on how a taxation law applies in relation to any type of person and any type of arrangement.¹³ A taxpayer who calculates her or his tax liability on the basis of a public ruling is entitled to be assessed in accordance with that ruling.¹⁴

Private rulings

Private rulings may be sought from the Commissioner by taxpayers in respect of particular arrangements.¹⁵ The effect of a private ruling is that the Commissioner is bound by the ruling in respect of the taxpayer who applied for it¹⁶ provided, of course, that full disclosure

¹³ Section 91 D.

¹⁴ Section 91 DB.

¹⁵ Section 91 E.

¹⁶ Section 91 EA.

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of the arrangement was made to the Commissioner and the arrangement is not materially different from that which was disclosed.¹⁷ Taxpayers who apply for a private ruling must pay a fee¹⁸ and are required to make full disclosure of the arrangements in respect of which the ruling is sought.¹⁹ In a number of specified circumstances, the Commissioner may decline to make a ruling.²⁰

Product rulings

Like private rulings, product rulings may be sought from the Commissioner in respect of particular arrangements. The Commissioner may make a product ruling if he or she is satisfied that a private ruling cannot be made because it is not practicable to identify the taxpayers who may enter into the arrangement and the characteristics of such taxpayers would not affect the content of the ruling.²¹ The provisions of Part VA in respect of product rulings are similar to those in respect of private rulings.

Disputing assessments

General comments

The rules for disputing assessments and determinations and for taking appeals to the Taxation Review Authority and the High Court are to be found in Parts VIII and VIIIA of the Tax Administration Act 1994, the Taxation Review Authorities Act 1994, and the Taxation Review Authority Regulations 1994. Part VIIIA came into force on 1 October 1996. It sets out new procedures for challenging decisions of the Commissioner which will supersede the procedures set out in Part VIII.

Section 109 of the Tax Administration Act 1994 provides that:

Except in objection proceedings under Part VIII or a challenge under Part VIIIA-

¹⁷ Section 91 EB.

¹⁸ Section 91 I empowers the Governor General to make regulations in respect of fees. At present, the fee is \$210.00, including GST, with an hourly rate of \$105.00 thereafter.

¹⁹ Sections 91 ED and 91 EE.

²⁰ Section 91 E (3) and (4).

²¹ Section 91 F (1).

- (a) No disputable decision may be disputed in a court or in any proceedings on any ground whatsoever; and
- (b) Every disputable decision and, where relevant, all of its particulars are deemed to be and are taken as being correct in all respects.²²

This suggests that the only way by which assessment or determination may be disputed is under Parts VIII and VIIIA of the Act. However, s 109 does not exclude the right to apply for judicial review. Nor does it exclude the right to complain to the Ombudsman under the Ombudsmen Act 1975.

Part VIIIA of the Tax Administration Act 1994

Section 89A states that the purpose of the new provisions is to establish procedures that will:

- (a) Improve the accuracy of disputable decisions made by the Commissioner under certain of the Inland Revenue Acts; and
- (b) Reduce the likelihood of disputes arising between the Commissioner and taxpayers by encouraging open and full communication -
 - (i) To the Commissioner, of all information necessary for making accurate disputable decisions; and
 - (ii) To the taxpayers, on the basis for disputable decisions to be made by the Commissioner; and
- (c) Promote the early identification of the basis for any dispute concerning a disputable decision; and
- (d) Promote the prompt and efficient resolution of any dispute concerning a disputable decision by requiring the issues and evidence to be considered by the Commissioner and a disputant before the disputant commences proceedings.

The key features are as follows:

- The Commissioner must by *notice of proposed adjustment* inform a taxpayer of proposed adjustments to an assessment

²² The words, but possibly not the effect of s 109 were recently changed by an amendment in s 30 of the Tax Administration Amendment Act (No) 2 1996.

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and the reasons for the adjustments, in most cases, prior to the issue of the assessment.²³ Taxpayers may also issue notices of proposed adjustment to the Commissioner, if the Commissioner has issued an assessment or determination without first issuing a notice of proposed adjustment to the taxpayer.²⁴

- The Commissioner may issue a *disclosure notice* to a taxpayer who is in dispute with the Commissioner.²⁵ If the Commissioner takes this step, both the Commissioner and the taxpayer must disclose in writing to each other matters of evidence and propositions of law upon which they rely.²⁶
- In subsequent litigation, both the taxpayer and the Commissioner may be prohibited from raising evidence that has not previously been disclosed.²⁷
- New procedures have been introduced for the litigation of tax disputes. In most circumstances, a taxpayer may initiate proceedings in either the Taxation Review Authority or the High Court as soon as the Commissioner issues an assessment.
- Appeals may be taken to the Court of Appeal and the Privy Council although it is anticipated that the right of appeal to the Privy Council will, in time, be abolished.
- A simple procedure has been introduced for the Taxation Review Authority to hear small claims of less than \$15,000.²⁸ It is up to the taxpayer to elect to have her or his case heard in this way. There is no right of appeal from these decisions.
- As a prerequisite to litigation, taxpayers must either pay half the tax in dispute or provide security for it or receive the Commissioner's agreement to waive payment.²⁹

²³ Sections 89B, 89C, 89F, 89G, 89H, 138B.

²⁴ Sections 89C, 89D, 89H, 89J, 89K, 89L, 138B.

²⁵ Section 89M.

²⁶ Section 89M (4) and (6).

²⁷ Section 138G. See the discussion above under the sub-heading, the Commissioner's "Powers to obtain information for the purposes of litigation".

²⁸ Tax Administration Act 1994, s 89E; Taxation Review Authorities Act 1994, ss 5A, 13, 26A.

²⁹ Sections 128, 128A, 138B, 138C, 138H, 138I.

- Provision is made for *conferences* between the Commissioner and the taxpayer. They may be either informal or formal, depending on the nature of the dispute. This feature is not set out in the legislation.
- Provision is also made for disputes to be looked at by the Inland Revenue Department's new *Adjudication Unit*. This feature also is not set out in the legislation.

Alternatives to the objection procedure

Judicial review

Section 109 of the Tax Administration Act 1994 provides that, except under the objection procedure, an assessment or determination cannot be disputed and its particulars are deemed to be correct. This does not preclude judicial review where there is a challenge to the validity of the process adopted by the Commissioner and what is being questioned is not simply the exercise of an *intra vires* function.³⁰ However, s 109 may have the effect of limiting the nature and scope of any review. In *Brierley Investments Limited v CIR*,³¹ Richardson J said that:

Availability of judicial review turns on a close construction of the statute under which the decision making authority exercised or proposes to exercise relevant statutory powers. As a public authority the Commissioner cannot by contract or conduct abdicate or fetter the future exercise of his (or her) audit functions in particular cases. Given the very special features of the New Zealand income tax legislation I am satisfied that there is no scope for weighing and balancing management functions against collection responsibilities in respect of particular taxpayers as is present under the English statutes.

However, in the same case, Casey J said³² that, "in an appropriate case a decision by the Commissioner to act inconsistently with a taxpayer's legitimate expectation in the process leading up to an assessment could constitute unfairness amounting to an abuse of power, so as to justify intervention by way of judicial review". The other member of the Court of Appeal, McKay J, noted³³ the differing views of his

³⁰ *BASF New Zealand Limited v CIR* (1993) 15 NZTC 10,145 at 10,149 per Henry J.

³¹ (1993) 15 NZTC 10,212 (CA).

³² *Ibid* at 10,225.

³³ *Ibid* at 10,234.

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brethren and opted to leave the questions in issue open until a case arises where they will be determined.

Complaints to the Ombudsman

Under the Ombudsmen Act 1975, it is a function of the Ombudsman to investigate complaints made by persons who have been affected in their personal capacity by decisions or recommendations made, or acts done or omitted, by Departments and organisations specified in the Act, which relate to matters of administration. One of the Departments specified is the Inland Revenue Department.

Section 22 of the Act provides that if, after investigating a complaint, the:

Ombudsman is of the opinion that the decision, recommendation, act or omission which was the subject-matter of the investigation -

- (a) appears to have been contrary to law; or
- (b) was unreasonable, unjust, oppressive or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act, regulation, or delay or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory; or
- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was wrong

[and] the Ombudsman is of opinion -

- (a) that the matter should be referred to the appropriate authority for further consideration; or
- (b) that the omission should be rectified; or
- (c) that the decision should be cancelled or varied; or
- (d) that any practice on which the decision, recommendation, act or omission was based should be altered; or
- (e) that any law on which the decision, recommendation, act or omission was based should be reconsidered; or
- (f) that reasons should have been given for the decision; or
- (g) that any other steps should be taken -

the Ombudsman shall report his opinion, and his reasons therefore to the appropriate Department or organisation, and may make such recommendations as he thinks fit.

If, within a reasonable time after the report is made, no action is taken which seems to the Ombudsman to be "adequate and appropriate", he or she may send a copy of the report and recommendations to the Prime Minister and may thereafter make such report to the House of Representatives as he or she thinks fit.³⁴

The Ombudsman has rarely been called upon to help people who feel that they have been wronged by the Department of Inland Revenue. However, in 1987 three teachers, who had visited New Zealand to work for a year at a University, succeeded with their complaint to the Ombudsman about their assessment to pay tax.³⁵

The three teachers had been advised by the Inland Revenue that, as visiting teachers, they would be exempt from tax when they came to New Zealand. This advice was based on a reference to an out-of-date Double Tax Order and it was incorrect. They only discovered that they would be liable to pay tax in New Zealand when they left the country. The Commissioner of Inland Revenue admitted that his Department had been negligent, but said that there was a paramount duty to apply the law so that every taxpayer paid the correct amount of tax.

The Ombudsman concluded that the three teachers had been unfairly disadvantaged and recommended that the Department provide the teachers with *ex gratia* payments of \$11,202.74, \$7,291.77 and \$7,237.60 respectively. These amounts were calculated on the basis of the tax that had been paid by the teachers. The Commissioner refused to make the payments. He said that an estoppel cannot be raised against the Commissioner on the basis of an earlier ruling and that making *ex gratia* payments would create a precedent. The response of the Ombudsman is set out in his report:³⁶

An Ombudsman's recommendation is not binding on a department but it has been very rare in New Zealand experience for a recommendation not to be accepted. Section 22 (4) of the Ombudsmen Act 1975 sets out my options which include sending a copy of the report and recommendations to the Prime Minister, and thereafter reporting to Parliament. As any action under section 22 (4)

³⁴ Section 22(4).

³⁵ *9th Compendium of Case Notes of the New Zealand Ombudsman*: case numbers W21,476, W21,480, W21,508.

³⁶ *Ibid* at 22.

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would be virtually unprecedented and it was important that full consultation should take place, I invited the Commissioner of Inland Revenue to discuss the matter with me personally.

The Commissioner stated that he had taken further advice and as the department acknowledged that there was some degree of negligence and without the incorrect advice the complainants may not have submitted themselves to the New Zealand tax jurisdiction at all, he agreed that ex gratia payments should be made. He argued that these payments should not be the net tax paid in New Zealand on the grounds that these amounts were not necessarily appropriate to any losses suffered by the complainants. He proposed that the ex gratia payments should be \$10,500, \$7,000, and \$7,000 instead of the amounts claimed of \$11,202.74, \$7,291.77 and \$7,237.67 respectively.

I agreed that the amounts offered by the Commissioner were fair and reasonable in the circumstances. The complainants when they were informed of the department's offer agreed that although nearly two years had elapsed from the initial complaints to this office, before the Commissioner made his offer, a satisfactory conclusion had been reached.

These cases show that, in circumstances where the Inland Revenue Department has been negligent or where its conduct has otherwise come within the provisions of s 22 of the Ombudsmen Act 1975 and there is no scope for redress through the objection procedure, complaints to the Ombudsman may be a very effective way of dealing with disputes with the Department. The fact that this process is so rarely used in these situations is presumably because people and lawyers, in particular, are not aware of the possibilities.

Negligence actions against tax advisers

In recent years there has been a number of cases where taxpayers have sued their accountants and lawyers for negligent advice resulting in adverse tax consequences. In *EVBJ Pty Ltd v Greenwood*,³⁷ a solicitor, who had no experience in tax matters and who had consulted an accountant for advice on his client's problem, was held to be liable in negligence, because he had not taken such steps as were reasonably open to him to ensure as far as possible that he understood the advice that he received from the accountant and that he communicated the advice in a form that the client would understand. In New Zealand, tax advisers have recently been made aware of consequences of giving negligent advice as a result of the decision in *Taycal Holdings Ltd v BDO Hogg Young Cathie*.³⁸

³⁷ (1988) 88 ATC 744.

³⁸ (1996) 17 NZTC 12,528.

Conclusions

Compared with other civil litigants, taxpayers who wish to challenge the actions of the Commissioner are at a disadvantage. In particular:

- the new disclosure rules prevent them from raising new ground or evidence in the course of a hearing;
- they are generally only able to take action by challenging proposed adjustments in accordance with the procedures set out in Part VIIIA of the Act;
- estoppel does not apply against the Commissioner and the Commissioner is unable to exercise a discretion in favour of taxpayers on the ground of fairness.

On the other hand:

- Part VIIIA gives taxpayers clearly defined procedures by which they may challenge assessments;
- it is not costly for taxpayers;
- much of the preparation for hearings is done for taxpayers by officers of the Inland Revenue Department.

The greatest concern that taxpayers seem to have about their rights is that they have difficulty in ascertaining their liability to pay tax. The laws in New Zealand are complex and badly drafted. The new system of binding rulings gives some assistance, as they provide certainty about how the Commissioner will apply taxation laws. There is, however, a need for the legislation to be redrafted in clear and simple terms, particularly in view of the new taxpayer compliance provisions,³⁹ breaches of which may attract penalties or interest or both.

³⁹ s 15.