8 December 2025

Cameron Brewer
Chairperson
Finance and Expenditure Select Committee

By email: finance.expenditure@parliament.govt.nz

Tēnā koe

## Supplementary submission on Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill

Thank you for inviting the New Zealand Law Society Te Kāhui Ture o Aotearoa to appear before the Finance and Expenditure Committee on the Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill (**the Bill**).

At this appearance on 27 November 2025, the Committee queried whether there were amendments that could be made to clause 143 of the Bill, to better safeguard against the risk of self-incrimination that arises from the proposed ongoing disclosure of sensitive revenue information that a taxpayer has been compelled to provide to Inland Revenue.

As outlined in the Law Society's primary submission, by creating a mechanism for regular disclosure of sensitive revenue information through Ministerial agreement, rather than under an Approved Information Sharing Agreement (**AISA**), important safeguards are bypassed. Although an AISA (and the statutory scheme under which they are created) is predominantly concerned with the protection of privacy,[1] there are some safeguards involved that could also operate to constrain information sharing that would otherwise infringe taxpayers' privilege against self-incrimination and the right not to be compelled to be a witness or to confess guilt.

For example, the existing 'serious crime' AISA between Inland Revenue and New Zealand Police, the Serious Fraud Office, and the New Zealand Customs Service provides that:[2]

a. Inland Revenue notifies individuals, when collecting information voluntarily or by compulsion, that information may be shared with government agencies entitled to the information under legislation.

1 See Part 7, subpart 1 Privacy Act 2020.
2 Information Sharing Agreement between Inland Revenue and New Zealand Police, New Zealand Customs Service and Serious Fraud Office relating to disclosure of information by Inland Revenue for the purpose of prevention, detection, investigation or providing evidence of serious crime (July 2020).

b. A participating agency (i.e., Police, SFO, and Customs) must first have reasonable grounds to suspect a 'serious crime' has been, will be, or is being committed. 'Serious crime' is defined as an offence punishable by four years or more imprisonment.

c. A participating agency must have taken all reasonable steps to obtain the information from other sources.

d. The type of information that may be shared with a participating agency (upon request) is limited.

e. The information shared cannot be used as evidence of any crime that is not a 'serious crime'.

f. Information shared with a participating agency that is not relevant or is no longer required must be deleted within 90 days.

The existing 'serious crime' AISA also provides that Inland Revenue may only proactively disclose information to the participating agencies, where (amongst other requirements):

a. there are reasonable grounds to suspect a 'serious crime' has been, will be, or is being committed; and

b. there are reasonable grounds to suspect the information is relevant to the prevention, detection, or investigation of, or is evidence relevant to, a serious crime; and

c. it is satisfied the scope of the information to be shared is limited to that which is necessary; and

d. it is satisfied it is reasonable, necessary, and in the public interest to provide the information.

In either circumstance, disclosure is grounded in, and limited by, the identification of a suspected serious crime. It is not to be used to conduct a 'fishing expedition' or more general 'surveillance' of revenue information.

Three aspects of the proposed Ministerial Agreement mechanism suggest a different degree of information sharing, and raise doubt about whether the Bill can be amended to adequately protect the privilege against self-incrimination (and other protected rights):

1. The disclosure is described as ongoing: a flow of information of a particular type or class. Unlike with information sharing via the AISA, it does not contemplate a specific request for information relating to an identifiable taxpayer(s), for a specific purpose, where alternative means of obtaining the information have been unsuccessful.

2. An agreement can be for the specific purpose of assisting in the 'detection, investigation, prosecution, or punishment of suspected or committed crimes punishable by terms of imprisonment of 2 years or more.' That is, the Bill contemplates the above ongoing supply of information for the very purpose that is most concerning. It could be seen to be facilitating 'fishing expeditions' by law enforcement and other agencies, and risks misuse resulting in potentially considerable harm to the protected rights of individuals.

3. An agreement may allow the recipient agency to further share the sensitive revenue information with other agencies.[3]

Apart from the Bill precluding the sharing of information collected by Inland Revenue pursuant to sections 17I and 17J of the Tax Administration Act 1994, and the requirement for the Minister to be satisfied there are adequate safeguards to protect personal privacy and commercial confidentiality, there are no other safeguards applying at the operational level to protect affected individuals. The Law Society emphasises its view that the Bill provides significantly less protection against infringement of taxpayers' protected rights (including to privacy, the privilege against self-incrimination, and to not be compelled to be a witness or to confess guilt), than is afforded under the AISA framework.

**Options**

The Law Society remains of the view that is not appropriate for sensitive revenue information to be disclosed on an ongoing basis, for generic law enforcement purposes. We suggest that such an arrangement will almost always undermine the integrity of the tax system and the maintenance of voluntary compliance, contrary to the requirements of proposed section 18HB(3)(a)(ii) and (iii), and remain concerned about the precedent that may be set for information sharing in the government context if the AISA framework can be circumvented without equivalent and appropriate safeguards.

The Law Society's preferred approach is therefore for clause 143 to be removed from the Bill in its entirety, and for the AISA mechanism to be used instead. The time taken to establish or amend an AISA need not be prohibitively lengthy. We would suggest, for the most part, that such delays are an internal issue for agencies to address (for instance relating to resourcing and prioritisation) which may be erroneously attributed to the fundamental need to consult with affected parties.

Alternatively, proposed section 18HB(1)(b) could be removed from the Bill. The existing AISA could, if required, be amended, so that it would apply to offences punishable by two or more years' imprisonment.

However, if neither of these options is supported, the Law Society recommends clause 143 is amended to:

a. remove proposed section 18HB(4)(i); and

b. set out minimum safeguards that each written agreement must contain.

The specified minimum safeguards should include:

a. Requiring that all individuals are advised, when providing information to Inland Revenue (whether voluntarily or by compulsion), if the information that they provide may be shared under a Ministerial Agreement with other government agencies. Individuals can then choose not to voluntarily provide information, or to seek legal advice where Inland Revenue is purporting to compel information. This recommendation is made in our primary submission, and reflects a similar assurance in

[3] See clause 143, new section 18HB(4)(i).

the serious crime AISA relating to disclosures to which other agencies are entitled under legislation.[4]

b. Requiring that individuals are notified when their information is disclosed to an agency under a Ministerial Agreement. While the existing AISA protects the participating agencies from notifying affected individuals of adverse action,[5] the more generalised and ongoing disclosure of classes of information does not warrant such protection.

c. Precluding the use of information disclosed under a Ministerial Agreement for any purpose other than those specified in accordance with proposed section 18HB(4)(b) and permitted by proposed section 18HB(1).

d. Imposing corresponding reporting obligations on agencies who receive information from Inland Revenue under a Ministerial Agreement.

These recommendations are in addition to those set out in the Law Society's primary submission, relating to strengthening privacy requirements and the process for setting a Ministerial Agreement in place.[6]

Thank you again for the opportunity to provide additional information to the Committee.

Nāku noa, nā

David Campbell
**Vice President**

4 Above n 2, clause 2.

5 Above n 2, clause 8, referencing section 96Q of the Privacy Act 1993 (now section 152 of the Privacy Act 2020).

6 New Zealand Law Society "Taxation (Annual Rates for 2025–26, Compliance Simplification, and Remedial Measures) Bill" (23 October 2025) at [13.14]–[13.20].