

Version
as at 29 March 2024



**Tax Administration (Regular Collection of Bulk Data)
Regulations 2022**
(SL 2022/295)

Cindy Kiro, Governor-General

Order in Council

At Wellington this 14th day of November 2022

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 17L(2) of the Tax Administration Act 1994—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Revenue made in accordance with section 17L(3) of that Act.

Contents

	Page
1 Title	2
2 Commencement	2
3 Purpose	2
4 Interpretation	3

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Inland Revenue Department.

5	Transitional, savings, and related provisions	4
6	Commissioner may collect bulk information from payment service providers	4
7	Obligations of Commissioner to payment service providers and others	4
8	Types of information that may be collected	4
9	Frequency of reporting	5
10	Form of information	6
11	Reporting method that must be used	6
12	Exemptions from requirement to provide information	6
13	Defences in any proceedings relating to failure to comply with this order [<i>Revoked</i>]	7
14	Steps to be taken before criminal proceedings brought	7

Schedule 1 8

Transitional, savings, and related provisions

Regulations

1 Title

These regulations are the Tax Administration (Regular Collection of Bulk Data) Regulations 2022.

2 Commencement

These regulations come into force on the 28th day after the date of their notification in the *Gazette*.

3 Purpose

The purpose of these regulations is to enable the collection of merchant sales information from payment service providers under section 17L of the Tax Administration Act 1994, and the reasons why the collection of that information is necessary for the purposes of section 17L(1) are as follows:

- (a) the information will enable the department to ensure that business taxpayers comply with their tax obligations, by identifying those who may not be paying the correct amount of tax. (This will protect and uphold the integrity of the tax system):
- (b) the collection of the information will also allow the department to offer improved services and support through more focused education and marketing initiatives:
- (c) the information collected will allow the department to better target its compliance resources.

4 Interpretation

In these regulations, unless the context otherwise requires,—

acquirer means an entity (for example, a bank) that provides access by a merchant to a payments system that enables the clearing and settling of funds used to conduct a transaction, irrespective of whether the entity also provides other services (for example, lending)

Act means the Tax Administration Act 1994

merchant means an individual or entity that is in the business of buying and selling goods and services

payment—

- (a) means an electronic payment; and
- (b) includes income received from the sale of goods and services including the following:
 - (i) debits:
 - (ii) credits:
 - (iii) cash-outs:
 - (iv) reversals:
 - (v) refunds; but
- (c) does not include—
 - (i) direct debits; or
 - (ii) automatic payments; or
 - (iii) bill payments

payment service provider—

- (a) means a business that participates in a payment system by facilitating payments; and
- (b) includes an acquirer; and
- (c) includes an entity that provides any of the following services:
 - (i) switch services:
 - (ii) settlement services:
 - (iii) online payment gateways:
 - (iv) alternative payment methods; but
- (d) does not include the following, except to the extent that the business also provides a service referred to in paragraph (b) or (c):
 - (i) an issuer (for example, the customer's bank that issues a payment card):
 - (ii) a business that provides payment service hardware.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

6 Commissioner may collect bulk information from payment service providers

- (1) The Commissioner may collect from a payment service provider, in the form of datasets, the information referred to in regulation 8 on a regular and continuing basis.
- (2) Nothing in these regulations authorises the Commissioner to collect identifying information about an individual unless the information is of a kind that is specified in regulation 8.

7 Obligations of Commissioner to payment service providers and others

- (1) The Commissioner must, as soon as practicable after the commencement of these regulations, take all reasonable steps to notify each payment service provider operating on the commencement of these regulations—
 - (a) that these regulations have been made; and
 - (b) whether the payment service provider is required under these regulations to report to the Commissioner.
- (2) If a payment service provider requests the Commissioner for advice on whether they are required to report under these regulations, the Commissioner must provide that advice to the payment service provider as soon as practicable after receiving the request.
- (3) An individual or entity may request the Commissioner for advice on whether they are a payment service provider for the purposes of these regulations, and,—
 - (a) if the Commissioner can provide that advice without substantial research or delay, the Commissioner must provide the advice as soon as practicable; but
 - (b) if the Commissioner is unable to provide that advice, or unable to provide it without substantial research or delay, the Commissioner may refuse to provide the advice.

8 Types of information that may be collected

- (1) The information that may be collected from a payment service provider is information of all or any of the following types about a merchant on behalf of whom the payment service provider processes payments:
 - (a) the name of the merchant, including legal and trading names:
 - (b) contact information for the merchant, including physical and postal addresses and telephone numbers:

- (c) the name of any individual who acts as a contact person for the merchant in relation to the payment service provider:
 - (d) contact information for an individual referred to in paragraph (c), including registered business addresses and business telephone numbers:
 - (e) the unique identifier for the merchant in the payment service provider's system:
 - (f) other identity information about the merchant, including—
 - (i) the merchant's date of birth (if the merchant is an individual); and
 - (ii) if held by the payment systems provider, the merchant's IRD number, GST number, New Zealand Business Number, and Companies Office company registration number:
 - (g) bank account numbers used by the merchant:
 - (h) information about payments processed on behalf of the merchant:
 - (i) any other information that is incidental to the information specified in paragraphs (a) to (h).
- (2) The information referred to in subclause (1)(h) must only show, for each month in the relevant 6-month period under regulation 9,—
- (a) the total value of all payments processed; and
 - (b) the total value of all payments processed in each transaction category, including the following categories:
 - (i) debits:
 - (ii) credits:
 - (iii) cash-outs:
 - (iv) reversals:
 - (v) refunds; and
 - (c) the total number of all payments processed; and
 - (d) the total number of all payments processed in each transaction category, including the categories in paragraph (b).

9 Frequency of reporting

A payment service provider must provide the information to the Commissioner in each year no later than—

- (a) 7 May, for the preceding 6-month period starting on 1 October and ending with the close of 31 March:
- (b) 7 November, for the preceding 6-month period starting on 1 April and ending with the close of 30 September.

10 Form of information

A payment service provider must provide the information relating to aggregated monthly sales information for each merchant that the payment service provider facilitates payment for, and must do so in the form of a structured formatted electronic file that has been the subject of prior consultation between the Commissioner and the payment service provider.

11 Reporting method that must be used

A payment service provider must provide the information using a secure electronic method that has been the subject of prior consultation between the Commissioner and the payment service provider.

12 Exemptions from requirement to provide information

- (1) If subclause (2) applies, the Commissioner may, on application by a payment service provider (**A**), grant an exemption from the requirement to provide information about a merchant to—
 - (a) a payment service provider; or
 - (b) a part of the business of a payment service provider.
- (2) This subclause applies if the Commissioner is of the opinion that—
 - (a) another payment service provider (**B**) processes payments for the merchant; and
 - (b) B holds the same information as, or more information than, A about the merchant, of the types of information referred to in regulation 8; and
 - (c) the Commissioner can retrieve the required information from B about the merchant; and
 - (d) collecting information about the merchant from both A and B would be more than is necessary for a purpose relating to—
 - (i) the administration or enforcement of any of the Inland Revenue Acts;
 - (ii) the administration or enforcement of any matter arising from or connected with a function lawfully conferred on the Commissioner.
- (3) An application must be made in a form provided by the Commissioner under section 35 of the Act.
- (4) The Commissioner may revoke an exemption granted under this regulation at any time if the Commissioner reasonably believes that—
 - (a) a particular payment service provider no longer meets the requirements on which their exemption was based; or

- (b) a particular payment service provider did not meet the requirements on which their exemption was based, having acquired the status through misleading information.

13 Defences in any proceedings relating to failure to comply with this order

[Revoked]

Regulation 13: revoked, on 29 March 2024, by section 202(2) of the Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11).

14 Steps to be taken before criminal proceedings brought

The Commissioner must, before deciding whether criminal proceedings should be brought for a failure to comply with these regulations,—

- (a) notify the payment service provider of the due date for the provision of the information; and
- (b) communicate with the payment service provider to find out why the information has not been provided, and in particular if there are impediments delaying or preventing its provision; and
- (c) advise the payment service provider of the consequences of not providing the information to the Commissioner.

**Schedule 1
Transitional, savings, and related provisions**

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**Part 1
Provisions relating to these regulations as made**

There are no transitional, savings, or related provisions in these regulations as made.

Rachel Hayward,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 17 November 2022.

Notes

1 *General*

This is a consolidation of the Tax Administration (Regular Collection of Bulk Data) Regulations 2022 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Taxation (Annual Rates for 2023–24, Multinational Tax, and Remedial Matters) Act 2024 (2024 No 11): section 202(2)