

A GUIDE TO OBJECTIONS AND DISPUTES.

Objecting to an IRD decision

You should consider lodging an objection to an assessment or a tax decision we've made about your tax affairs if:

- you disagree with the way we've interpreted the law; for example, you disagree with an assessment or amended assessment or a tax decision we have given you; or
- you want the option of seeking an independent review if you don't agree with us by appealing to the High Court;

As a general principle we expect you to **pay all tax debts on time even if you are disputing the debt**. If you don't pay the tax debt by the due date it will attract penalties for late payment in the form of late payment interest at the current rate of 15% simple interest.

Decisions you can object to:

- Assessments which includes amended assessments for Income Tax;
- assessments, amounts of tax refunded and review of decisions for Goods Tax; and
- assessments in the case of Sales Tax and Stamp Duty;
- tax decisions

Time limits

The time limit for lodging objections is now 60 days for all taxes.

The time starts from the date the assessment or notice of decision was given to you, which is generally taken to be the date our assessment, notice, ruling, demand, decision or other correspondence was delivered to you or your representative in the usual course of the post or if by email the date and time the email was sent.

If the final lodgement day falls on a non-business day, your objection can be lodged on the next business day.

Extensions of time

If you're outside the time limit of 60 days, you can ask the Commissioner for an extension of time by including a written request with your objection.

We will process your request for an extension of time, and we will notify you in writing of the outcome.

If we accept your request, we will consider your objection.

If we refuse, we will explain your right to review our decision.

Decisions you can't dispute via an objection

There are some decisions we make that the tax laws don't allow you to dispute by lodging an objection (though generally there are other ways of having these decisions reviewed).

You can't use the objection process to dispute:

- an administrative penalty (but you can ask us to remit it in whole or in part)
- administratively binding advice or advice about proposed changes to tax laws.
- a decision to correct an assessment for an error or a mistake of fact;
- a decision to issue a departure prohibition notice;
- a decision to issue a foreign currency prohibition notice;
- a decision to issue a notice to compound offences;
- a public ruling.

Seek an external review of our decisions

Avoiding and resolving disputes

There are times when you may disagree with us about how the law applies to your tax affairs. You may believe we are about to make (or have made) the wrong decision during an audit or when considering your request for review (usually, this is an objection). Disagreement is better managed early by working with us. Formal disputes are objections and related litigation.

Debt disputes

Debt disputes are not about how much tax you have to pay, but about how to pay - including if deferred payment or payment by instalments is an option.

We have an obligation to collect all money legally owed to the Government of SI, therefore we usually cannot accept less than the full amount.

If your debt reaches the formal debt recovery stage involving legal action, we will continue to consider suitable processes, including dispute resolution processes to resolve the issue prior to, and potentially during, litigation.

Disputes relating to debt matters, include:

- legal action to recover a tax liability;
- legal action to recover director penalties;
- insolvency proceedings (including bankruptcy and winding up action);
- actions in relation to where the Commissioner seeks an indemnity from a company director.

Disputes about how we manage your tax affairs

If you are dissatisfied with the process involved in how we made a decision then you should contact the decision maker or email the legalandpolicyteam@mof.gov.sb.

How to object to a decision

An objection must be lodged in writing (on our form or in a letter) within the time limit. There is no fee.

The fastest and easiest way for you to submit your objection is by using our form as it helps you provide the necessary information and sets out the correct wording for your declaration.

You can lodge your own objection by fax, email or hand-delivery to the Policy and Legal Team.

Alternatively, you can authorise another person to lodge your objection:

- a tax agent or a spouse, relative or friend
- a legal personal representative (such as a trustee, executor, administrator of a deceased estate or person holding a power of attorney).

Next steps:

If you are an individual taxpayer or entity (or an individual acting on their behalf) complete the Objection Form TAA 5.

What to include in your objection

Your objection must:

- include full details of why you think our decision is wrong
- contain a declaration that the information provided in the objection and supporting documentation is true and correct
- be signed and dated.

To avoid delays, you should also include:

- your full details and tax identification number (TIN)
- full details of the decision you are objecting to, including the relevant year or tax period, where applicable
- any supporting documents and information that relates to the decision being reviewed (we may still need to request more information to help us decide your objection)
- the relevant facts, arguments, information and documents that support the reasons you disagree with our decision – this may include references to legislation, rulings, and case law, if you are aware of any.

Declaration

You must sign and date your objection.

How we deal with your objection

When we receive an objection, we review the facts and evidence you provide and the law and come to a decision. We may contact you or your representative to discuss your objection or request further information. We will let you know if your objection will take longer than usual to decide (for example, because it raises complex matters).

You can help minimise any delays by responding promptly to our requests.

If the objection is in your favour, in full or in part, we will amend our original decision. As part of this we will take reasonable action to minimise your cost. Any money we owe you will also be paid or offset against other taxes you may owe.

Once we have made a decision on your objection, we send you:

- a notice of amended assessment;
- a notice of the decision that includes the reasons for our decision;

- information on how to seek a review through the court if you are dissatisfied with our decision;
- information on how to pay any outstanding amount of tax.

Communication concerning objections

We are committed to treating all taxpayers fairly and to improving the experience you have when dealing with us, including when you seek internal review of our decisions.

We do this by being open and transparent about our decisions and decision-making processes, and providing a fair and impartial review.

Our communication protocols govern the communications between reviewing officers and officers involved in making the original decision. All other relevant IRD policies and processes also continue to apply.

Reviewing officer's responsibilities

Independence

Where the objection is a review of an earlier IRD decision, the objection decision-maker will:

- be one of our legal officers or be from a different team in the section that made the decision;
- not have had any prior involvement in the case as part of the original decision-making process (other than as the review officer in an independent review), and
- manage communication and engagement with other IRD officers.

Open and transparent internal communications

It is expected that:

- the evidence and reasons supporting the original decision will have already been provided or explained to you as part of the original decision-making process;
- this information, in addition to information provided by you, will be sufficient for the reviewing officer to resolve the objection;
- where necessary, the reviewing officer can contact the original decision-maker or other IRD officers involved in the original decision-making to better understand the facts and

reasons behind the decision, including where new information is raised;

- where necessary, the reviewing officer will seek independent internal or external advice;
- a reviewing officer will consider opportunities for early and alternative dispute resolution and may need to balance these considerations against other strategic considerations;
- reviewing officers will advise you of discussions with the original decision-maker, and other IRD officers or independent advisors involved in the original decision, and any discussions of broader strategic issues relating to the case.

Responsibilities of officers involved in the original decision-making process:

The original decision-maker, and other officers who have had substantive involvement in the original decision-making process, will:

- ensure the relevant case records are up to date and complete;
- explain the basis of their decision when required to do so by the reviewing officer;
- ensure that information provided to the reviewing officer is fair, objective and supported by evidence;
- be available to the reviewing officer for meetings with you or your representatives where needed;
- not otherwise initiate contact with the reviewing officer.

Further action

If you are dissatisfied with our decision on your objection, you can apply for an independent external review. We explain your options when we advise you of our decision on your objection.

The law specifically gives you the right to go to the High Court of Solomon Islands for a review of some of our actions or decisions. In most cases, you need to have lodged an objection with us first.