

A SPECIALIST LAWYER

Solutions and Advice on
Immigration and Tax Law

'To Care and Protect' - Ismail Rasheed



**WHEN THE IRD SAY NO,
CONTACT IR LEGAL.**



Negotiating tax payment arrangements with the IRD

Negotiating tax payment arrangements with the IRD is not an ordinary commercial negotiation. It requires a thorough knowledge of how the tax administration works, understanding of the governing laws and rules that the IRD officers must follow and the ability to apply those laws and rules to put together a written proposal. Only an experienced tax lawyer can do that properly.

"I've had situations where accounting firms and law firms could not make arrangements with the IRD for their clients who were in serious trouble with the IRD. When the IRD commenced legal proceedings to bankrupt those clients and to put their companies into liquidation, those clients were referred to me. I moved fast, I talked to the IRD, legal proceedings were withdrawn, and I got results for those clients".

Ismail Rasheed

Generally speaking, the IRD has to balance a number of factors in their decision making process. First they have a statutory duty to recover the highest net revenue over time that is practicable within the law: as much money as possible and as quickly as possible. Secondly, the IRD officers have to take into account, as a matter of promoting voluntary compliance, the public perception of allowing a taxpayer being relieved from a tax debt.

Alongside these factors there are a number of specific rules which govern what the IRD officers can or can't do in negotiations. The decision making process is complicated and it involves an uneasy compromise between a number of factors that the IRD officers must take into account.

In *Raynel v CIR* (2004) 21 NZTC 18,583 the High Court held that the obligation to maximise recovery of outstanding debt from a taxpayer is not an absolute obligation. Rather the Commissioner's duty is to be approached on "a pragmatic basis with proper regard to the likely benefits and the costs of achieving them". It was also noted that this obligation does not relieve the IRD officers from their duty to use their best endeavours to protect the integrity of the tax system.

Therefore, taxpayers can expect that appropriate and firm action will be taken by the IRD if they continue to be non-compliant. I have come across many instances where the IRD initiated legal proceedings to bankrupt individual taxpayers or to liquidate their companies. However, these steps can be delayed in some cases with the IRD's agreement if I can show that there are alternatives to bankruptcy or liquidation that can apply in a given situation and I have done that in many cases.

When we start negotiating an arrangement for you, the IRD will require certain information to be provided in support of our proposal. This must be carefully managed as there are some communications between you and your solicitor that you don't have to disclose to the

IRD. We have developed questionnaires and checklists tailored to manage information requests from the IRD.

IR Legal can determine what method of payment best suits your financial circumstances. Then we can start negotiating an arrangement with the IRD. However, there are some limitations that you need to be aware of which we will discuss with you at our initial consultation.

Upon receipt of your application for an arrangement the IRD have four options. They may accept the request, seek further information from you, make a counter offer, or decline the request. We will make sure that we act in your best interest at all times.

My advice to you is to contact IR Legal at the earliest opportunity if you think that you may have trouble paying your tax in full by the due date so that options for payment, which may include an instalment arrangement, can be discussed with the IRD.

Ismail Rasheed was a senior tax lawyer for the IRD for over 16 years.

We have moved to Level 2, 318 Lambton Quay, Wellington.

Our Brand is Local. Our Market is Global. We meet in Lower Hutt and Wellington.

Contact IR Legal on 04 333 0220 or email: office@irlegal.lawyer