



Inland Revenue
Te Tari Taake

IR 280
April 2008

Putting your tax returns right

How to tell Inland Revenue what's wrong with your tax returns

The information in this booklet is based on current tax laws at the time of printing

Introduction

If you've made a mistake or filed an incorrect tax return, it's best to tell us about it before we find out in some other way. We've written this booklet to help you put your tax returns right.

Getting it right with Inland Revenue doesn't have to be stressful. If you've made a minor error in a GST return, you may even be able to correct it yourself in a later period.

If you tell us about your tax problems, the penalties (if any) will be much lighter than if you wait for us to find out ourselves.

We've divided this booklet into four parts.

Part 1 briefly explains your obligations as a taxpayer under the tax laws.

Part 2 explains what to do if you've made a minor or genuine error.

Part 3 explains what a voluntary disclosure is, and the benefits to you of making one.

Part 4 sets out the penalties you could face if we find out that you have broken the tax laws and didn't make a voluntary disclosure to tell us.

If you have any questions or need more information after you've read this booklet, please call us—see page 24 for our contact numbers.

www.ird.govt.nz

Visit our website for services and information. Go to:

- **Get it done online** to file returns, register for services and access account information
- **Work it out** to calculate tax, entitlements, repayments and due dates
- **Forms and guides**

You can also check out our newsletters and bulletins, and have your say on items for public consultation.

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Part 1 – Your tax obligations

Before we explain how to correct your tax returns, here is a quick reminder of your tax obligations. You have an obligation to assess your own tax liability and pay tax according to the requirements of the law. For you to do this, you must be aware of your basic tax obligations.

You must:

- correctly determine the amount of tax you have to pay (unless you don't have to file a return)
- when required, deduct or withhold the correct amount of tax from payments or receipts
- pay tax on time
- keep all necessary information (including books and records) and maintain all necessary accounts or balances
- disclose all information that Inland Revenue requires in a timely and useful way
- cooperate with Inland Revenue as required by the Inland Revenue Acts
- correctly respond to a personal tax summary, if you receive one
- advise Inland Revenue if you should have received a personal tax summary but have not yet received one
- comply with any other specific tax obligations.

Some examples of not meeting your obligations are:

- putting false information in a tax return or knowingly leaving income out of it
- not deducting PAYE or not paying it to Inland Revenue.

Inland Revenue routinely audits and investigates the tax affairs of people and businesses. Our booklet *Inland Revenue audits (IR 297)* has more information about audits and how they work.

If someone is not meeting their obligations, they can be charged with penalties. Part 4 of this booklet has more information about these.

For more help

If you need help with any of your tax obligations, please call us—see page 24 for our contact numbers.

Part 2 – Correcting errors

Late claim of GST input tax

If you omit to claim GST input tax that you are entitled to in past return periods, you may claim it in the current or future period. For taxable periods beginning on or after 1 April 2005, you can only make a late claim for GST on expenditure incurred in the previous two years. Exceptions to this two-year rule include:

- the inability to obtain a tax invoice
- disputed payments for expenditure
- mistakenly treating a supply as non-taxable
- clear mistakes or simple oversights you have made.

Alternatively, you may follow the same process that applies to adjustments to output tax or overstated input tax—see below.

Adjustments to GST output tax or overstated input tax

For errors that involve an adjustment to output tax or an overstatement of input tax, you may send a *Notice of proposed adjustment (IR 770)* (NOPA) to Inland Revenue within the response period the GST return period relates to. If you cannot issue a NOPA within this timeframe, you may request an amended GST assessment.

When making an adjustment you must keep the following details as part of your records:

- return period the error occurred
- GST amount involved
- nature of the error
- return period when the correction was made.

Correcting genuine errors for any type of return

If you have made a mistake in a return, you can ask us to correct it.

Clear and genuine errors such as arithmetic or transposition errors can be corrected in this way.

You need to tell us:

- the tax type and period containing the error
- the amount of tax in error
- the nature of the error
- how the error occurred
- how and why the error was identified
- what the amended figures in the return should be to ensure a correct assessment is made.

You will still have to pay any tax owing because of the mistake, but if you pay it by the due date we set, there will be no late payment penalty (or non-payment penalty, in the case of an *Employer monthly schedule*).

We will send you an amended assessment that will tell you how much you have to pay and when to pay it.

If you have more than \$100 tax to pay, interest will be charged from the day after the original due date for paying the tax, up until the day the tax is paid in full.

For more help

For more information about correcting genuine errors, please read our *Standard Practice Statement 07/03 Requests to amend assessments* found in *Tax Information Bulletin* Vol 19, No 5 (June 2007). You can read this on www.ird.govt.nz/library/newsletters/tib

Part 3 – Voluntary disclosures

A voluntary disclosure is when you tell us what is wrong with your tax returns before we find out in some other way. It may involve such things as omitted income or incorrectly claimed expenses.

Anyone can make a voluntary disclosure. This includes salary or wage earners, individuals, businesses, trusts and employers.

You can make a voluntary disclosure for any of the following:

- approved issuer levy (AIL)
- child support payments
- gift, cheque, totalisator, lottery, casino and gaming machine duties
- goods and services tax (GST)
- fringe benefit tax (FBT)
- working for families tax credits
- income tax
- student loan repayments
- tax deductions for:
 - tax on employees' earnings
 - withholding tax on withholding payments
 - resident withholding tax (RWT) on interest or dividends
 - non-resident withholding tax (NRWT) on income paid to a non-resident
 - tax on superannuation contributions
 - foreign dividend withholding payments.

When to make a voluntary disclosure

You can make a voluntary disclosure:

- at any time before being notified of a pending tax audit or investigation (pre-notification disclosure), or
- after you have been notified of a tax audit or investigation but before it begins (post-notification disclosure).

Advantages of voluntary disclosures

Making a voluntary disclosure has several advantages compared to waiting for us to find out ourselves. The advantages are:

- you will not be prosecuted in court (if you make a pre-notification disclosure)
- any shortfall penalty will be reduced—see page 20.

A larger reduction for a shortfall penalty will be given if you make a voluntary disclosure before being notified of a pending tax audit or investigation.

For post-notification disclosures, prosecution may only be considered in cases of evasion or fraud.

Compare these advantages with the penalties listed in Part 4.

How to make a voluntary disclosure

You can make a voluntary disclosure in any one of the following ways:

- by completing a *Voluntary disclosure (IR 281)* form
- by telephone call
- by letter, fax or email
- by visiting one of our offices
- during an interview.

You can find a *Voluntary disclosure (IR 281)* form in the middle of this booklet. You can get more copies from www.ird.govt.nz or by calling INFOexpress—see page 23.

You need to tell us what is wrong with your tax returns and why. Give as much information as you can including:

- your details, or the details of the estate, trust, partnership or company (including name, trade name, IRD number, address, date of birth or start date and contact details)
- describe why you are making a voluntary disclosure (the nature of the errors or omissions)
- the year(s) or period(s) concerned
- an explanation of why the errors or omissions occurred
- enough information to enable us to determine how much tax you owe.

If you use the *Voluntary disclosure (IR 281)* form, sign the declaration and send the completed form to us—see page 25 for address details.

If you don't have all the information we need to work out your taxes, you can still make a voluntary disclosure. Tell us as much as you can and state that there is more information to come. You will be contacted by one of our staff to arrange a date when you must provide the rest of the information. This arrangement will take into account your circumstances and the type of information you still have to collect.

You can also get help with your voluntary disclosure from a tax agent, accountant, solicitor, friend, whanau support or one of our Māori community officers. If you have a tax agent, they can discuss your case with us, but you will still have to sign the voluntary disclosure form when it's completed.

What to pay

If you make a voluntary disclosure, you will have to pay the tax outstanding. You may also have to pay:

- interest on unpaid tax, and
- a shortfall penalty—see Part 4 for further information.

We will send you an assessment that will tell you how much you have to pay and when to pay it.

If you have more than \$100 tax to pay, we will charge you interest from the day after the original due date for paying the tax, up until the day the tax is paid in full.

If you pay by the new due date we set, we will not charge late payment penalties (or non-payment penalties, in the case of an *Employer monthly schedule*).

Repayment options

If you are unable to pay your tax by the due date, please contact us to discuss the options available to you. In some situations, if you are in financial difficulties, we may agree to you paying your tax and any penalties and interest by an instalment arrangement.

Instalment arrangements can be agreed upon before or after the due date. However, there are greater reductions in the late payment penalties charged if the arrangement is made before the due date.

For more help

If you would like more information about the repayment options available to you, please read our booklet *Debt options (IR 582)*. You can get a copy from www.ird.govt.nz or order one by calling INFOexpress—see page 23.

If you would like more information about making a voluntary disclosure, read our *Standard Practice Statement INV-251 Voluntary Disclosures* found in *Tax Information Bulletin* Vol 14, No 4 (April 2002). You can read this on www.ird.govt.nz/library/newsletters/tib

Disclosure at time of filing

There are penalties for taking an “unacceptable tax position” or what is described as an “abusive tax position”. These are explained further on pages 19 and 20. The penalty can be reduced if you give us details of the tax position you’ve taken at the time of filing the return—see page 20.

To do this, complete a *Statement in support of a tax position (IR 282)* form—you can find one in the middle of this booklet. You can get more copies from www.ird.govt.nz or by calling INFOexpress—see page 23.

Give as much information as you can, including:

- your details, or the details of the estate, trust, partnership or company (including name, trade name, IRD number, address, date of birth or start date and contact details)
- an overview of the tax position taken
- the basis on which your tax position is taken (such as case law on the subject, contents of any legal opinions, legal articles and related material)
- the tax type(s) and year(s) or period(s) the tax position relates to
- reference to any Inland Revenue public or binding rulings, and
- a calculation, if necessary, to show the position and how it was reached.

Sign the declaration and send the completed form with the relevant return to us—see page 25 for address details. However, if the return is being E-Filed by a tax agent, the disclosure form will need to be sent separately.

Part 4 – If you choose not to tell us

If you do not meet the obligations set out on page 7 and don't make a voluntary disclosure, you may face a number of penalties. These are:

- late payment penalties
- non-payment penalties for not paying *Employer monthly schedule (IR 348)* amount
- shortfall penalties
- prosecution.

In addition, interest may be charged on any unpaid tax from the original date the tax was payable.

Prosecution

Inland Revenue may prosecute you for not meeting your tax obligations. The maximum penalties for different offences are:

Absolute liability offences

These include:

- not filing a return on time
- not supplying information that Inland Revenue requires
- not applying for GST registration when you must
- not providing a tax invoice for GST purposes when you must
- not keeping required books and documents.

The maximum fine is \$4,000 for the first offence, \$8,000 for the second offence and \$12,000 for any subsequent offences.

Knowledge offences

These include knowingly:

- not keeping required books and documents
- not providing information, including tax returns and forms, when required to do so
- providing altered, false, incomplete or misleading information, including on tax returns and forms
- using tax deducted or withheld for other purposes instead of paying it to Inland Revenue
- not deducting or withholding tax when required to do so
- for GST purposes, issuing two tax invoices for the same taxable supply.

If you did not have the information requested, or failed to make or account for withholding payments for reasons beyond your control, you will not be prosecuted.

The maximum fine for the first offence is \$25,000 and \$50,000 for any subsequent offences.

However, the penalty for knowingly using tax deductions for any purpose other than payment to Inland Revenue is imprisonment for up to five years and/or a fine of up to \$50,000 for each conviction.

Evasion or similar offences

You can also be imprisoned for up to five years and/or fined up to \$50,000 if you intentionally evade the assessment or the payment of tax, or unlawfully try to get a refund for yourself or someone else by:

- knowingly not making a deduction or a withholding of tax
- knowingly not keeping books and documents that must be kept
- knowingly not providing information, including tax returns and forms, when required to do so
- knowingly providing altered, false, incomplete or misleading information
- pretending to be another person for any purpose or reason
- knowingly filing false returns.

You may also be prosecuted for certain offences under the Crimes Act 1961.

Shortfall penalties

A shortfall penalty is a penalty imposed as a percentage of a tax shortfall, or deficit or understatement of tax which results from certain actions on the part of a taxpayer. There are five categories of fault.

Reasonable care

The law requires you take reasonable care in meeting your tax obligations. This means that you must take the same care that a reasonable person in the same circumstances would take. The standard does not require perfection on your part.

If you do not take reasonable care you will incur a penalty of 20% of the resulting tax shortfall.

Unacceptable tax position

The legal definition of an unacceptable tax position is one that “fails to meet the standard of being about as likely as not to be correct”.

This means that your tax position must be one to which a court would give serious consideration, but not necessarily agree with. Your argument must be sufficient to have a reasonable chance of succeeding in court.

The penalty for an unacceptable tax position is 20% of the resulting tax shortfall. This penalty is only applied to income tax shortfalls and only if the tax shortfall is both more than \$50,000 and 1% of the total tax figure.

Gross carelessness

You can be penalised for gross carelessness if we consider your behaviour towards your tax affairs displays a high degree of carelessness or disregard for the consequences.

The penalty for gross carelessness is 40% of the resulting tax shortfall.

Abusive tax position

The aim of this penalty is to deter people from entering into arrangements with the dominant purpose of avoiding tax.

The penalty for taking an abusive tax position is 100% of the resulting tax shortfall.

Evasion

Tax evasion involves a deliberate attempt to cheat the revenue. This includes obtaining refunds knowing that you are not lawfully entitled to them.

The penalty for evasion is 150% of the resulting tax shortfall.

Reduction for voluntary disclosures

If you make a full and complete voluntary disclosure before we tell you that you are going to be audited or investigated, any shortfall penalty will be reduced by 75% or 100% if the tax shortfall was due to not taking reasonable care, taking an unacceptable tax position or an unacceptable interpretation.

If we've already notified you of a tax audit or investigation but you make a disclosure before it actually begins, any shortfall penalty will be reduced by 40%.

If you make a disclosure at the time of filing your return, any shortfall penalty will be reduced by 75%.

Employer monthly schedule non-payment penalty

From 1 April 2008, if the amount owing from an *Employer monthly schedule (IR 348)* isn't paid by the due date we will send you a reminder letter. If the overdue amount isn't paid or an instalment arrangement agreed to, we will charge you a 10% non-payment penalty (NPP).

Every month an amount remains outstanding a further 10% NPP will be charged. If, after we've imposed the penalty, you pay in full or enter into an instalment arrangement, the last NPP is reduced to 5%.

Late payment penalties

We will charge you interest if you don't make your tax payment by the due date. We will also charge you a late payment penalty if you miss a payment, but if you have a good payment history with us we may contact you before we do this.

Otherwise, we will charge an initial 1% late payment penalty on the day after the due date. We will charge a further 4% penalty if there is still an amount of unpaid tax (including penalties) seven days after the due date.

Every month the amount owing remains unpaid after the due date a further 1% incremental penalty will be charged.

Interest

Interest on unpaid tax applies for all periods beginning on or after 1 April 1997.

Interest on underpayments of tax will start on the day after the original due date for paying the tax, and end on the day the tax is paid in full. For example, if a reassessment increases your tax liability of three years ago, three years' interest will be charged.

Interest will be charged on the difference between the original amount of tax paid and the new amount assessed, even if time is allowed for payment before a late payment penalty is imposed.

Amounts of \$100 or less

Interest and late payment penalties are not charged on outstanding amounts of \$100 or less.

For more information

If you would like more information about penalties and interest, read our booklet *Taxpayer obligations, interest and penalties (IR 240)*. You can get a copy from www.ird.govt.nz or order one by calling INFOexpress—see page 23.

Final note

The benefits of making a voluntary disclosure far outweigh waiting for Inland Revenue to find out what may be wrong with your tax returns. If you need help with any of your tax obligations or you have any questions about anything in this booklet, please call us—see page 24 for our contact numbers.

Services you may need

INFOexpress

INFOexpress is our automated phone service. You can order stationery (forms and guides) and request personal tax summaries using our natural language speech recognition system. This lets you use your voice instead of keying in numbers on the phone keypad. For all other services you'll need to use a touch tone phone and key in numbers for options.

Remember to have your IRD number with you when you call.

It's also helpful if you know the number or name of any forms or booklets you're ordering. For personal information, such as account balances, you'll also need an INFOexpress personal identification number (PIN). You can get a PIN by calling 0800 257 777 and following the step-by-step instructions.

You can call INFOexpress for the following services between 6 am and 12 midnight, seven days a week:

- Forms and guides (speech recognition) 0800 257 773
- Request a personal tax summary (speech recognition) 0800 257 444
- Request a taxpack 0800 257 772
- Request a summary of earnings 0800 257 778
- Information on interest-free student loans 0800 466 468
- All other services (eg work out working for families tax credits entitlement, get account balances, order statements, calculate your end-of-year tax and rebate entitlements). 0800 257 777

How to contact us

We're available from 8 am to 8 pm Monday to Friday and 9 am to 1 pm Saturday on the following numbers. Remember to have your IRD number with you.

Personal customers

Income tax and general enquiries	0800 227 774
Overdue tax and returns	0800 227 771
Student loan enquiries	0800 377 778

Business customers

Income tax and general enquiries	0800 377 774
Employers	0800 377 772
GST	0800 377 776
Overdue tax and returns	0800 377 771

Child Support customers

All enquiries	0800 221 221
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Large enterprises

Businesses with over \$100 million annual group turnover, taxpayers subject to special legislation such as those involved in mining, and crown entities.

All enquiries	0800 443 773
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Mobile callers: Free calling does not apply to mobile calls. You can get a direct dial number by calling the appropriate 0800 customer number listed above.

International callers: Free calling does not apply to international calls. You can get a direct dial number from www.ird.govt.nz

Passwords—individuals only

We can set up a password on your account to save you time. For more information, call us on one of these numbers:

Personal tax customers	0800 227 774
Business tax customers	0800 377 774

Call recording

As part of our commitment to providing the best possible service to our customers, Inland Revenue records all phone calls answered in, and made by, our permanent call centres. For further information about our call recording policy and how you can access your recorded information, please go to www.ird.govt.nz or call us on 0800 227 774 (or 0800 377 774 if you or your partner are in business).

Appointments

We are able to answer most queries over the telephone. If however you would still like to see someone to make a voluntary disclosure, please call us and we'll make an appointment for you.

Inland Revenue postal addresses

Send your completed return to one of the addresses below.

If you live in:

Northland

send this form to
Inland Revenue
PO Box 3753
Christchurch Mail Centre
Christchurch 8140

other North Island areas

send this form to
Inland Revenue
PO Box 39010
Wellington Mail Centre
Lower Hutt 5045

Auckland

send this form to
Inland Revenue
PO Box 761
Waikato Mail Centre
Hamilton 3240

the South Island

send this form to
Inland Revenue
PO Box 3753
Christchurch Mail Centre
Christchurch 8140

Privacy

Meeting your tax obligations involves giving accurate information to Inland Revenue. We ask you for information so we can assess your liabilities and entitlements under the Acts we administer.

You must, by law, give us this information. Penalties may apply if you do not.

We may exchange information about you with the Ministry of Social Development, Ministry of Justice, Department of Labour, Ministry of Education, New Zealand Customs Service, Accident Compensation Corporation or their contracted agencies. Information may be provided to overseas countries with which New Zealand has an information supply agreement. Inland Revenue also has an agreement to supply information to Statistics New Zealand for statistical purposes only.

You may ask to see the personal information we hold about you by calling us on 0800 377 774. Unless we have a lawful reason for withholding the information, we will show it to you and correct any errors.

If you have a complaint about our service

We're committed to providing you with good service. If there's a problem, we'd like to know about it and have the opportunity to fix it.

If you have a complaint, the quickest and easiest way to resolve it is usually with the staff member you've been dealing with. If you're not satisfied, ask to speak to their manager.

If you're still not satisfied, we have a Complaints Management Service that can take a fresh look at your complaint. You can call toll-free on 0800 274 138 between 8 am and 5 pm weekdays, go to www.ird.govt.nz or put your complaint in writing and send it to:

Inland Revenue
Complaints Management Service
PO Box 1072
Wellington

If you disagree with how your tax has been assessed, you may need to follow a formal disputes process. For more information, read our factsheet *If you disagree with an assessment (IR 778)*. You can get this from our website or by calling INFOexpress—see page 23.

Other Inland Revenue publications

At Inland Revenue we have a variety of publications to help people with their tax obligations. You may find some of these useful.

Debt options (IR 582)

This explains what to do if you might not be able to pay your tax or if you're already in debt to Inland Revenue.

Disputing an assessment (IR 776)

This explains the process to follow if you want to dispute an assessment of your tax liability or some other decision.

Inland Revenue audits (IR 297)

This guide is for people in business and investors. It explains how audits are chosen, what is involved if we audit you, how we will work with you, and what happens once an audit is completed.

Notice of proposed adjustment (IR 770)

Use this form if you want to change a return you've filed or you disagree with a decision that we've issued.

Tax Information Bulletin Vol 14, No 4 (April 2002)

This includes *Standard Practice Statement INV-251 Voluntary Disclosures*.

Tax Information Bulletin Vol 14, No 8 (August 2002)

This includes *Standard Practice Statement INV-510 Requests to amend assessments*.

Taxpayer obligations, interest and penalties (IR 240)

This booklet explains your legal obligations as a business taxpayer, the standards you are expected to meet in managing your tax affairs, and the penalties and interest that apply for not meeting those standards.

