

Tax administration & payment of tax

Returns

Generally the following persons and entities are liable to lodge an income tax return:

- individuals who derive income not taxed at the time of payment unless that income is equal to or less than \$200;
- individuals who are in business or engaged in a profession;
- all companies, societies, clubs and some public authorities;
- all partnerships, trusts and superannuation funds; and
- absentees deriving income from New Zealand.

No returns are required for individuals who receive only:

- income from employment that is subject to PAYE; and
- interest and dividends that are subject to RWT or do not have a New Zealand source.

For individuals, at the end of the year the IRD prepares Personal Tax Summaries based on information provided by employers. These are sent to taxpayers with incorrect or special deduction rates, or student loans or family assistance. Other taxpayers may request a Personal Tax Summary.

A separate form must be used to claim the housekeeper, childcare and donations rebates. Some income rebates are built into the PAYE rates removing the need to make a separate claim. Taxpayers who qualify for the under \$9,500 rebate and child taxpayer rebate need to request a Personal Tax Summary in order to claim these rebates.

Individuals who file IR3 returns and also receive source deduction payments are sent a Summary of Earnings by the IRD containing income and tax deduction information from their employer. This can be used to prepare the IR3.

Lodgement date (final date without penalty):

- when linked to a chartered accountant or other tax agent - 31 March of the following income year;
- otherwise:
 - (i) taxpayers with balance dates 1 October to following 31 March - 7 July;
 - (ii) taxpayers with balance dates 1 April to 30 September - 7th day of fourth month after balance date.

Taxpayers have four years in which to claim a refund of overpaid tax. However, where there has been a clear mistake or simple oversight or in the case of rebates, the Commissioner may extend the period to eight years.

Assessments and disputes

The Commissioner may adjust a return by way of a Notice of Proposed Adjustment. A taxpayer who disagrees with the notice will need to begin the disputes resolution process.

This process is designed to resolve disputes as quickly as possible by early identification of all issues, full disclosure of the facts and evidence and consultation between the taxpayer and the Inland Revenue Department.

There are strict limits (generally two monthly intervals) built into the process which apply to both the taxpayer and the Commissioner. A taxpayer who does not respond in the required manner and within the time limit will be deemed to accept the IRD's position and generally will not be able to challenge the adjustment further. The Commissioner is required to follow the full disputes process before issuing an assessment except in limited specific circumstances.

The Commissioner has four years in which to amend an assessment unless the taxpayer's return is fraudulent or wilfully misleading or excludes amounts of gross income.

Provisional tax

Every taxpayer who will be liable to pay residual income tax exceeding \$2,500 for the 2008/2009 income year is a 2008/2009 provisional taxpayer. Residual income tax is the amount of income tax payable by a taxpayer after deducting tax credits but before deducting provisional tax paid. Provisional tax is generally payable in three equal instalments (refer Payment dates for the 2008/2009 income year, page 42).

Taxpayers are able to pool their provisional tax payments with those of other taxpayers through an arrangement with a commercial intermediary. Tax pooling allows underpayments to be offset by overpayments within the same pool and vice versa.

Calculating provisional tax

New provisional tax rules come into force on 1 October 2007 and apply from the 2008/2009 income year to all provisional taxpayers. The new rules align provisional tax payment dates with GST payment dates and introduce the GST ratio option for calculating provisional tax instalments.

Provisional taxpayers have four options available for calculating their provisional tax for the 2008/2009 income year (ie year ending 31 March 2009).

These options are³:

- where the 2007/2008 return of income has been filed, 2008/2009 provisional tax can be based on 95% (previously 105% uplift) of the 2007/2008 residual income tax; or

³ The reduction of the corporate tax rate in the 2008/2009 income year affects calculations made under the standard uplift for transitional income tax years.

- where the 2007/2008 return of income has not been filed, due to an extension of time for filing (refer Returns, page 39), 2008/2009 provisional tax can be based on 100% (previously 110% uplift) of the 2006/2007 residual income tax, but only for the first two instalments. The final instalment must be calculated based on the first option above; or
- provisional tax can be based on a fair and reasonable estimate of:
 - 2008/2009 residual income tax; or
 - the new GST ratio option can be used to calculate 2008/09 provisional tax

The GST ratio method has been introduced to enable smaller taxpayers to align their provisional tax payments with their cash flow and reduce their exposure to UOMI. The option is intended to benefit those taxpayers with declining, seasonal or fluctuating income. This option calculates provisional tax by reference to the taxpayer's GST taxable supplies in the relevant provisional tax instalment period.

Further, voluntary payments may be made. Such payments can be made to minimise exposure to use of money interest (refer Use of money interest, page 43). A taxpayer choosing to estimate residual income tax is required to take reasonable care when estimating.

When the taxpayer's return of income for the year is furnished, the provisional tax paid for that year is credited against the tax assessed. This results in either a refund or further tax to pay by way of terminal tax.

Tax discount in first year of business

Although individual taxpayers are not required to pay provisional tax in their first year of business, they are still required to pay income tax on any income derived in the first year. Generally this income tax is payable at about the same time as the third instalment of provisional tax for the next year is due. Individuals who begin receiving self-employed or partnership income are eligible for a 6.7% discount. Essentially, the discount operates so that an eligible taxpayer who pays income tax to the IRD prior to the end of an income tax year receives a credit for the lesser of 6.7% of the amount paid or 6.7% of 105% of the residual income tax for that income tax year. The discount is designed to relieve eligible taxpayers of the financial strain of making two years' worth of tax payments at the same time.

Payment dates for the 2008/2009 income year

The new provisional tax payment dates depend on the frequency with which a taxpayer files their GST returns. Generally provisional tax payments will be due on the following dates:

Month of Balance Date	First Provisional Instalment (one-third)	Second Provisional Instalment (one-third)	Third Provisional Instalment (one-third)	Terminal Tax (payable subsequent to balance date)
October	28 March	28 July	28 November	7 September
November	7 May	28 August	15 January	7 October
December	28 May	28 September	28 January	7 November
January	28 June	28 October	28 February	7 December
February	28 July	28 November	28 March	15 January
March	28 August	15 January	7 May	7 February
April	28 September	28 January	28 May	7 February
May	28 October	28 February	28 June	7 February
June	28 November	28 March	28 July	7 February
July	15 January	7 May	28 August	7 February
August	28 January	28 May	28 September	7 February
September	28 February	28 June	28 October	7 February

The terminal tax due date is extended by 2 months for taxpayers linked to a tax agent.

Late payment and shortfall penalties

An initial late payment penalty of 1% will apply if a tax payment is not made on the due date, and a further 4% late payment penalty applies if the payment is not made within 7 days of the due date. An incremental late payment penalty of 1% is then imposed monthly until payment is made.

From 1 April 2008, the IRD will be required to notify a taxpayer the first time their payment is late rather than imposing an immediate late payment penalty. If payment is not made by a certain date, a late payment penalty will be imposed. Taxpayers will be entitled to one notification every two years. After receiving a first warning, the IRD will not send further notifications for two years and an initial late payment penalty will be imposed in the normal manner.

Shortfall penalties, calculated as a percentage of the tax shortfall resulting from the action or position taken by the taxpayer in a tax return, may also apply. These are:

Action subject to penalty	Penalty – percentage of tax shortfall				
	Standard rate	Reduced by 75% for disclosure before audit or timing error only	Reduced by 40% for disclosure during audit	Reduced by 75% for disclosure when filing	Increased by 25% for obstruction
Lack of reasonable care	20%	5%	12%	n/a	25%
Unacceptable tax position	20%	5%	12%	5%	25%
Gross carelessness	40%	10%	24%	n/a	50%
Abusive tax position	100%	25%	60%	25%	125%
Evasion	150%	37.5%	90%	n/a	187.5%

There is a 50% discount on certain penalties where the taxpayer has a past record of 'good behaviour' and, in certain circumstances, a cap of \$50,000 on shortfall penalties for not taking reasonable care or for taking an unacceptable tax position.

From 1 April 2008 a new tax penalties regime becomes effective. The new regime is aimed at making the rules fairer and more likely to encourage voluntary compliance by taxpayers. The most significant change is that penalties imposed for lack of reasonable care and for taking an unacceptable tax position will be reduced by 100% when a taxpayer discloses the tax shortfall voluntarily before notification of a tax audit or investigation.

Use of money interest (UOMI)

Taxpayers are required to pay interest where taxes are not paid by the due date for payment. There is a corresponding requirement for the Commissioner to pay interest to the taxpayer when the taxpayer has overpaid tax. UOMI applies to most tax obligations eg income tax, PAYE, FBT and GST.

All provisional taxpayers, other than individuals who were not liable to pay residual income tax exceeding \$35,000 and who did not pay their provisional tax on the estimation basis, are subject to the 'use-of-money' interest regime. Where residual income tax exceeds provisional tax paid, the taxpayer is liable to pay interest on the underpayment. Interest is payable regardless of culpability. Where provisional tax paid exceeds residual income tax, the taxpayer is entitled to receive interest on the overpayment.

UOMI rates

From 8 March 2007 the rate for overpaid tax is 6.66% (previously 5.71%) and the rate for underpaid tax is 14.24% (previously 13.08%).

Interest is generally calculated from the due date for the first instalment of provisional tax. Interest paid is deductible, subject to normal deductibility criteria, while interest received is taxable.

Binding rulings

The Commissioner is able to make binding public rulings and, at a taxpayer's request, private and product rulings on specific tax issues. Rulings bind the Commissioner on the application of the law to which the rulings relate.

The IRD's Corporate Unit announced in 2006 that generally it will no longer issue non-binding rulings to taxpayers.