

A GUIDE TO LATE FILING PENALTY AND LATE PAYMENT INTEREST

(Taxation Administration Act 2022, Sections 112 & 118; Tax Administration Regulations 2022, Regulation 11)

IRD now applies penalties and interest automatically for late returns and payments.

Tax laws are designed to encourage voluntary compliance by clearly setting out your obligations and by applying penalties for not complying with the laws. This includes penalty for late filing and late payment interest.

The law has recently changed regarding late payment penalties. This penalty has been replaced by a late payment interest charge from 1st January 2023.

Late Filing Penalties

If you are in business or are an employer, the tax law requires you to file your return or other document by the due date. If you failed to do so, the Commissioner will impose an administrative penalty for your late filing.

The administrative penalty for late filing of income tax return or other documents required to be filed by the tax law include:

- Maximum administrative penalty of 5,000 penalty units for breach, and
- Additional 20 penalty units for each day that breach continues.
- One penalty unit equals \$1.

Assessment of Late Filing Penalty

The Commissioner will make an assessment of the penalty for late filing and serve on the person subject to the penalty a notice of assessment of penalty.

The notice includes:

- the grounds for imposing the penalty; and
- the amount of the penalty; and
- the due date for payment which must not be less than 30 days after the notice is served.

When are the Return's Due?

Income Tax Returns are due 3 months after the end of your financial year. For most businesses this is 31st March.

Sales Tax and Goods Tax returns are due on 30th day of each the month following the month in which the tax was collected

All PAYE returns are due on the 15th of the following month in which you deduct the tax and no extensions are given.

If the due date of filing a document or for the payment of tax under a tax law falls on Saturday, Sunday or public holiday, the due date becomes the next following working day.

Getting an Extension of time – Income Tax

If you need an extension of time to file your Income Tax Return you must make your request to the Commissioner in writing. If the Commissioner is satisfied with your grounds for extension and grants you an extension of time, then this new date becomes your date to file your return. If you do not file your return by this new date a penalty will be imposed.

Please note that the extension of time does not change the original due date for payment on which the calculation of late payment interest is based.

If you have an accountant, they may have already applied for an extension of time for you to file your income tax return. Please check with your accountant if you are unsure.

Late Payment Interest

Late payment penalties are replaced by *the Late Payment Interest* from 1st January 2023. Thus, if you do not pay your taxes on due time, you will be liable for late payment interest calculated at the **simple interest** rate of 15% per annum on the amount of unpaid tax or the administrative penalty from the date on which payment was due to the date payment is made. **Simple interest** means that the interest is calculated on the outstanding principal amount, but not including interest already added. So, it does not compound.

For example, if a tax debt (the principal amount) is \$100,000, simple interest of 15% will be $(15\% \times \$100,000) = \$15,000$ each year.

The formula is: **Debt x 15/100 x (days overdue)/365**

Late payment interest must be paid in addition to a penalty or fine under tax law for the same default.

Requests for Remission or Cancellation

If you think we have charged you a penalty incorrectly then please advise us in writing so that we can consider your situation.

In some circumstances you may be able to apply to have the penalty remitted. For example, where a payment or return is late because of:

- serious hardship, which might be financial misfortune, health or impacts of natural disaster to the person subject to the penalty;
- the incorrect imposition or calculation of a penalty;
- circumstances that the person subject to the penalty cannot change or influence;
- an honest unintentional failure to pay unpaid tax by the person subject to the penalty;
- any other ground that the Minister may prescribe by Regulation.

Such requests must be in writing and are the discretion of the Commissioner.

If you have any further queries regarding penalties or interest, please contact our office on the details below or come visit our Tax Education Team at our office.