

Resolve Your Tax Debts with Confidence: Your Partner for Success with the Inland Revenue Department

Greenlane CA is a well-established chartered accounting firm with a long history of expertise in effectively navigating tax debt matters with the Inland Revenue Department. Our extensive experience in handling tax debt issues allows us to provide trusted and proven solutions to our clients.

It's crucial to note that tax laws regarding debt relief are complex and subject to change, our advice is to always consult with a qualified tax professional like us to ensure compliance and maximise any available tax debt relief and remission.

This article provides an in-depth exploration of the current laws and procedures pertaining to tax debt relief.

Tax Relief, Remissions, and Cancellations

A remission of a taxpayer's tax obligation is a forgiveness of that taxpayer's liability to pay. A remission is distinguishable from a reversal, in that it does not mean that the obligation was incorrect, merely that the Commissioner has exercised a statutory discretion to excuse a taxpayer from the a tax liability. A reversal occurs when the tax, penalties, or interest should never have been charged.

A cancellation occurs when the tax, penalty, or interest was correctly imposed at the time, but a provision of legislation relieves the taxpayer from the obligation to pay. The Tax Administration Act 1994 provides that the cancellation of a tax liability or obligation is deemed to take effect at the time that the original liability or obligation arose. A taxpayer is never liable to pay interest or a civil penalty that relates to a cancelled tax liability or obligation.

Serious Hardship Financial Relief

The Commissioner of Inland Revenue has a discretion under the Tax Administration Act 1994 to remit tax liability for serious hardship. Serious hardship includes significant financial difficulties that arise because of:

- a the taxpayer's inability to meet minimum living expenses according to normal community standards
- b the cost of medical treatment for an illness or injury of the taxpayer or the taxpayer's dependent
- c a serious illness suffered by the taxpayer or the taxpayer's dependent
- d the cost of education for the taxpayer's dependent.

A taxpayer, or a person on a taxpayer's behalf, applies for financial relief by either making a claim stating why recovery of the outstanding tax would place the taxpayer in serious hardship, or requesting to enter an instalment arrangement with the Commissioner. When receiving a request, the Commissioner may:

- a accept the taxpayer's request
- b seek further information from the taxpayer
- c make a counter-offer
- d decline the taxpayer's request.

The Commissioner also has a discretion to write off outstanding tax that cannot be recovered. In bankruptcy or liquidation cases or when a taxpayer's estate has been distributed, the Commissioner must write off outstanding tax that cannot be recovered. However, this does not apply if a taxpayer is liable to pay, in relation to the outstanding tax, a shortfall penalty for an abusive tax position, evasion, or a similar act.

Remission for Reasonable Causes

Strict liability penalties can be remitted under the Tax Administration Act 1994 if the Commissioner of Inland Revenue is satisfied that certain criteria are met. Those criteria are:

- a that the penalty in question arose as a result of an event or circumstance beyond the taxpayer's control
- b that the event or consequence beyond the taxpayer's control provides a reasonable justification or excuse for failing to comply
- c that the taxpayer corrected the failure to comply as soon as was possible.

An event or circumstance may include an accident, disaster, illness, or mental or emotional distress. Intentionally omitted criteria are the taxpayer's financial position, and an action or omission by a taxpayer's agent (unless that act or omission was caused by an event or circumstance that was both unanticipated and unable to be reasonably avoided).

Taxpayers must apply in writing to the Commissioner to obtain a remission, and must provide information as required by the Commissioner.

Remission in circumstances of emergency event

A taxpayer who is significantly affected by an emergency event and who has been charged with interest under the Tax Administration Act 1994, may request the Commissioner of Inland Revenue to remit the interest charged.¹ The Commissioner may remit the interest if the Commissioner is satisfied that:

- it is equitable that the interest be remitted;
- the taxpayer applied for the remission as soon as practicable; and
- the taxpayer made the payment as soon as practicable.

Remission of interest

A number of grounds provide for the automatic cancellation of interest liabilities incurred under the provisions of the Tax Administration Act 1994. If a taxpayer receives a notice of assessment requiring an additional payment, and makes the payment before the due date given, then his or her liability to pay interest for the period after receiving the notice of assessment is cancelled. If the notice is received before the original due date, the taxpayer has 30 days to pay in order to receive the benefit of the cancellation.

If a taxpayer receives a statement of account in relation to overdue tax, and pays the outstanding amount within 30 days, the interest chargeable between the statement being issued and the date of payment will be cancelled.

In addition to these obligations, when the Commissioner of Inland Revenue remits a tax obligation that has attracted interest liability, he or she is also required to remit the interest that has become owing.

Further to this, where a company is liable to pay further income tax equal to the debit balance in the company's imputation credit account at the end of the tax year, and is also liable to pay a late payment penalty on unpaid income tax, the Commissioner must remit any interest on the unpaid tax and the late payment penalty relating to the further income tax, to the extent the amount of further income tax charged is equal or less than the amount of unpaid income tax.

Remission Consistent with highest net revenue collection

The Commissioner of Inland Revenue may, under the provisions of the Tax Administration Act 1994, remit a late filing penalty, a non-electronic filing penalty, a late payment penalty, a shortfall penalty, a civil penalty imposed under the KiwiSaver Act 2006, a penalty for unpaid amounts of employers' withholding payments, or interest if he or she is satisfied that the remission is consistent with the statutory duty to collect the highest practicable net revenue over time.

This remission must not be based on a taxpayer's financial situation, and must be considered in light of the importance of promoting taxpayer compliance. Taxpayers must apply in writing to the Commissioner to obtain a remission, and must provide information as required by the Commissioner.

Additional provisions to vary provisions of Taxation legislation were introduced in response to COVID-19, with application initially from 17 March 2020 to 30 September 2021, but extended to 30 September 2023, including to the Tax Administration Act 1994.⁵ New sections of the Act allow the Commissioner to:

- extend a due date, deadline, time period or time-frame in relation to a requirement; and
- modify a procedural or administrative requirement that must be met under a provision, for example, modifying the nature or form of information that is required to meet that provision.⁶

Small Amount of Taxes

Under the Tax Administration Act 1994, the Commissioner of Inland Revenue may write off tax or refrain from making an assessment of tax, issuing a notice of assessment, or collecting tax if the balance of the tax payable does not exceed \$20, or if the tax paid, withheld, or deducted is not more than \$5.

Conclusion

Resolving tax problems with the IRD can be a complex and time-consuming process. It is essential to have a dedicated and knowledgeable team to assist you effectively. Our dedicated team is here to provide expert guidance and tailored solutions to help you resolve your tax debt issues efficiently and with confidence. Contact us today, and let's work together to lighten your financial burden and pave the way for a more secure financial future.