



Inland Revenue
Te Tari Taake

20 June 2023

[REDACTED]

Dear [REDACTED]

Thank you for your request, received on 22 May 2023. Your first question asked about a specific taxpayer [REDACTED].

The rest of your questions, made under the Official Information Act 1982 (OIA) were:

- 2) *Could you please get me figures for how much companies owe in unpaid KiwiSaver employer contributions? Could you find out how many companies owe it, and a breakdown of how old the debts are?*
- 3) *Do the companies owing KiwiSaver debt have to pay use of money interest on it? If there are use of money interest penalties, who gets them? Do they go to the KiwiSavers?*
- 4) *Can I get a list of the companies and how much they owe that owe KiwiSaver debt? I want to see how many are still trading.*
- 5) *I also assume debt gets written off when it becomes uncollectable. How does that work?*
 - a) *How much is written off each year?*
 - b) *I mean, [...] is gone now. What happens to the debt it owes? Is it written off?*
- 6) *The KiwiSaver debt is a matter of individuals missing out. I would like to know how many individuals are owed KiwiSaver Contributions.*
- 7) *I am also curious about how many people have been prosecuted [...] for failing to make KiwiSaver contributions.*

On 30 May 2023, you confirmed that you were seeking information for three years.

Question 2: How much companies owe in KiwiSaver employer contributions, how many companies owe it and a breakdown of how old the debts are

From 1 April 2020, KiwiSaver payments are sent to people's accounts even if Inland Revenue has not yet received the money from their employer. All KiwiSaver deductions and compulsory employer contributions on an employment information form are transferred to the KiwiSaver scheme provider in advance of the employer paying the contribution to Inland Revenue.

Since 1 April 2020, all employer-related liabilities including PAYE, KiwiSaver employee and employer contributions, child support deductions, student loan deductions and employer superannuation contributions tax, are consolidated into one bill. Employers file an employment information form and pay a lump sum based on that information.

With the current ways we send this information to employers and report on customer debt, the information is not available by separate, individual components. This means we are unable to provide information specifically on one type of debt, such as KiwiSaver.

This part of your request is therefore refused under section 18(e) of the OIA, as the document containing the information requested does not exist.

However, we can provide the overall figure for all employer-related liabilities for the last three financial years (1 July to 30 June). As the month of June 2023 is not yet complete, the 2023 figure is for the year up to 31 May 2023.

Table 1

Financial years	Number of debtors with employer debt	Amount of employer debt under two years old (\$ million)	Amount of employer debt over two years old (\$ million)	Total employer debt (\$ million)
Jun-2021	26,737	\$647.48m	\$272.07m	\$919.55m
Jun-2022	24,730	\$444.47m	\$377.88m	\$822.35m
May-2023	27,343	\$637.23m	\$373.78m	\$1011.01m

Question 3: If the companies owing KiwiSaver debt have to pay use of-money interest on it; if there are use of money interest penalties, who gets them? Do they go to KiwiSavers?

KiwiSaver debt can be made up of KiwiSaver deductions (employee contributions) or contributions (employer contributions). From 1 April 2021, use-of-money interest applies to both KiwiSaver employee deductions and employer contributions.

Use-of-money interest is paid to the Crown. This is because, provided that both KiwiSaver deductions and contributions are noted on the employment information form, the Crown pays contributions and deductions to the member's KiwiSaver account in advance of the money being received by the Crown. As the Crown carries the risk in this arrangement, the use-of-money interest is received by the Crown.

Question 5 and 5 b): If KiwiSaver debt is written off when it becomes uncollectible, how that works, and what happens if the company no longer exists

The Commissioner of Inland Revenue's approach to writing off tax is set out in *Standard Practice Statement 18/04, Options for relief from tax debt*. This standard practice statement explains how the discretion in the Revenue Acts is applied to customers seeking tax relief.

As stated in *Options for relief from tax debt*, on the conclusion of a bankruptcy or liquidation, the Commissioner must write off the tax that is not collected.

Options for relief from tax debt is published on Inland Revenue's Tax Technical website (taxtechnical.ird.govt.nz). You can read the standard practice statement by searching for "SPS 18/04" or going to the link [Options for relief from tax debt \(ird.govt.nz\)](http://Options for relief from tax debt (ird.govt.nz)).

This part of your request is therefore refused under section 18(d) of the OIA, as the information is publicly available.

Question 5 a): How much is written off each year

As mentioned in my response to question 2, we are unable to provide information on one type of employer information debt, such as KiwiSaver, because unpaid amounts are not categorised and therefore cannot be split by their component parts.

Although we cannot break down employer-related debt into individual components based on current reporting methods, write-off information is reported separately and can be broken down by the individual employer components.

The amounts of KiwiSaver contributions written off per year for the last three financial years (1 July to 30 June) are in table 2 below. The amounts in table 2 include penalties

and interest but exclude the penalty and interest remission offered to customers who were adversely affected by COVID-19.

As the month of June 2023 is not yet complete, the 2023 figure is for the year up to 31 May 2023.

Table 2

Type of contribution written off	\$ Amount written off per financial year		
	2021 year (Up to 30 June)	2022 (Up to 30 June)	2023 (Up to 31 May)
Total KiwiSaver employee contributions	\$5,108,742	\$5,201,023	\$5,281,597
Total KiwiSaver employer contributions	\$2,547,372	\$2,182,749	\$2,406,425
Total written off	\$7,656,114	\$7,383,772	\$7,688,022

Question 4: A list of companies with KiwiSaver debt and how much they owe

This information is considered to be sensitive revenue information under section 18 of the Tax Administration Act 1994 (TAA) because it relates to the affairs of specific taxpayers. Sensitive revenue information can only be released in certain circumstances, as set out in section 18D to 18J and schedule 7 of the TAA.

In this case, there are no grounds that permit me to release this information to you. Accordingly, I have decided to refuse this part of your request under section 18(c)(i) of the OIA, as releasing this information would be contrary to section 18 of the TAA.

Question 6: How many individuals are owed KiwiSaver contributions

As mentioned in my response to question 2, from 1 April 2020, KiwiSaver payments are sent to individual's accounts even if Inland Revenue has not yet received the money from their employer. All KiwiSaver deductions and compulsory employer contributions on an employment information form are transferred to the KiwiSaver scheme provider in advance of the employer paying the contribution to Inland Revenue. Therefore, no individuals will be owed KiwiSaver contributions in the last three years.

As long as an employer files an employment information form, individuals do not miss out on any KiwiSaver deductions. Before the change, only a member's deductions were transferred.

In March 2022, legislation was passed that allowed us to take the same approach to unpaid employer contributions that were due before April 2020. In May 2022, we sent all these older employer contributions that were unpaid, or only partially paid, on to KiwiSaver scheme providers. The effective date of these contributions is 1 April 2020.

For any subsequent amendments to employment information forms before April 2020 that increase the employer contribution amount, we send the additional contribution to the KiwiSaver scheme providers.

Question 7: How many people have been prosecuted for failing to make KiwiSaver contributions

The number of prosecutions for failing to make KiwiSaver Employer Contributions for the last three years is in table 3 below. The information for 2023 was available until 30 April 2023, so we have provided information for the years May to April.

Table 3

Year	Number of prosecutions
May 2022 – April 2023	8
May 2021 – April 2022	20
May 2020 – April 2021	16
Total	44

Rights of review

If you disagree with my decisions on your OIA request, you can ask an Inland Revenue review officer to review my decisions. To ask for an internal review, please email: CommissionersCorrespondence@ird.govt.nz.

Alternatively, under section 28(3) of the OIA, you have the right to ask the Ombudsman to investigate and review my decisions. You can contact the office of the Ombudsman at: info@ombudsman.parliament.nz. If you choose to have an internal review, you can still ask the Ombudsman for a review.

Publishing of OIA response

Please note that Inland Revenue regularly publishes responses to requests that may be of interest to the wider public on its website. We consider that this response is of public interest so will publish this response in due course. Your personal details, or any information that would identify you, will be removed before it is published.

Thank you for your request.

Yours sincerely



Rebecca McStay
Segment Management Lead, Individuals