

12 May 2026

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982, received on 18 April 2026. You requested the following:

1. *Under the KiwiSaver Act 2006, what are the specific obligations of employers and employees when:*
 - a) *employee contributions were not correctly deducted from salary or wages, and/or*
 - b) *employer contributions were not paid on time over an extended period?*
2. *In cases of long-term non-payment, what remediation actions does Inland Revenue require or recommend from:*
 - a) *the employer, and/or*
 - b) *the employee*
3. *Where contributions are paid late due to employer error or negligence, does Inland Revenue:*
 - a) *provide, require, or expect any compensation for lost investment returns, and*
 - b) *restore or compensate for missed government contributions?*
4. *If such compensation or restoration is not provided, what is the policy or legislative basis for this position, particularly in circumstances where the financial impact falls on the employee despite the failure arising from employer error or negligence?*
5. *How does Inland Revenue treat backdated contributions:*
 - a) *Are they allocated to the original contribution period or treated as current contributions?*
 - b) *How does this treatment affect eligibility for government contributions?*
6. *What options or remedies does Inland Revenue consider available to employees to recover:*
 - a) *lost investment returns*
 - b) *missed government contributions, where these losses arise solely due to employer non-compliance?*

Item 1 - Obligations of employers and employees when employee contributions were not correctly deducted from salary or wages, and/or employer contributions were not paid on time over an extended period.

Section 101D of the KiwiSaver Act 2006 (the Act) requires employers to make compulsory employer contributions for eligible employees where employee contributions are deducted.

KiwiSaver deductions are paid to Inland Revenue through the Pay as you Earn process (PAYE) in accordance with Schedule 4 of the Tax Administration Act 1994 (TAA). Where deductions are

not made or not paid on time, the employer remains liable for the unpaid amounts. The obligation does not transfer to the employee. As PAYE is held on trust by an employer, Inland Revenue undertakes various compliance activities to collect the outstanding returns and amounts. This includes contacting the employer and applying late payment penalties and use of money interest. In some cases, the employer may be prosecuted for failing to comply with their obligations.

Employees are not responsible for deducting or paying KiwiSaver contributions through payroll and are not required to retrospectively fund missed deductions through salary or wages. Employees have no statutory responsibility for ensuring employer contributions are paid.

It should be noted under section 69 of the Act, when the employer files the Employment Information (EI) return (which includes KiwiSaver contributions), the government guarantee covers the employee contributions and is treated as Inland Revenue has received them.

Employee KiwiSaver deductions and compulsory employer contributions are deducted and paid under PAYE processes, and as a result, they are "tax" or "amounts payable" for the purposes of the TAA, and subject to Part 8A time-bar rules, (section 108A).

The government guarantee of section 69 of the Act does not apply unless employment income information is filed. Where an employer deducts KiwiSaver but does not file, Inland Revenue may enforce filing, after which section 69 can apply, and the employer is pursued for payment.

Item 2 - Remediation actions Inland Revenue requires or recommends from the employer, and/or the employee in cases of long-term non-payment of KiwiSaver contributions.

Inland Revenue treats cases involving multiple pay periods, multiple EI returns, or payroll failures as long-term non-compliance. In these cases, Inland Revenue requires the employer to correct EI returns where required; and pay all outstanding KiwiSaver employee deductions and compulsory employer contributions that are recoverable. Penalties and use-of-money interest apply in accordance with the TAA.

Employees are not required to take remedial action.

As mentioned in the response to Item 1, where an employer deducts KiwiSaver but does not file, Inland Revenue may enforce filing, after which section 69 can apply, and the employer is pursued for payment.

Item 3 – Does Inland Revenue provide, require, or expect any compensation for lost investment returns, and restore or compensate for missed government contributions in cases where contributions are paid late due to employer error or negligence.

The Act does not provide Inland Revenue with authority to provide or require compensation for lost investment returns arising from late or unpaid KiwiSaver contributions. The government guarantee provides protection for late payment of the employees' contributions, and there should be no loss of investment. The government contribution is based on qualifying criteria, and if all are met, the government guarantee will prevent a loss of the qualifying amount.

Inland Revenue also does not restore or compensate for missed Government contributions where statutory eligibility requirements were not met due to employer non-compliance.

Item 4 – If such compensation or restoration is not provided, what is the policy or legislative basis for this position, particularly in circumstances where the financial impact falls on the employee despite the failure arising from employer error or negligence?

The Act establishes Inland Revenue as the system administrator and collector of KiwiSaver contributions. The Act does not authorise Inland Revenue to calculate or award compensation for missed investment returns or pay Government contributions outside the statutory eligibility framework.

Inland Revenue's enforcement powers are limited to the collection of unpaid amounts and the application of penalties and interest under the TAA.

Item 5 – How does Inland Revenue treat backdated contributions: Are they allocated to the original contribution period or treated as current contributions? And how does this treatment affect eligibility for government contributions?

Where KiwiSaver employer contributions are paid late, they are treated as if they were received on the original due date, with the original contribution date applied, for example, PAYE deductions from wages in March are due by 20 April.

This treatment applies only to employer contributions. Employee contributions are government guaranteed once an EI is filed, any late payment would not result in any loss of investment earnings or government contributions for employees.

Item 6 – What options or remedies does Inland Revenue consider available to employees to recover lost investment returns and missed government contributions, where these losses arise solely due to employer non-compliance.

Apart from the government guarantee in relation to the employee contributions advised in response to Item 3, the Act does not provide a mechanism for Inland Revenue to recover lost investment returns. As the employee contributions are government guaranteed (if the EI is filed) there should not be any missed government contributions on behalf of employees.

Employees who consider they have suffered financial loss as a result of employer non-compliance may wish to seek independent legal or employment advice.

Publishing of OIA response

We intend to publish our response to your request on Inland Revenue's website (ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, may be published in its entirety. Publishing responses increases the availability of information to the public and is consistent with the OIA's purpose of enabling more effective participation in the making and administration of laws and policies and promoting the accountability of officials.

Thank you again for your request.

Yours sincerely



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