



Inland Revenue
Te Tari Taake

IR395
November 2023

Approved issuer levy (AIL)

A guide for payers

Introduction

If you pay interest to a non-resident lender you can apply to be an approved issuer.

This means, instead of deducting non-resident withholding tax (NRWT), you must pay a levy of 2% on the securities you register with us.

The levy is calculated at a rate of 2% of the value of the registered security. The value is the amount of interest paid on the security, or any redemption payment on a bond issued at a discount. For certain bonds the levy can be reduced to 0%.

Find out how you can be an approved issuer and learn the main requirements for:

- approved issuer status
- registration of securities
- payment of AIL, and
- zero-rated bonds.

Pages 16 to 18 explain the terms used in this guide.

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Part 1 - General information

Zero-rating of NRWT on interest

Interest payments can have a zero rate of NRWT if all the following conditions are met.

- You are not associated to the non-resident lender. Separate associated person rules apply where a bank, or a financial sector business similar to a bank, borrows from an associated person.
- You must apply to be an approved issuer. You can do this in myIR.
- You must have registered with us all the securities on which the zero rate of NRWT is to apply. You can do this in myIR. Learn more about registering in Part 2 of this guide.
- The non-resident lender and you must agree that AIL applies. We recommend that this agreement be in writing.
- From the amount of interest paid to the non-resident lender an additional 2% AIL must be paid to us by the due date. If you make a payment after the due date include any interest and late payment penalties.

Interest payments that do not satisfy the conditions for zero-rating are subject to NRWT.

Agreements in writing

There is no set format for giving written notices of interest paid to non-resident lenders under the AIL rules. However, we suggest the notice should show that:

- the interest is not taxable in New Zealand, and
- NRWT hasn't been deducted from the interest.

If the cost of the AIL is to be recovered from the non-resident lender, it must be shown as a fee or charge on any written notice to the non-resident lender. AIL is a charge in addition to the interest. If you're entitled to claim a tax deduction for the cost of the amount borrowed, the AIL payment can also be claimed.

Note

Zero-rating of NRWT is different to zero-rating of AIL.

Approved issuer status

You must apply to be an approved issuer. You can do this in myIR at ird.govt.nz/myIR

If your application is approved, your approved issuer status begins from the date we receive your registration.

If we find you to be responsible for serious default or neglect of your tax responsibilities during the two years before the date we receive your notification, we will cancel your application.

Cancelling approved issuer status

1. Approved issuer status lasts until it's cancelled. If your status is cancelled, zero-rating cannot apply to new securities. Cancelling does not affect existing registered securities.
2. You may also ask for your status to be cancelled.

Completing your end-of-year tax return

You can claim a deduction of 2% on all the AIL you've paid in that tax year in your New Zealand income tax return. The overseas interest you've paid must be tax deductible.

No longer paying AIL

If you stop paying AIL permanently you need to let us know and we'll close your AIL account. You can do this in myIR.

Record keeping

You need to keep full records of all the AIL you pay, and details of the registered securities.

You must keep your records for seven years and they must be in English or Māori unless you get approval from us to use another language.

We may ask you to keep your records for an additional three years if auditing or investigating you. Failure to keep adequate records is a very serious matter and can result in a fine.

If you want to know more about audit procedures, read our guide **Inland Revenue audits - IR297**.

Part 2 - Registering securities

Only securities that have been registered with us qualify for a zero rate of NRWT.

Most securities can be registered, including variable principal debt instruments, New Zealand bank accounts of non-residents and standard offshore loans and bonds.

You can register two types of securities.

- A transaction involving money lent to you. This is a transaction where the two parties, amount involved and term can be clearly identified.
- A class of transactions involving money lent to you. This is where you're involved in more than one transaction.

Securities can be registered as a class if the first definition does not apply.

Registering a security

If you do not already have approved issuer status, you can apply to be an approved issuer when you register your first security. You can apply and register one security in myIR.

All other securities must be registered separately on an **Application to register security or securities for approved issuer levy (AIL) or zero-rating - IR397**.

You must tell us about any changes to your securities before maturity or redemption, as this may affect whether AIL still applies. You can send a secure email in myIR to do this.

The criteria for registration

Securities will be registered if these criteria are met:

- an application is completed, and
- the security relates to money lent on or after 1 August 1991.

Government stock qualifies for AIL, even if it was issued before this date.

We'll confirm your securities are registered within 20 working days. If we do not cancel your application within this time, your securities will automatically register.

Part 3 - Zero-rating ALL

ALL can apply at zero % on interest that is paid for debt securities (Bonds) that meet certain criteria.

To qualify for the zero rate on interest payments the security must:

- be denoted in NZ dollars
- either:
 - be a regulated offer in terms of the Financial Markets Conduct Act 2013, or
 - be an offer of financial products that are of the same class as quoted financial products in terms of the Financial Markets Conduct Act 2013 (and also meet other specific criteria), or
 - be an offer of debt securities issued by a registered bank, in terms of the Financial Markets Conduct Act 2013; or
 - have been offered to the public in terms of section 3 of the Securities Act 1978 before it was repealed, and
- not be issued as a private placement
- not be an asset-backed security
- be conducted through a registry and paying agent with a fixed establishment in New Zealand, and
- be listed on the stock exchange or satisfy a widely held test.

Widely held test

To meet the widely held test a security must:

- be held by 100 separate persons who the issuer could reasonably assume are not associated at the time the test applies, and
- have no person or group of associated persons holding a 10% or greater interest at the time of applying the test.

Part 4 - Filing and payments

Paying approved issuer levy (AIL)

You (or a person on your behalf such as a nominee company) can pay interest to non-residents at a zero rate of NRWT on the securities you register.

AIL is calculated at a rate of 2% of the value of the interest you've paid to your non-resident lender. For certain bonds this rate is reduced to zero %.

You must file your AIL information and pay your AIL electronically unless you have an electronic filing exemption.

You can apply for an exemption if you are unable to supply your AIL information electronically. In considering your request we will assess:

- your capabilities
- the digital services available to you
- the compliance costs to you.

Due date

Your AIL return and payment must be completed by the 20th of the month following the month interest was paid. If you expect to pay less than \$500 AIL in any income year, you may pay on a six-monthly basis.

If the due date falls on a weekend or a New Zealand public holiday, the due date is the next working day.

AIL of \$500 or more each year

If you pay AIL of \$500 or more each year, the due date for payment is the 20th of the month following the month the interest was paid.

Example

Monthly payer

Each year, Lucy's Lovely Apartments Ltd is liable for AIL payments of more than \$500 on the interest credited to its customers' accounts. In February 2023 it has \$1,000 AIL to pay, March 2023 \$1,000 AIL to pay but no AIL for April 2023. It must pay the AIL to us as follows:

Month interest paid	Total AIL to pay	Total paid to us	Due date for payment and return
February 2023	\$1,000	\$1,000	21 March 2023
March 2023	\$1,000	\$1,000	20 April 2023
April 2023	Nil	Nil	-

AIL of less than \$500 each year

If you expect to pay less than \$500 AIL in any income year, you may complete returns and pay on a six-monthly basis.

- 1 April to 30 September - due for payment on 20 October
- 1 October to 31 March - due for payment on 20 April.

If your AIL payment accumulates to \$500 during the year, you must complete a return and pay by the 20th of the month after AIL reaches \$500.

Example

Six-monthly payer

Luca's Investments Ltd pays less than \$500 AIL each year, so may pay the deductions to us by the two regular six-monthly payment dates.

Month interest paid	Total AIL to pay	Total paid to us	Due date for payment and return
June 2023	\$ 50	Nil	-
August 2023	\$ 50	Nil	-
September 2023	\$100	\$200	20 October 2023
November 2023	\$100	Nil	-
February 2024	\$100	\$200	20 April 2024

Example

Six-monthly payer with accumulated AIL over \$500

Nala's Investments Ltd estimated its annual AIL liability for the 2023 income year to be less than \$500. However, in December 2022 it reached the \$500 threshold. Nala's Investments Ltd must pay the AIL to us by the 20th of the month which follows the month when the accumulated AIL reached \$500. Nala's Investments Ltd must also pay monthly for the rest of the 2023 income year.

Month interest paid	Total AIL to pay	Total paid to us	Due date for payment and return
June 2022	\$ 50	Nil	-
August 2022	\$ 50	Nil	-
September 2022	\$100	\$200	20 October 2022
December 2022	\$300	\$300	20 January 2023
January 2023	Nil	Nil	-
February 2023	Nil	Nil	-
March 2023	\$ 50	\$ 50	20 April 2023

No AIL to pay

Returns show as optional in myIR so if no interest was paid and you have no AIL to pay for the month, you do not need to file any income information.

If zero-rate of AIL applies

You must report any interest you paid that qualifies for the zero-rate of AIL by the payment due date. If you do not do this **any zero-rated interest will be subject to AIL at 2%** where it would have normally been zero-rated.

How to make payments

Go to ird.govt.nz/pay to find out about paying by:

- internet banking
- credit or debit card
- direct debit

You can also call 0800 257 777 to pay by credit/debit card over the phone.

When making a payment, include:

- your IRD number
- the account type you are paying
- the period the payment relates to.

Late payment

Standard rate AIL

We may charge you interest if you do not make your tax payment by the due date. We'll also charge you a late payment penalty if you miss a payment. If you have a good payment history we may contact you before we do this.

Otherwise an initial 1% late payment penalty will be added the day after the due date. We'll charge a further 4% penalty if there is still an amount of unpaid tax (including penalties) seven days after the due date.

Every month the amount owing remains unpaid after the due date we'll charge a further 1% incremental penalty.

Interest and late payment penalties are not charged on outstanding amounts of \$100 or less.

Zero rate AIL

If the return is not received by the due date, any zero-rated interest will be subject to AIL at 2%.

The payment of this AIL will need to have been paid by the same due date for that return or penalties and interest will apply to the outstanding amount based on a 2% AIL payment due on the same date.

Example

Corporation Ltd pays interest on bonds of \$100,000 in June which qualify to be zero-rated if the return is completed by 20 July. The return is completed on 1 August which is late.

As the return is completed late the interest on bonds will be subject to the standard levy rate of 2%. This levy would need to be paid by the 20 July (the due date for any levy payable for June) to avoid late payment penalties and interest.

Arrangements

If you're unable to pay your tax in full by the due date, you can set an instalment arrangement in myIR. You can do this before or after the due date for payment but penalties charged will be less if you set up the arrangement before the due date.

For more help

See our **Penalties and interest - IR240** guide.

AIL overpaid

Paying AIL instead of deducting NRWT

A decision to pay AIL instead of NRWT cannot be retrospective. If you've paid AIL on some interest but should have deducted NRWT, you need to let us know. AIL is paid on interest at the rate of 2%. As the NRWT rates are higher than the AIL rate, you'll have under-deducted tax.

Let us know which periods you under-deducted and how much NRWT you should have paid and we'll transfer the payment to your NRWT account. If you do not have a NRWT account, we will ask you to register for one. You'll have to make an extra payment to cover the shortfall. You may also be liable for a late payment penalty and possibly a shortfall penalty.

For more information about shortfall penalties, see our **Penalties and interest - IR240** guide.

Part 5 - Services you may need

0800 self-service numbers

Our 0800 self-service numbers are open 7 days a week - except between 5am and 6am each day. Make sure you have your IRD number ready when you call.

For access to your account-specific information, you'll need to be enrolled with voice ID or have a PIN.

Order forms, guides and returns	0800 257 773
All other services	0800 257 777

When you call, confirm what you want from the options given. If you need to talk with us, we'll re-direct your call to someone who can help you.

Need to speak to us?

Have your IRD number ready and call us on one of these numbers.

General tax, tax credits and refunds	0800 775 247
Employer enquiries	0800 377 772
General business tax	0800 377 774
Overdue returns and payments	0800 377 771

Find out more at ird.govt.nz/contact-us

Tax Information Bulletin (TIB)

The TIB is our monthly publication containing detailed technical information about all tax changes. Subscribe at taxtechnical.ird.govt.nz/subscribeTIB and we'll send you an email when we publish each issue.

Privacy

Meeting your tax obligations means giving us accurate information so we can assess your tax and entitlements under the Acts we administer. We may charge penalties if you do not.

We may also exchange information about you with:

- some government agencies
- another country, if we have an information supply agreement with them, and
- Statistics New Zealand (for statistical purposes only).

You can ask for the personal information we hold about you. We'll give the information to you and correct any errors, unless we have a lawful reason not to. Find our full privacy policy at ird.govt.nz/privacy

If you have a complaint about our service

We're committed to providing you with a quality service. If there's a problem, we'd like to know about it and have the chance to fix it.

If you disagree with how we've assessed your tax, you may need to follow a formal disputes process.

Find out more about making a complaint, and the disputes process, at ird.govt.nz/disputes

Terms we use

Approved issuer

An approved issuer is a borrower who applies to be an approved issuer. This allows the approved issuer or a person on their behalf, to pay interest to a non-resident without having to deduct NRWT.

Approved issuer levy (AIL)

AIL is a payment generally calculated at the rate of 2% of the interest on a registered security. This is the amount of interest paid for the security, or any redemption payment on a bond issued at a discount.

Associated persons

The following are associated persons:

- group of persons whose total voting interests in each company are 50% or more
- a company and non-company (generally individual) if the individual's voting interest in the company is 25% or more. For these purposes, the individual is treated as holding anything held by a person associated with them, eg, if two sisters own 15% of the shares in a company, both sisters would be associated with the company
- relatives related to the second degree of blood relationship
- two persons who are married, in a civil union or are in a de facto relationship
- two persons if one person is within two degrees of blood relationship to the other person's spouse, civil union or de facto partner (ie, a person is associated with their parents-in-law and step-children)
- a child by adoption is treated as a natural child
- a person and a trust where the person is a beneficiary of the trust or is a relative of a beneficiary of the trust
- the trustees of two trusts if they have a settlor in common
- a trustee and a settlor of the trust
- a beneficiary of a trust is associated with a settlor of the trust
- a trustee and a person with power of appointment or removal
- a partnership and its partners
- two persons if they are each associated with the same third person by different tests (tripartite test).

There is more information about associated persons at taxpolicy.ird.govt.nz/publications or in our **Associated persons definitions for income tax purposes - IR620**.

Bonds (qualifying)

Where a bond issue meets certain requirements instead of paying AIL at 2%, a zero rate applies.

Fixed establishment

A place of business from which a substantial business is carried out, such as a retail shop, hotel, factory or farm. A property let for rent is generally seen as an investment rather than a business.

Interest

Interest is any amount paid or credited for money lent and covers redemption payments.

Leviable value

Leviable value is:

- the amount of interest paid on a registered security
- any redemption payment on a bond issued out at a discount. Redemption payments are included in the definition of interest for NRWT purposes.

Non-resident passive income (NRPI)

This is interest, dividends and royalties which a non-resident has received or is considered to have received from New Zealand.

NRWT (non-resident withholding tax)

This is a tax deducted from NRPI.

Anyone who pays NRPI must deduct NRWT and pay it to us each month. The rate of NRWT to deduct depends on the type of income and where the recipient is resident.

For more information about NRWT, read our **NRWT - payers guide - IR291**.

Redemption payment

This is the additional amount paid on the commercial bill when the total amount paid is more than the amount originally borrowed.

Registered security

This is any transaction involving money lent to an approved issuer that is:

- registered by us, or
- one of a class of transactions registered by us.

Resident

A person is a tax resident if they:

- have an “enduring relationship” with New Zealand
- have been present in New Zealand for more than 183 days in any 12-month period, or
- are away from New Zealand in the service of the New Zealand Government.

A person who has been a New Zealand tax resident will become a non-resident if they:

- no longer have an enduring relationship with New Zealand, and
- are away from New Zealand for more than 325 days in any 12-month period.

A company is a resident in New Zealand if:

- it is incorporated in New Zealand
- its directors exercise control in New Zealand
- it has its centre of management in New Zealand, or
- it has its head office in New Zealand.

If none of these apply, a company is non-resident.

Note

The rules for tax residency are not the same as citizenship or usual residency criteria. For more details on enduring relationship and tax residency read our **New Zealand tax residence guide - IR292**.

Variable principal debt instrument

This is a financial arrangement where one party can ask the other party to:

- borrow additional money, or
- return all the amounts borrowed if the other party's rights and obligations are shown in a foreign currency.

Zero-rating (AIL)

Where a bond issue meets certain requirements instead of paying AIL at 2%, a zero rate can apply.



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