



28 March 2024

Dear [REDACTED]

Thank you for your request made under the Official Information Act 1982 (OIA), received on 13 March 2024. You requested the following:

We understand it's a criminal offence for employers not to pay PAYE or GST to IRD. Our impression is that IRD does not prosecute these offences very much so we ask:

- 1. How many employers have been prosecuted for not paying PAYE collected from employees to IRD in 2023. How does that compare to the previous four years? Same question for GST?*
- 2. If the numbers being prosecuted has been declining, what is the reason?*
- 3. What are the considerations when IRD is looking at employers for the offence?*
- 4. In the years to June 2022 and 2023, what was the GST and PAYE owed to IRD?*

Question 1

The table below provides a breakdown of the number of completed prosecutions relating to PAYE and GST for the past five financial years ending 30 June. We note that in respect of the GST prosecutions, we can't identify in each case if the taxpayer is an employer (for example, the figures below may include sole traders with no employees).

Year ended 30 June	PAYE	GST
2019	19	12
2020	25	14
2021	11	27
2022	7	21
2023	8	20

Questions 2 and 3

I understand that Gay Cavill, Domain Principal - Marketing & Communications, has provided a response to these two questions when replying to your initial media query. For completeness, I have repeated the information Gay provided below.

The number of completed prosecutions has declined over the last five years primarily due to the re-prioritisation of compliance work while Inland Revenue delivered COVID-19 support. That's had a flow on effect on new prosecutions being conducted. Compliance work is now returning to pre-covid levels, and we expect prosecution work will increase in line with that.

Prosecution is one avenue available to Inland Revenue to protect the integrity of the tax and social policy systems. Enforcement activity is usually a last resort after we have tried education and contacted the taxpayer, often multiple times.

When considering prosecution, we look at several things including:

- If there is a history of non-compliance
- The degree of non-compliance (the gravity & prevalence of offending)
- The loss of revenue to the system (greater loss = more reason to prosecute)
- Damage to the integrity of the Revenue system
- Misuse of corporate entities for a criminal tax purpose (e.g. phoenixing or using multiple entities to facilitate GST fraud)
- Organised and systematic attacks on the tax or social policy systems

There are also factors which could lead Inland Revenue away from prosecuting such as where a defaulter has made good the losses or has paid any interest.

Question 4

The amounts of GST and PAYE debt owed to Inland Revenue for the years ended 30 June 2022 and 2023 can be found on page 93 of the Inland Revenue Annual Report 2022-23, available here: [Inland Revenue Annual Report, Te Tari Taake Pūrono ā-Tau, 2022-23 \(ird.govt.nz\)](https://www.ird.govt.nz/annual-report/2022-23).

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

Right of review

If you disagree with my decision on your OIA request, you can ask an Inland Revenue review officer to review my decision. To ask for an internal review, please email the Commissioner of Inland Revenue at: 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 decision. You can contact the office of the Ombudsman by email 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

We intend to publish our response to your request on Inland Revenue's website (www.ird.govt.nz) as this information may be of interest to other members of the public. This letter, with your personal details removed, will 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 for your request.

Yours sincerely



Andrew Tringham

Domain Lead, Legal Services