

11 February 2011

Mr Ian McLisky  
[mcliskyap@xtra.co.nz](mailto:mcliskyap@xtra.co.nz)

Dear Mr McLisky

Thank you for your Official Information Act requests of 14 and 18 January 2011 sent to the Minister of Revenue, Hon Peter Dunne. Your request was transferred to the Commissioner of Inland Revenue, under section 14 of the Official Information Act, as the request is more closely connected with the Commissioner's functions. The Commissioner has asked me to reply on his behalf.

I understand that Ms Leisa Coley, Mananagement Advisor, Assurance contacted you on the 26 January 2011 to check exactly what information you required. In your contact with Ms Coley you clarified that your request is whether Inland Revenue can provide:

*Tables as per page 165 of the Reports to the Minister of Finance under s141L of the Tax Administration Act 1994 for the years 1998-2005 that contain information on shortfall penalties imposed.....*

*The tables provide information on shortfall penalty imposition by type of shortfall, dollar value and number of impositions. Additional tables also break this information into revenue type.*

The information you have requested is set out in the tables below.

There has been a variation over the years in how the information was presented. Please note that, in the years ended 30 June 1998 - 2000, information was not provided in a tabular form about the breakdown of shortfall penalties imposed by revenue, rather a commentary was provided. This has been included for your information. You will also note a variation in how the information has been presented for the years ended 1998 - 2001 with different business groups categorised. For the period from 1 July 2001, the number and value of shortfall penalty impositions were combined, and not separated into business units.

**Shortfall penalties imposed for the 1998 financial year**

SHORTFALL CATEGORY	BusinessDirect		BusinessLink		Corporates		Total	
	No.	Amt \$s	No.	Amt \$s	No.	Amt \$s	No.	Amt \$s
Lack of Reasonable care	509	236,919	1,378	1,140,311	18	16,376	1,905	1,393,606
Gross Carelessness	164	691,763	295	321,162	0	0	459	1,012,925
Unacceptable Interpretation	31	103,557	65	209,213	1	40,625	97	353,395
Abusive Tax Position	0	0	2	346,187	0	0	2	346,187
Evasion	37	110,411	87	216,400	0	0	124	326,811
<b>TOTAL</b>	<b>741</b>	<b>\$1,142,650</b>	<b>1,827</b>	<b>\$2,233,273</b>	<b>19</b>	<b>\$57,001</b>	<b>2,587</b>	<b>\$3,432,924</b>

BusinessDirect – taxpayers who are in business and do not have a tax agent. Approximate population 500,000.

BusinessLink – taxpayers who use the services of a tax agent. Approximate population 1.145 million.

Corporates – Taxpayers with a turnover exceeding \$100 million and specialised industries. Approximate population of 11,500.

14. The shortfall penalties imposed were primarily in respect of GST (52%) and PAYE (42%).<sup>1</sup>

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<sup>1</sup> Information is provided from Report CIR 1998/130: Application of Shortfall Penalties under the new Compliance and Penalties Regime, pg 4 number 13 & 14 dated 31 August 1998

**Shortfall penalties imposed for the 1999 financial year**

SHORTFALL CATEGORY	BusinessDirect		BusinessLink		Corporates		Total	
	No.	\$s	No.	\$s	No.	\$s	No.	\$s
Lack of Reasonable care	1,582	875,773	3,544	2,003,343	64	52,498	5,190	2,931,614
Gross Carelessness	546	585,626	1,012	1,406,255	0	0	1,558	1,991,881
Unacceptable Interpretation	25	77,000	112	348,841	0	0	137	425,841
Abusive Tax Position	3	598,611	4	4,334	0	0	7	602,945
Evasion	273	2,379,661	267	600,611	1	30,071	541	3,310,343
<b>TOTAL</b>	<b>2,429</b>	<b>\$4,516,671</b>	<b>4,939</b>	<b>\$4,363,384</b>	<b>65</b>	<b>\$82,569</b>	<b>7,433</b>	<b>\$8,962,624</b>

BusinessDirect – taxpayers who are in business and do not have a tax agent. Approximate population of 507,000.

BusinessLink - taxpayers that use the services of a tax agent. Approximate population 1.217 million.

Corporates – Taxpayers with a turnover exceeding \$100 million and Specialised Industries. Approximate population of 12,000.

15. The shortfall penalties imposed were primarily in respect of GST (38%) and PAYE (54%). In addition, shortfall penalties were imposed on 105 Income Tax cases (1%)..... The remaining 7% of cases were shortfall penalties imposed in respect of Duties revenues.<sup>2</sup>

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<sup>2</sup> Information is provided from Report CIR 1999/149: Application of Shortfall Penalties under the Compliance and Penalties Regime, pg 3&4 number 14 & 15 dated 12 August 1999

**Shortfall penalties imposed for the 2000 financial year**

SHORTFALL CATEGORY	BusinessDirect		BusinessLink		Corporates		Total	
	No.	\$s	No.	\$s	No.	\$s	No.	\$s
Lack of Reasonable Care	3,607	1,989,511	959	798,466	255	771,381	<b>4,821</b>	3,559,358
Gross Carelessness	1,553	2,334,938	232	319,165	9	29,000	<b>1,794</b>	2,683,103
Unacceptable Interpretation	34	92,848	44	95,956	2	2,243	<b>80</b>	191,047
Abusive Tax Position	31	187,155	1	12,918	2	9,183	<b>34</b>	209,256
Evasion	329	2,794,827	89	176,491			<b>418</b>	2,971,318
<b>TOTAL</b>	<b>5,554</b>	<b>\$7,399,278</b>	<b>1,325</b>	<b>\$1,402,997</b>	<b>268</b>	<b>\$811,808</b>	<b>7,147</b>	<b>\$9,614,083</b>

Corporates – Taxpayers with a turnover exceeding \$100 million and Specialised industries. Approximate population of 12,000.  
BusinessLink – Large companies, greater than 5 years old, with a turn over in excess of \$1.5 Million plus related shareholder entities. Approximate population 400,000.  
BusinessDirect – All other taxpayers. Approximate population 4,500,000.

9. The shortfall penalties imposed were primarily in respect of GST (44%) and PAYE (45%). In addition, shortfall penalties were imposed on 212 income tax cases (4%)..... The remaining 7% of cases were shortfall penalties imposed in respect of duties revenues.<sup>3</sup>

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<sup>3</sup> Information is provided from Report CIR 2000/89: Application of Shortfall Penalties under the Compliance and Penalties Regime, pg5 number 8 & 9 dated 23 August 2000.

**Shortfall penalties for the 2001 financial year**  
**Taxpayer Group:**

SHORTFALL CATEGORY	Business Direct		BusinessLink		Corporates		Total	
	No.	\$s	No.	\$s	No.	\$s	No.	\$s
Lack of Reasonable Care	3,853	2,003,782	824	548,425	302	1,129,368	4,979	3,681,575
Gross Carelessness	1,937	2,405,626	247	669,341	4	70,346	2,188	3,145,313
Unacceptable Interpretation	75	441,999	29	82,030	9	178,631	113	702,660
Abusive Tax Position	20	1,043,936	3	113,540	0	0	23	1,157,476
Evasion	782	4,436,033	82	261,583	17	278,722	881	4,976,338
<b>TOTAL</b>	<b>6,667</b>	<b>\$10,331,377</b>	<b>1,185</b>	<b>\$1,674,919</b>	<b>332</b>	<b>\$1,657,067</b>	<b>8,184</b>	<b>\$13,663,363</b>

Corporates – Taxpayers with a turnover exceeding \$100 million and Specialised industries. Approximate population of 12,000. Corporates also includes Special Audit.

BusinessLink – Large companies, greater than 5 years old, with a turn over in excess of \$1.5 Million plus related shareholder entities. Approximate population 400,000.

BusinessDirect – All other taxpayers. Approximate population 4,500,000.<sup>4</sup>

**Revenue Group:**

SHORTFALL CATEGORY	GST		PAYE		INC		TOTAL	
	No.	\$s	No.	\$s	No.	\$s	No.	\$s
Lack of Reasonable Care	2,825	2,381,266	1,357	561,293	394	496,828	4,576	3,439,387
Gross Carelessness	756	1,642,230	1,187	860,553	138	592,720	2,081	3,095,503
Unacceptable Interpretation	93	586,778	5	13,993	14	99,201	112	699,972
Abusive Tax Position	20	1,124,025	1	497	3	33,412	24	1,157,934
Evasion	221	2,869,122	546	945,336	68	1,141,526	835	4,955,984
<b>TOTAL</b>	<b>3,915</b>	<b>\$8,603,421</b>	<b>3,096</b>	<b>\$2,281,672</b>	<b>617</b>	<b>\$2,363,687</b>	<b>7,628</b>	<b>\$13,248,780</b>

<sup>4</sup> Information is provided from Report CIR 2001/67: Application of Shortfall Penalties under the Compliance and Penalties Regime, pg 6 number 8 dated 11 December 2001.

**Shortfall penalties for the 2002 financial year**

**Table 1 -Type, value and number of cases where a shortfall penalty has been imposed:**

Shortfall category	\$ Amount	Number of impositions	% of penalties imposed
Lack of Reasonable Care	\$4,121,342	5,612	54%
Unacceptable Interpretation	\$760,444	171	2%
Gross Carelessness	\$5,684,966	2,847	27%
Abusive Tax Position	\$8,576,855	187	2%
Evasion	\$16,939,966	1,603	15%
<b>TOTAL</b>	<b>\$36,083,573</b>	<b>10,420</b>	<b>100%</b>

**Table 2 -Revenues where a shortfall penalty has been imposed for the year ended 30 June 2002:<sup>5</sup>**

REVENUE	GST	PAYE	INC	OTHER	TOTAL
<b>TOTAL</b>	4628	3943	1206	643	10,420
<b>PERCENTILE</b>	44%	38%	12%	6%	100%

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<sup>5</sup> Information is provided from IRD Report CIR 2002/35: Application of Shortfall Penalties under the Compliance and Penalties Rules, pg 5 number 8 dated 27 September 2002.

**Shortfall penalties for the 2003 financial year**

**Table 1 -Type, value and number of cases where a shortfall penalty has been imposed for the year ended 30 June 2003<sup>6</sup>**

<b>Shortfall category</b>	<b>\$ Amount</b>	<b>Number of impositions</b>	<b>% of penalties imposed</b>
Lack of Reasonable Care	\$3,585,362	4,997	50%
Unacceptable Tax Position	\$6,321,597	366	4%
Gross Carelessness	\$3,719,187	2,828	28%
Abusive Tax Position	\$41,883,010	111	1%
Evasion	\$11,578,209	1,750	17%
<b>TOTAL</b>	<b>\$67,087,366</b>	<b>10,052</b>	<b>100%</b>

**Table 2 -Revenues where a shortfall penalty has been imposed for the year ended 30 June 2003**

<b>REVENUE</b>	<b>Amount</b>	<b>Number of impositions</b>	<b>% of impositions</b>
GST	\$8,605,390	4,819	48%
PAYE	\$3,447,088	3,324	33%
INC	\$54,788,217	1,357	13%
OTHER	\$246,671	552	5%
<b>TOTAL</b>	<b>\$67,087,366</b>	<b>10,052</b>	<b>100%</b>

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<sup>6</sup> Information is provided from IRD Report CIR 2003/37: Application of Shortfall Penalties under the Compliance and Penalties Regime, pg 5-6 numbers 12 & 13 dated December 2003

**Shortfall penalties for the 2004 financial year**

**Table 1 -Type, value and number of cases where a shortfall penalty has been imposed for the year ended 30 June 2004<sup>7</sup>**

<b>Shortfall category</b>	<b>\$ Amount</b>	<b>Number of impositions</b>	<b>% of penalties imposed</b>
Lack of Reasonable Care	\$3,520,322	5,550	45%
Unacceptable Interpretation	\$2,089,361	506	4%
Gross Carelessness	\$3,334,564	3,271	27%
Abusive Tax Position	\$67,421,473	464	4%
Evasion	\$20,897,497	2,418	20%
<b>TOTAL</b>	<b>\$97,263,217</b>	<b>\$12,209</b>	<b>100%</b>

**Table 2 -Revenues where a shortfall penalty has been imposed for the year ended 30 June 2004**

<b>Shortfall category</b>	<b>\$ Amount</b>	<b>Number of impositions</b>	<b>% of Impositions</b>
GST	\$24,655,663	5,665	47%
PAYE	\$2,484,089	3,584	29%
INC	\$69,863,080	2,106	17%
OTHER	\$260,385	854	7%
<b>TOTAL</b>	<b>\$97,263,217</b>	<b>\$12,209</b>	<b>100%</b>

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<sup>7</sup> Information is provided from IRD Report CIR 2004/77: Application of Shortfall Penalties under the Compliance and Penalties Rules, pg 5-6 numbers 12 & 13 dated 24 December 2004



**Shortfall penalties for the 2005 financial year**

**Table 2 -Type, value and number of cases where a shortfall penalty has been imposed for the year ended 30 June 2005<sup>8</sup>**

<b>Shortfall category</b>	<b>\$ Amount</b>	<b>Number of impositions</b>	<b>% of penalties imposed</b>
Lack of Reasonable Care	\$2,461,083	4,253	39%
Unacceptable Interpretation	\$9,611,095	1,097	10%
Gross Carelessness	\$3,633,444	2,896	26%
Abusive Tax Position	\$67,965,436	446	4%
Evasion	\$138,216,684	2,317	21%
<b>TOTAL</b>	<b>\$221,887,744</b>	<b>11,009</b>	<b>100%</b>

**Table 3 -Revenue type, value and number of shortfall penalty impositions for the year ended 30 June 2005**

<b>Shortfall category</b>	<b>\$ Amount</b>	<b>Number of impositions</b>	<b>% of Impositions</b>
GST	\$7,594,396	5,074	46%
PAYE	\$1,797,245	2,629	24%
INC	\$211,970,214	2,360	21%
OTHER	\$525,889	946	9%
<b>TOTAL</b>	<b>\$221,887,744</b>	<b>\$11,009</b>	<b>100%</b>

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<sup>8</sup> Information is provided from IRD Report CIR 2005/65 : Application of Shortfall Penalties under the Compliance and Penalties Rules, pg4 numbers 9 & 10 dated 17 January 2006

If you are not satisfied with my response, you have the right to make a complaint to the Ombudsman, seeking an investigation and review of the decision. The Office of the Ombudsmen can be contacted at PO Box 10152, The Terrace, Wellington 6143.

Alternatively, you may have the decision reviewed by a review officer who reports directly to the Commissioner of Inland Revenue. Choosing the internal right of review does not preclude you from subsequently seeking a review by the Ombudsman, should you be dissatisfied with department's internal review. You can seek an internal review by writing to the Commissioner of Inland Revenue, PO Box 2198, Wellington 6140, setting out the details of your complaint.

Thank you for writing, and I trust that the information provided is of assistance to you.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'G Tubb', with a stylized flourish at the end.

Graham Tubb  
**Group Tax Counsel, Assurance**