



**EXPOSURE DRAFT - FOR COMMENT AND DISCUSSION ONLY | HUKIHUKI HURANGA
- MŌ TE TĀKUPU ME TE MATAPAKI ANAKE**

Deadline for comment | Aukatinga mō te tākupu: **31 October 2025**

Please quote reference | Whakahuatia te tohutoro: **PUB00498**

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki
public.consultation@ird.govt.nz

FACT SHEET | PUKA MEKA

Shortfall penalty for not taking reasonable care

Issued | Tukuna: Issue Date

IS ##/## FS #

This fact sheet accompanies **Interpretation Statement IS XX/XX: Shortfall penalty for not taking reasonable care (PUB00498)**, which explains the meaning of “reasonable care” in relation to the shortfall penalty for not taking reasonable care in s 141A of the Tax Administration Act 1994.

All legislative references are to the Tax Administration Act 1994.

RELATED DOCUMENTS | TUHINGA WHAI PĀNGA

For an explanation of the requirements common to all shortfall penalties, that the taxpayer must have taken a “tax position” resulting in a “tax shortfall”, and other matters common to all shortfall penalties, see:

- **IS XX/XX: Shortfall penalties – requirements for a “tax position” and a “tax shortfall” (PUB00500b)**
- **IS XX/XX: Shortfall penalties – reductions and other matters (PUB00500c)**

Key provisions | Whakaratonga tāpua

141A: Not taking reasonable care

Reasonable care

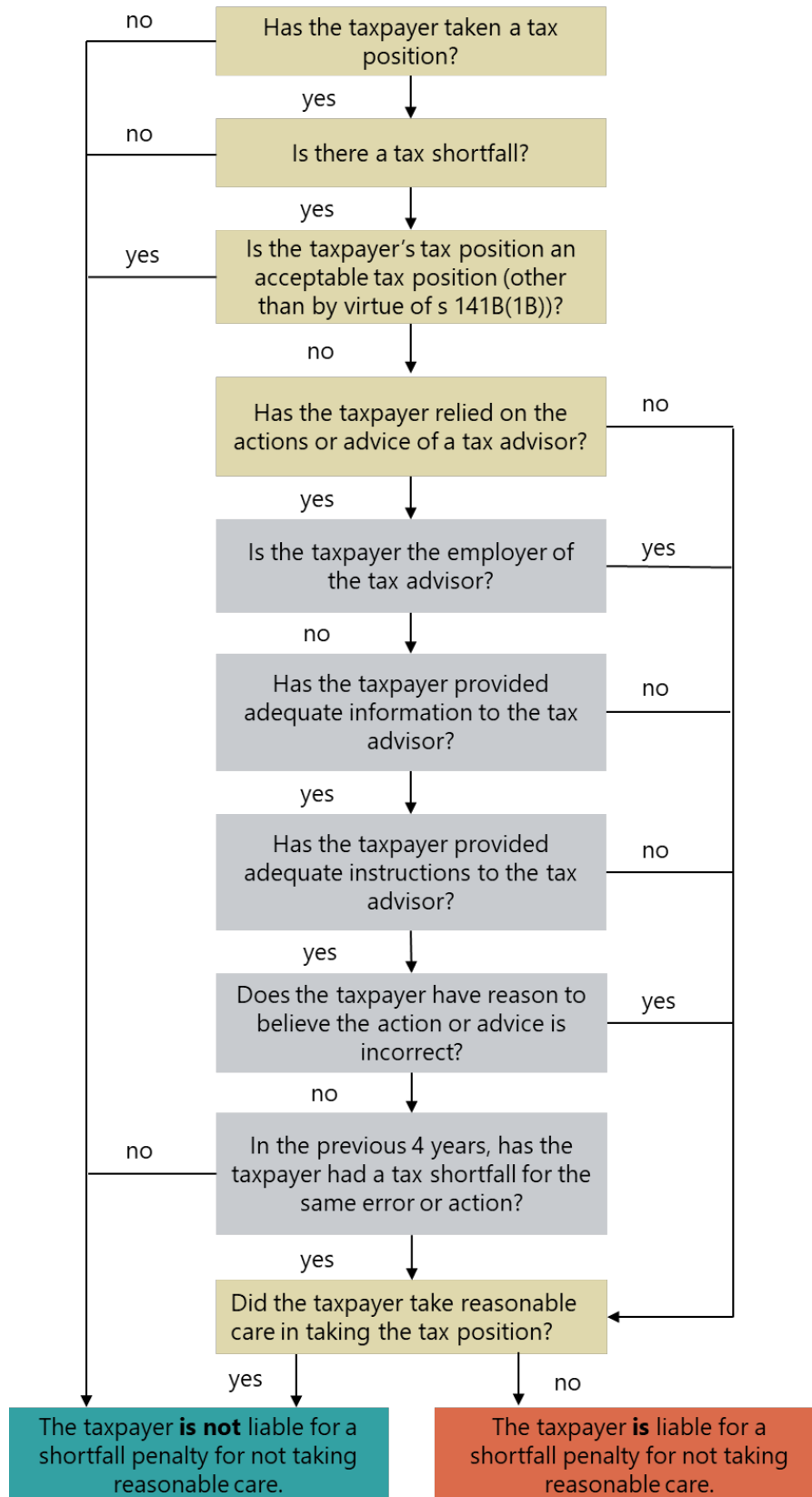
1. Section 141A imposes a shortfall penalty for not taking reasonable care where:
 - the taxpayer takes a tax position;
 - a tax shortfall arises from the tax position; and
 - the taxpayer did not take reasonable care in taking the tax position.
2. The penalty applies to tax positions taken in relation to most tax types including, amongst others, GST and income tax. Income tax includes withholding-type taxes treated as income tax, eg PAYE, FBT, and resident withholding tax.
3. The penalty is 20% of the tax shortfall. The amount of the penalty may be capped at \$50,000 if certain requirements are met.
4. IS XX/XX: Shortfall penalties for not taking reasonable care (PUB00498) explains the meaning of “reasonable care” as follows:
 - “Reasonable care” means doing what a reasonable person in the particular circumstances would do.
 - Whether a taxpayer takes reasonable care is decided objectively. Whether the taxpayer believed they were being sufficiently careful is irrelevant to this decision.
 - Taking reasonable care involves considering whether a reasonable person in the particular circumstances would have seen the risk of a tax shortfall and the actions they would have taken to prevent it. It includes taking

sufficient steps to determine the correctness of a tax position, keeping adequate tax records, and generally making a reasonable attempt to comply with the tax laws. The level of care required may vary depending on factors such as the knowledge and experience of the taxpayer.

- Generally, a taxpayer who relies on the advice of a “tax advisor”, or a “tax agent”, to whom they have provided all relevant information, is treated as having taken reasonable care.
- A taxpayer who takes an “acceptable tax position” is also treated as having taken reasonable care.

5. Figure 1 | Hoahoa 1 shows how s 141A applies.

Figure 1 | Hoahoa 1: Flowchart of how s 141A applies





About this document | Mō tēnei tuhinga

Some of the Tax Counsel Office's longer or more complex items are accompanied by a fact sheet that summarises and explains an item's main points. While it summarises the Commissioner's considered views, a fact sheet should be read alongside the full item to completely understand the guidance. Fact sheets are not binding on the Commissioner. See further [Status of Commissioner's advice](#) (Commissioner's statement, Inland Revenue, December 2012).