



**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: **PUB00500a**

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki  
[public.consultation@ird.govt.nz](mailto:public.consultation@ird.govt.nz)

**FACT SHEET | PUKA MEKA**

# Shortfall penalty for gross carelessness

Issued | Tukuna: Issue Date

IS ##/## FS #

This fact sheet accompanies Interpretation Statement **IS XX/XX: Shortfall penalty for gross carelessness (PUB00500a)** which explains the meaning of gross carelessness in s 141C 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

**141C:** Gross carelessness

### Gross carelessness

1. Section 141C imposes a shortfall penalty for gross carelessness where:
  - the taxpayer takes a tax position;
  - a tax shortfall arises from the tax position;
  - the taxpayer is grossly careless in taking the tax position.
2. The penalty applies to tax positions taken in relation to most tax types including 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 40% of the tax shortfall.
4. IS XX/XX explains the meaning of “gross carelessness” as follows:
  - Gross carelessness means doing or not doing something in a way that, in all the circumstances, suggests or implies complete or a high level of disregard for the consequences.<sup>1</sup>
  - Gross carelessness involves more than mere inadvertence or lack of reasonable care.
  - For conduct to be grossly careless it must create a high risk of a tax shortfall occurring, where the risk and its consequences would have been foreseen by a reasonable person in the taxpayer’s circumstances.
  - Failing to give any thought to an obvious and serious risk constitutes gross carelessness.
  - Whether the taxpayer acted intentionally is not a consideration.
  - Whether gross carelessness is present depends on the circumstances in each case. Circumstances that could be relevant in determining whether a taxpayer is grossly careless are:
    - the person’s experience, education and skills;

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<sup>1</sup> Section 141C(3).

- the significance of the transaction, or transactions of a similar nature when viewed together, in the context of the taxpayer's business or activities;
  - the size of the tax shortfall;
  - the scale and duration of activities;
  - warnings given by Inland Revenue or advisors in relation to the risk of the tax shortfall;
  - pressures the taxpayer experienced; and
  - the short time-frame between the purchase and the sale of the property.
- Depending on the particular facts, other circumstances may be relevant.
  - A person who takes reasonable care in taking the tax position has not been grossly careless.
  - A taxpayer who takes an acceptable tax position is also a person who has not been grossly careless in taking that tax position.

## 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).