



TAX AGENTS CIRCULAR NO. 01 of 2009

INDEX

1. INTRODUCTION
2. REQUIRED RATE OF RETURN LODGEMENTS
3. CONDITIONS
4. PRIORITIES FOR LODGEMENT
5. EXCHANGE RATES
6. EXTENSION LISTS
7. OTHER MATTERS PERTAINING TO EXTENSION LISTS
8. SALARY & WAGES RETURNS
9. LIST OF CONTACTS

INCOME TAX RETURN LODGEMENT REQUIREMENTS.

1) Introduction.

The purpose of this part of the Circular is to advise tax agents solely on requirements for the lodgment of income tax returns for the current year. In keeping with section 223 of the Income Tax Act 1959 (hereinafter "the Act"), a notice will shortly appear in the Gazette advising who is required to lodge returns and when they must be lodged by. That notice will state that all income tax returns for the year ended 31 December 2008 (hereinafter "2008 returns") are required to be lodged by 28 February 2009, or such extended date as the Commissioner General allows.

It has been the practice of this office to grant tax agents an automatic extension of time, until 30 April next following the end of the financial year, to lodge returns on behalf of their clients. This practice will continue and tax agents can lodge 2008 returns by 30 April 2009 without requesting an extension of time.

However, most tax agents will be unable to achieve full lodgment of client returns by that date and will need to request an extension of time for lodgment of an element of their clients' returns. This Circular sets out the Commissioner General's guidelines for those tax agents requiring an extension of time to complete their lodgment program.

2) The Required Rate of Return Lodgments.

In the past, extensions of time for the lodgment of taxable returns have been granted to 31 August. This practice will continue, but the concessions will only be granted to those who meet our performance requirements. To monitor this, tax agents will be required to advise what returns they have lodged, from time to time, and those whose lodgments are within 5% of the required percentage of lodgments by the required dates will be granted an extension of time, without fear of late lodgment penalty, to lodge the remainder of their clients returns by a specified date. Please take note that those who fail to lodge the required percentage or have totally failed lodgment extension lists will not be granted an extension of time and their clients will face the prospect of being penalized for late lodgment. The required lodgment percentages are as follows:

	<u>Taxables</u>	<u>Non Taxables</u>
By 30 April 2009	30%	20%
By 31 May 2009	50%	30%
By 30 June 2009	75%	50%
By 31 July 2009	90%	75%
By 31 August 2009	100%	90%
By 31 October 2009		100%

These are the same requirements as applied in the last lodgment season.

3) Conditions.

Again there are certain conditions that must be met before IRC will grant extensions for the

lodgment of 2008 returns. This year, these conditions are:

- i) Strict observance of the lodgment priorities set out in the next section.
- ii) That returns completed and signed be forwarded to the Internal Revenue Commission (hereinafter "the IRC") regularly, and at intervals of not more than a week.
- iii) That all returns lodged must contain a balance sheet and profit and loss account (where appropriate) as well as the notes to the accounts and all supporting schedules. In this regard, your attention is drawn to Regulation 23, which states that all attachments to returns must be signed. Returns will not be regarded as lodged until such attachments are signed and lodged.
- iv) That the 2008 personal income tax returns of the tax agent & or all nominees thereof are lodged by 30 June 2009. Any companies or partnerships registered as tax agents, and any service or administration companies or partnerships associated with their practice, are also required to lodge their relevant 2008 returns by 30 June 2009.
- v) That extensions of time for the lodgment of taxable returns for companies will not be granted beyond 30 June 2009 unless the provisional tax installment due by that date has been paid.
- vi) That for companies who have an approved substituted accounting period (SAP) under section 12A of the Act, extension arrangements will be proportional to taxpayers with a normal December year end. Thus, SAP returns prepared by tax agents will be required to be lodged within 4 months of the end of the relevant income year. If requested, extensions will then be considered for a further period of 2 months. When lodging client listings and/or extension requests, agents should specifically highlight any SAP taxpayers in this regard.
- vii) That extensions of time for the lodgment of taxable returns for companies will not be granted beyond 31 May, 2009 where the return for the year ended 31 December 2007 was not lodged prior to 28 February, 2009, and where companies have not meet their other tax obligations.
- viii) Where companies who elected to lodge a Management Fees application, in terms of IRC Practice Statement PS 01/2005, were late in doing so for the year ended 31 December 2007, no extensions of time will be granted beyond 31 May, 2009.
- ix) That the relevant extension list is received by the I.R.C. by the date specified later in this circular. In this regard, it should be noted that the due date for lists is ten days after the end of the relevant month.
- x) The tax agent extension program does not cover returns lodged by taxpayers in the Mining, Oil and Gas industries. As a general rule for these taxpayers, 2008 returns should be submitted no later than 31 August 2009 for taxable returns and 31 October 2009 for non-taxable returns. However, any correspondence or enquiries to do with such returns must be first directed to the Assistant Commissioner, Resource Monitoring, Mr Brian Wilson, who can be contacted on 322 6870.

4) Priorities for Lodgment.

It is not enough to simply lodge the required percentage of returns. To ensure we have the time to issue certain assessments so that they become payable by 30 September it is necessary to place the

following limits on the time for lodgment of some types of returns:

- i) All 2008 partnership or trust returns are to be lodged by 30 June 2009. Wherever possible, these should be lodged as a set with the returns for the partners or beneficiaries.
- ii) All taxable 2008 company returns with a taxable income in excess of K200,000 are to be lodged by 30 June 2009.

In addition, 2008 returns for individuals with either a taxable income of K50, 000 or a provisional tax credit in excess of K10, 000 are expected to be given priority so that their lodgment percentage equals or better than that of our required lodgment rate.

5) Foreign Exchange Rates.

The authorized exchange rates for the 1st & 2nd half and the full year 2008 are as follows:

	USD	AUD	NZD	GBP	JPY	EURO	CAD
Jan –June	0.3594	0.3887	0.4589	0.1820	37.69	0.2350	0.3619
Jul – Dec	0.3794	0.5003	0.6028	0.2237	38.93	0.2994	0.4301
Full Year	0.3694	0.4445	0.5308	0.2028	38.31	0.2672	0.3960

6) Extension Lists.

As in the past, tax agents will be required to submit extension lists advising us of the clients in respect of whom they require extensions of time for lodgment. A separate schedule is required for each of the following types of return:

- 1. Taxable company returns.
- 2. Non taxable company returns.
- 3. Individual returns with taxable incomes in excess of K50,000 or provisional tax credits in excess of K10,000.
- 4. Returns for other individuals.
- 5. Returns for all parties associated with your tax agent registration, i.e., the partnership, partners, administration company (if any) etc.
- 6. Partnership returns.
- 7. Trust returns.
- 8. Training levy returns.
- 9. Returns for salary or wages earners claiming a Section 214(1) rebate, (in view of Section 214(2), this particular extension list should ideally be lodged by February 15).
- 10. Late lodgers/late payers (see below)

These lists should show each client's name:

- a) In full, and
- b) In alphabetical order, with the surname first if for an individual.

In addition, adjacent to the name of each client should be their tax file number, if known, and in the case of taxable companies, confirmation or otherwise that any provisional tax installment due has been paid. Where the provisional tax installment has not been paid an explanation should be provided so that we can decide whether an extension should nevertheless be granted to the taxpayer.

Late lodgers/late payers are those taxpayers who either did not lodge their 2007 returns by 28 February, 2009 or did not pay their 2006 assessments by 31 December 2007. We require a separate extension list in respect of all such taxpayers, as well as an individual explanation for each client whose return cannot be lodged by 31 May, 2009, as to why we should permit them to lodge their 2008 return after 30 April 2009 and advice of the date the return will be lodged.

Those tax agents requiring extensions of time beyond 30 April 2009 will be required to lodge up to five extension lists and these should be lodged as follows:

- Extension List No.1 - no later than 10 April 2009
- Extension List No.2 - no later than 10 May 2009
- Extension List No.3 - no later than 10 June 2009
- Extension List No.4 - no later than 10 July 2009
- Extension List No.5 - no later than 10 August 2009

In addition to the details referred to above, each extension list should have a front page in the following format:

<u>Extension List No.1</u>	<u>Taxable</u>	<u>Non Taxable</u>
1. Number of 2008 returns actually lodged to date	.....	.....
2. Total number of 2008 returns to be lodged	.....	.....
3. Percentage lodged to date	.....	.....
 <u>Extension List No.2</u>	 <u>Taxable</u>	 <u>Non Taxable</u>
1. Number of 2008 returns actually lodged by 30 April	.....	.....
2. Total number of 2008 returns to be lodged	.....	.....
3. Percentage of total		

- d. Late lodgers/late payers were included with other returns. The instructions clearly state that a separate list is required for returns lodged late in the previous years.

Tax agents are urged to take the preparation and submission of their extension lists seriously. There is nothing to be gained from either understating the number of returns to be lodged or overstating the number of returns actually lodged. It becomes obvious to IRC, particularly towards the end of the lodgment cycle, if this has been done. In this regard, you are advised that we will now **accept additions** to **Extension List No.4** for new clients but will not accept additions to the extension list number 5. If a new client has not bothered to make arrangements for the lodgment of returns prior to **June 30** then they are not entitled to be included in the extension program nor are they for **further extensions**.

7) Other Matters pertaining to Extension Lists

These include:

1. If extension lists are not lodged, clients will not have an extension of time beyond April 30.
2. It is not necessary when lodging a batch of returns to prepare a covering advice listing the returns lodged or to prepare a lodgment advice.
3. Each 2008 return lodged after 30 April 2009 should bear the following endorsement:

"Extension to granted"

All returns, where an extension has been granted should bear the above endorsement. Failure to do so would result in imposition of late lodgment penalty with an assumption that no extension has been granted.

4. Only 2008 returns should be included on the extension lists. If for some reason an extension of time is requested for an earlier year return, a specific request should be made and directed to the attention of our **Tax Agent Liaison Officer**.
5. Where a request for an extension in respect of a taxpayer with tax outstanding (which is not subject to a dispute) is made, payment for the liability should accompany the request for extension. Even so, such extensions will only be granted to 30 June.
6. If a final notice is issued in respect of a particular taxpayer that taxpayer ceases to qualify for any extension, and the return must be lodged by the date specified in the final notice. Final notice enquiries should be directed to our Defaults Section (Ph 322 6677).

8) Salary or Wage Returns.

Salary or wage earners who fall into any of the following categories are obliged to lodge returns;

1. Did not have the correct tax deducted each pay period.
2. Are claiming deductions from salary or wages in excess of K200 (and this would include anyone in receipt of a non taxable allowance - their allowances are not exempt income and they would be claiming a deduction for up to the amount of the allowance received).

3. Received a termination payment.
4. Had non salary or wage income in excess of K100.
5. Wish to claim a school fee rebate or education expenses.
6. Received a Housing Allowance variation for 2008.

It is important to note that a rebate of tax under Section 214 (1) will generally only be allowed if the return was lodged by February 28 of the following financial year, or within such extended date as the Commissioner General may otherwise permit.

Lastly, we wish to confirm that the **Tax Agent Liaison Officer is Mr Rakatani Helai**, who can be contacted directly on **phone no. 322 6786 or by fax on 321 7621**.

CONTACT S

<u>Names:</u>	<u>Area of Responsibility:</u>	<u>Telephone:</u>
Mr Rakatani Helai	Tax Agent Liaison Officer	3226786
Mrs Ueri Pahina	Director Assessing	3226710
Ms Annette Baker	Manager, Company Assessing	3226742
Mr Igo Morea Eguta	Manager, General Assessing	3226714
Mr Laole Arget	Specialist (Liquidation) Assessor	3226530
Mr Arodi Vere	A/Director – Tax Audit	3226626
Ms Beverly Gulaseni	Manager, Records	3226598
Mrs Ueri Pahina	Manager – Tax Clearance	3226565
Ms Aileen Konene	Manager, Defaults	3226677
Ms Mary Aisa	Manager, Advising - GST	3081135
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Mrs Kessy Sawong	Director, GST Enforcement	3081124
Mr Sebastian Pangih	Senior Advising Officer - GST	3081132
Ms Karo Lakou	Manager, Other Taxes	3226501
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Mr Camillus Ata	Supervisor, Compliance Unit – Income Reporting	3226562
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Mrs Henao Guria	Manager, Legal Unit – Debt Management	3226729
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Mrs Julie Haung	Manager, Accounts	3226781
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Mr Stephen Burke	Manager, Source Collection, Training & Advising	3226681
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Mr Michael Daimo	A/Manager, Source Collection Audit	3226664
Ms Arua Naime	Manager, Salary or Wages Tax. Admin.	3226642
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Mr Ambrose Kebai	Director, Resource Monitoring - Mining	3226656
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The Commissioner General and her staff would like to wish all tax agents and their staff a Prosperous New Year. We look forward to another year of harmonious working relationships.

Ms Betty PALASO, OBE,
Commissioner General,
Internal Revenue Commission.