

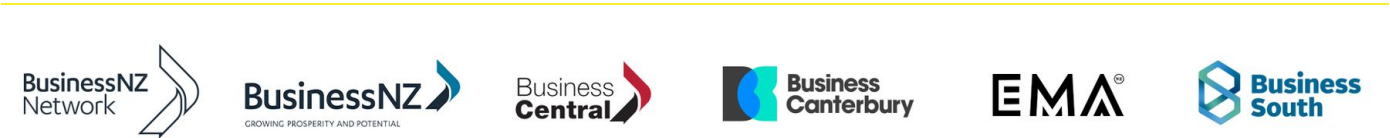
A-Z Guide

STUDENT LOAN DEDUCTIONS



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Use This Guide To Understand

- The current student loan repayment rate - **12%**
- How to administer an employee's student loan deductions
- Tax requirements and exceptions of employees who have a student loan
- Requirements for employers
- The consequences for you and your employees for any failure regarding student loan deductions

What Are Student Loan Deductions?

The Student Loans Scheme Act 1992 (the Act) requires students who have taken out a student loan during the course of their education to repay their loans, once they are employed and are earning above a required sum (the repayment threshold stipulated in the Student Loan Scheme (Repayment Threshold) Regulations 2020). Employers have an obligation under the Act to deduct loan repayments from the wages and salary of eligible people.

Student loan repayments are administered through the PAYE system. Employers have to deduct student loan repayments from wages (where the repayment threshold has been reached) and remit the repayments to the IRD together with PAYE deductions. Student loan repayments should also be deducted from redundancy payments and lump sum payments. If an employee repaying a student loan is the subject of a deduction notice issued under the Child Support Act 1991, child support must be deducted from that employee's pay before student loan repayments are deducted.

The current repayment threshold is earnings of \$21,268 per annum or \$409 per week. For every dollar earned above this threshold, the minimum repayment rate is 12%. Employees can elect to pay more than this.

What Are Your Obligations As An Employer?

Under the Act, employers are required to:

- Tell the IRD about their employees who have student loans
- Keep records of loan repayment reductions
- Record the reductions on the monthly PAYE return

What Are Your Employee's Obligations?

Where an employee has a student loan, they must advise you to deduct student loan repayments by filling in an IR330 with one of the relevant codes: ME SL, M SL, S SL, SH SL, or ST SL. You can use the PAYE tables provided by IRD to determine the total deduction, including the student loan repayment, by referring to the code's column.

The exception to repayment is where the employee is studying full-time and has a repayment deduction exemption.

Employee borrowers have significant personal obligations under the Student Loans Scheme Act 1992. The employee is primarily responsible for the information on which you rely to calculate student loan repayment deductions. It is your employee's obligation to provide the correct code. If the correct code is not provided, it is not your responsibility to deduct student loan repayments.

What Are The Consequences?

Employee borrowers can be fined for a multiple of offences given their burden of responsibility. Employer offences:

Student Loan Act 1992

- If you aid, abet, incite or conspire with any employee borrower to:
 - Wilfully make a false return; or
 - Wilfully gave false information; or
 - Wilfully mislead or attempt to mislead the IRD, in relation to any matter or thing, affecting the borrower's own or any other person's repayment obligation:

Then you can be liable for a fine of up to \$15,000 on the first occasion of breach, and up to \$25,000 on every subsequent occasion.

- An employer cannot discriminate against an employee, or potential employee, because of the obligation to deduct student loan repayments. Under this Act, an employer who dismisses or prejudicially treats an employee is liable to a fine of up to \$2000 and may be ordered to pay compensation to the employee. This is separate from the remedies and penalties provided in the Employment Relations Act 2000 for personal grievance.

Tax Administration Act 1994

- An employer who knowingly does not provide information to the IRD, or knowingly provides false, incomplete or misleading information to the IRD, can be liable for a fine of up to \$25,000 on the first occasion of breach and up to \$50,000 on every subsequent occasion. 'Knowingly' is a different definition in the law from 'wilfully', above.
- An employer who uses child deductions for any other purpose can be liable for a fine up to \$50,000 and/or imprisonment for a term up to 5 years.
- Other offences are to knowingly not make a student loan repayment deduction, or use student loan repayment deductions for any purpose other than payment to the IRD.

Remember

- Always call AdviceLine on 0800 300 362 to check you have the latest guide.
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

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