

TAXTALK

Interest Deductibility

A recent Court case reminds us to take care when claiming a deduction for interest. Under s DB 7 of the Income Tax Act 2007 ("the Act"), a company is entitled to claim a deduction for interest irrespective of whether it might otherwise be capital. This is a specific provision that overrides the general rule. For all other taxpayers, the need for a connection between the income earning process or carrying on a business to derive income is necessary.

The Court case involved two companies, one of which was a Loss Attributing Qualifying Company ("LAQC"), a shareholder trust, and individuals. Funds were borrowed from a bank by the trust, advanced to one company, and then on-advanced to the other. There were guarantees provided by various entities, including the individuals. Interest was charged on the loans between the various entities.

Ultimately, however, the interest was paid by the individual to the bank, and the individual claimed the deduction for the interest payment. This amount was disallowed by the Inland Revenue Department ("IRD") on the basis that the individual did not incur interest in deriving income or carrying on a business to derive income. Further, there was no obligation on the individual under a guarantee to pay the interest to the bank. The Court held

that at most the individual had an indirect contingent liability which would only be triggered if certain events were to occur.

In conclusion, the Court found that there was not sufficient connection between the payments made by the individual to the bank in his income earning process in order to obtain deductibility. Furthermore, the trust was not obliged to repay the individual.

The Court further found that the individual had shown a lack of reasonable care in claiming the interest and was, therefore, liable for a shortfall penalty. This was reduced by 50% because there had been no previous issue of this nature.

How it affects you

Interest deductibility is a matter that affects many, if not most, taxpayers.

The structure of the arrangements between the various entities in the Court case are not uncommon.

Care needs to be taken to ensure that the loan structures are appropriately documented, that interest is appropriately charged, that interest is paid in accordance with the documented arrangements, and that the deduction is claimed by the right entity.

- From WHK's Sharp-As Tax

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Purchased secondhand goods for your business?

In some situations you may have purchased secondhand goods to use in your business but didn't pay GST on the purchase because the seller wasn't GST registered. The good news is you can still claim a GST credit as long as the goods were located in New Zealand at the time of purchase and the details of your purchase have been recorded.

In the current economic environment you may consider buying secondhand items for your business to save money. Even if the seller isn't GST registered you can still make a claim for GST.

Regardless of which accounting basis you use, you must pay in full for the goods before you can claim a GST credit for the purchase.

Secondhand goods are commonly defined as goods previously used and paid for by someone else. In the context of GST, secondhand goods don't include:

- new goods
- primary produce - unless previously used
- goods supplied under a lease or rental agreement
- livestock
- goods consisting of any fine metal of any degree of purity.

Secondhand goods purchased from an associated person

When purchasing secondhand goods from associated people, the GST credit you can claim is treated differently.

Associated people are:

- companies controlled by the same persons
- companies and persons with a 25% or greater interest in the company
- partnerships, partners and associates of partners
- relatives by blood, marriage or adoption, to the second degree (including people in a de-facto relationship)
- trustees of a trust and persons who have benefited or are eligible to benefit under the trust
- trustees and the settlor of a trust, except where the trustee is a charitable or non-profit body
- trustees of two trusts that have a common settlor
- two persons who are each associated with a third person.

If you purchase secondhand goods from an associated person who is not GST registered, the GST claim is limited to the lowest of:

- purchase price
- current market value, or
- GST component (if any) of the original cost of the goods to the supplier.

Record keeping

When purchasing secondhand goods you may not always receive a tax invoice. In this case you must record the following:

- name and address of the supplier
- date of the purchase
- description of the goods
- quantity of goods
- price paid.



Record-keeping for holiday homes

If you have a holiday home that is used both privately and for business, new rules came into effect from the 2013-14 income year that will change how deductions should be calculated.

Along with the normal records required for income and expenses, the following information should also be kept:

- how the home is used for each day of the year
- details of who used the home, including the:
 - number of days in use
 - person's relationship to you (eg, son, friend)
 - rent charged to each person
- details of any repairs carried out, including the reason for the repairs.

The IRD's factsheet *Tax rules for holiday homes (IR 1021)* tells you what you need to know at www.ird.govt.nz (keyword: IR1021).

An easy way to get IRD numbers for new babies

You can now apply for your baby's IRD number when you register the birth with the Department of Internal Affairs. You need IRD numbers for your children to be able to receive Working for Families Tax Credits. It's now as simple as ticking a box on the birth registration form to confirm that you'd like an IRD number for your child.



If your baby's birth has already been registered, you'll need to apply for an IRD number in the usual way.

Paid parental leave maximum entitlement rate increases

The paid parental leave (PPL) weekly maximum entitlement rate increased from \$475.16 to \$488.17 a week (before tax) from 1 July 2013. This rate applies to employees and self-employed workers who are entitled to receive the maximum PPL rate.

The IRD have updated the following publications with the new rates. If you hold old versions (prior to the date below) please dispose of them because they give incorrect information:

- Paid parental leave application for an employee (IR880) (June 2013)
- Paid parental leave transfer to an employee (IR881) (June 2013)
- Paid parental leave application for a self-employed person (IR888) (June 2013)
- Congratulations on your new baby (IR753) (July 2013).

These publications are available at www.ird.govt.nz "Forms and guides".

question time >>

Q: Do I have to pay tax if trading online?

A: You may have to...

If you're selling goods online, do you know what taxes you may have to pay? As a guide, if:

- you bought the goods with the purpose of selling them on
- the purpose was to make a profit
- your business deals in these goods

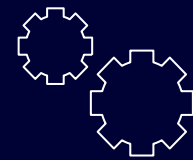
then you're regarded as being in business and should declare sales from online trading.

Your tax obligations are the same as if you sold goods in a shop.

If you're in business and you use the internet as a primary or secondary sales outlet you need to account for all the sales in your income tax return. Businesses with sales of over \$60,000 in any 12-month period (not necessarily all through online sales) are required to register for GST and file GST returns.

If you've been trading online for some time and think you might have tax obligations you've overlooked, contact the IRD or your advisor as soon as possible.

But if you're simply clearing out personal possessions there are generally no tax obligations.



FBT SOLUTIONS

Are you finding it a hassle to prepare your FBT returns? We have a solution for you. We can prepare and complete your FBT returns for you either quarterly or annually. Leave the hassle and stress of completing these confusing forms out of your life and let yourself concentrate on the areas of your business that you do best. Call us for a quote and more information.



WEB SOLUTIONS

Did you know that you could use an online folder to share your documents between computers and other devices?

Dropbox lets you install a program on your devices and then any documents you put in your Dropbox folder will be shared across all devices! Any changes you make will be updated and you won't need a memory stick! The free plan gives you 2GB and you can earn up to 18GB.

Sign up at www.dropbox.com!



PROHUB SOLUTIONS

Are you effectively managing all of your potential sales enquires? Do you have a system where you can record details of products your customers or potential customers may ask for but not currently sell? PROHUB CCM can help you with such enquiries. This system allows you to record which customers are asking for products that you don't currently sell and then generates a report which will tell you all of the enquiries and from which customers for a certain lines of products you don't currently sell. This allows you to quickly and decisively decide which new product lines you should or shouldn't take on. Call us today for more information on how this program could help you help your business prosper.

Balancing your PAYE forms and payments

Before you send the IRD the employer forms and payments for your PAYE, please check the amounts balance. When they receive forms that don't balance with the payment made they may need to contact you to amend them. Doing a quick check to make sure the forms and payments match speeds up the processing since they won't need to contact you to check any of the figures. Doing this also prevents incorrect credits and debits to your account.

The forms and payments you'll need to check each month are the:

- Employer monthly schedule (IR348/EMS)
- Employer deductions (IR345/EDF) form
- PAYE, KiwiSaver employer contributions and other deductions (KiwiSaver, child support and student loans).

Note

Large employers (employers who pay more than \$500,000 PAYE and ESCT a year) send in two IR345/EDF forms a month.

ESCT (employer superannuation contribution tax) is not shown on the IR348/EMS. Follow these steps when you check the balances on your forms and payments to ensure they're correct:

- Add the total PAYE, child support, student loans and KiwiSaver contributions from the IR348/EMS to the ESCT figure shown on the IR345/EDF (at box 8).
- This amount should match the total on the IR345/EDF (at box 9) and the payments for the month.

If you need to change any of the figures on the IR348/EMS or IR345/EDF, you can't file a second return - you'll need to contact the IRD by phone or in writing. Changes to an IR348/EMS can also be made on the *Employer monthly schedule amendments (IR344)* form.

Quick Quote

There may be liberty and justice for all, but there are tax breaks only for some.

~ Martin A. Sullivan



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We care about your Business Prosperity



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