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Stephen Larsen and Co
TAX AND BUSINESS ACCOUNTANTS

Residential Care Subsidy Under the Spotlight

The criteria for qualifying for a residential care subsidy became a much talked about issue following the abolition of gift duty. It seemed at that time that many people had been gifting off advances to trusts at the rate of $27,000 per year each, making the gifts per couple $54,000 per year. Once gift duty was removed, the fact that for residential care subsidy purposes the amount of allowable gifts was $27,000 per couple (application) and $6,000 a year in the five years leading up to an application for residential care subsidy resurfaced.

The criteria has again been tested in a recent test case, B v The Chief Executive of the Ministry of Social Development [2012] NZHC 3165. In that case, the High Court considered whether or not the total assets of the appellant and her husband were to be assessed in her means assessment for a residential care subsidy and whether the Ministry of Social Development's (MSD) interpretation that allowable gifts were limited to $27,000 per annum per couple (outside the five-year gifting period) was correct. The Court considered the relevant legislation (reg 9B of the Social Security (Long- Term Residential Care) Regulations 2005) and confirmed that when a single application is made (rather than an application by a couple), the applicant's spouse or partner's assets are to be included in the applicant's means assessment and that the MSD's interpretation that allowable gifts were limited to $27,000 per annum per couple was correct.

In this particular case, the Court held that after the excess gifting and deprivation of property or income amounts had been calculated, the final figure was to then be divided in two before being added to the applicant's cash assets to complete the means assessment. This was inconsistent with the MSD's published view and clarification was sought from the MSD as to the correct methodology. In response, the MSD has confirmed that its position is that the resultant figure is not halved and that the entire amount is to be included in the assessment. The correct methodology is as outlined in the NZLS/CLE paper on "Asset Planning - the impact of MSD's means assessment for residential care subsidies".

How it affects you

The position confirms that the total gifting for a couple is taken into account for residential care subsidy purposes, and that in the MSD's view, the total assets are taken into account in the means assessment.

If you have been undertaking a gifting programme, and want to know if you will still be entitled to residential care subsidy contact your Advisor.

It may not change your entitlement, but it will let you plan financially for your retirement taking into account your need for residential care.

- From WHK's Sharp-As Tax

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Stock-Take Checklist

Planning your Inventory Count:

1	**Assigning & Communicating Responsibility** Has overall responsibility for the stock-take been assigned; preferably to somebody with no responsibility for custody of inventory or maintenance of stock records?	Yes	No
	Have persons involved in the count been allocated to a specific area of the warehouse (possibly as teams). Does each person clearly understand what their responsibilities are?	Yes	No
2	**Preparation** Has the warehouse area been tidied, with inventory neatly stacked? Scrap and goods held for 3rd parties should be removed or clearly marked so that it is not counted.	Yes	No
	Have arrangements been made to avoid stock movements while it is being counted? If possible arrangements should be made to cease production and have receiving & dispatch staff alerted so that goods are not transferred into or out of inventory during the count.	Yes	No
3	**Identification** Has the inventory to be counted been properly identified? To estimate the stage of completion for work in progress it is a good idea to involve persons with a direct knowledge of the particular items.	Yes	No
4	**Counting** Are teams assigned in pairs for areas where lifting or moving items will be necessary? Forklifts or weighing scales may also need to be available.	Yes	No
	Are count teams familiar with the unit of measurement (e.g. 25kg bags)?	Yes	No
	Have you considered how to verify that cartons are full or their contents are as described? This requires a degree of thoroughness, e.g. cartons could be weighed or opened at random.	Yes	No
5	**Checking** Do you have a system to verify the accuracy of the count? Where errors are unlikely, recounting needs only to be done at random and only the teams making errors should be double-checked.	Yes	No
6	**Clearing** Is someone assigned as a supervisor to briefly check each section as it is completed for any items not marked as counted?	Yes	No
7	**Recording** Is someone responsible for controlling count sheets? These should be pre- numbered so that you can be sure that none are missing.	Yes	No
8	**Cut-off** Has the last pre-numbered receiving report, dispatch note and inventory transfer requisition issued before the count been recorded? This will need to be compared with the inventory records based on the same documents.	Yes	No

Reminders to note!

If you can't pay your tax by the due date

Contact the IRD *before* the due date and let them know you situation if you think you'll have trouble paying on time. They'll go over payment options with you and you may be able to set up an arrangement so you pay your amount owing in instalments. If you keep to the terms of the arrangement, you'll only be charged one late payment penalty of 1%. No further penalties will be charged. However, use-of-money interest (currently 8.40%) will be applied over the term of the arrangement

Employing primary and secondary school children

From 1 April 2013 you must deduct PAYE from salary or wages or deduct tax from schedular payments made to school children and include this in your PAYE return.

Student Loan Scheme Changes Progress

The Student Loan Scheme Amendment Bill (No 2) had its second reading on 28 February 2013. In moving that the Bill be read a second time, the Minister of Revenue, the Hon Peter Dunne, announced that he intends to introduce a Supplementary Order Paper because some of the amendments in the Bill were very complex and that as a result a number of drafting oversights and errors had been identified. The Supplementary Order Paper will correct these so that the legislation operates as intended.

The student loan scheme has been a significant Crown asset and a major financial commitment by Government towards supporting those in tertiary education. The amendments contained in the Bill focus on improving the value of the student loan scheme and encouraging personal responsibility for loan repayments. The Bill proposes two main amendments:

- Introducing information-matching with the New Zealand Customs Service to locate borrowers in serious default when they enter or leave the country. Customs will then be able to forward the current contact details of those borrowers to the IRD so that it can, in turn, discuss their particular situation with them, and
- Widening the definition of "income" for student loan repayment purposes so that a borrower's repayment obligation more accurately reflects their ability to pay. The amended definition of income would broadly align with that used for Working for Families tax credits ("WFFTC") credits and for other social policy programs. The changes will ensure that income that currently lies outside the current definition of income, such as income from trusts, for example, will now be taken into account when determining a borrower's repayment levels.

The Bill also contains a number of other measures that are largely administrative in nature and are designed to correct inconsistencies or to improve the operation of the current legislation.

How it affects you

The proposed changes to the student loan scheme is the most recent of the changes designed to capture further income for the purposes of calculating social policy entitlements or obligations.

The changes to the definition of "income" for WFFTC purposes has had a huge impact on those affected. We will no doubt see a similar outcome for income levels for student loan repayment amounts, and already applies to certain student allowance entitlements.

- From WHK's Sharp-As Tax

question time >>

Q: Do I need a PPSR?

A: It may be beneficial for you!

Registering an interest on the PPSR register is a great way to help ensure you are paid for your goods or services if you are selling to a customer who you haven't dealt with before or if you are worried about getting payment from them or the sale is of a large amount. For a small fee you can register a charge over the title of the goods which helps you retain ownership in the case of dispute of ownership due to failure to receive payment. We have recently seen a situation where a customer received payment for goods supplied plus interest on the overdue amount that was over 2 years old. Visit www.ppsr.govt.nz for more information.

PAYROLL SOLUTIONS

Are you finding it a hassle to do your own Payroll? We have a solution for you. We can prepare and complete your payroll either weekly or fortnightly using the latest payroll software ensuring you are 100% compliant with the ever changing employment legislation. We send you meaningful reports each pay run and assist you with all enquires you may have. Call us for a quote and more information.

WEB SOLUTIONS

Did you know that you can create your own Employment Agreements online? Go to www.dol.govt.nz and under Tools and Resources you will find Employment Agreement Builder. This interactive tool allows you to create a lawful employment agreement for each of your employees that you are required by law to have. If you find this sort of thing to hard give us a call and we can do it for you. Call us for assistance and we'll be happy to help.

PROHUB SOLUTIONS

Are you effectively managing all of your sales enquiries? Do you have a system to record all of your potential sales leads? PROHUB CCM is designed to handle all customer enquiries and compile them in one database. Each enquiry is allocated to a team member for follow-up at the appropriate date. This ensures all potential sales are followed up and you don't miss out on critical sales opportunities. Contact us today for more information on how this program could help your business prosper.

Trustees Based Overseas - Tax Issues

We have seen some interesting statistics regarding the number of trusts in place in New Zealand since the review of the law of trusts commenced. There have been suggestions that New Zealand has between 250,000 and 400,000 trusts, which is a higher per capita number of trusts than exist in the UK, Australia, and Canada. A number of reasons have been put forward for this including the comparative low cost of establishing trusts in New Zealand in comparison to the other countries.

For the majority of trusts, at the time they were settled, the taxation treatment of the income and expenses, and distributions to beneficiaries was clear and simple. The income and expenses would be collected in the trust. If the taxable income was retained in the trust, the trustees would pay tax on the income at a flat rate of 33%. If the income was distributed to the beneficiaries, the income would be taxed at the beneficiaries' marginal tax rates. Any distributions of capital fell outside the tax net and were tax free.

For many trusts, that simplicity remains.

What we have seen in more recent times, however, is the Trans-Tasman drift. Beneficiaries, trustees, and settlors have found their way to Australia or even further afield. Suddenly, the taxation treatment of the trust that was settled when everyone was in New Zealand has become more complicated.

Where a trustee moves overseas, whether or not the trust has to return passive income (most commonly interest and dividends) in New Zealand will depend on a variety of factors. Income may also become foreign sourced (an investment on behalf of the trust is made in Australia for example), which further complicates the taxation treatment of the income in the hands of the trustees and the beneficiaries.

If all trustees are in New Zealand and the settlor is overseas, the income will be exempt. If a settlor is still in New Zealand, the income will be taxed in New Zealand. If the trustees and the settlor are overseas, the income most likely is not taxed here.

If all of the beneficiaries are overseas, regard must then be had to what distributions are taxable and to what extent.

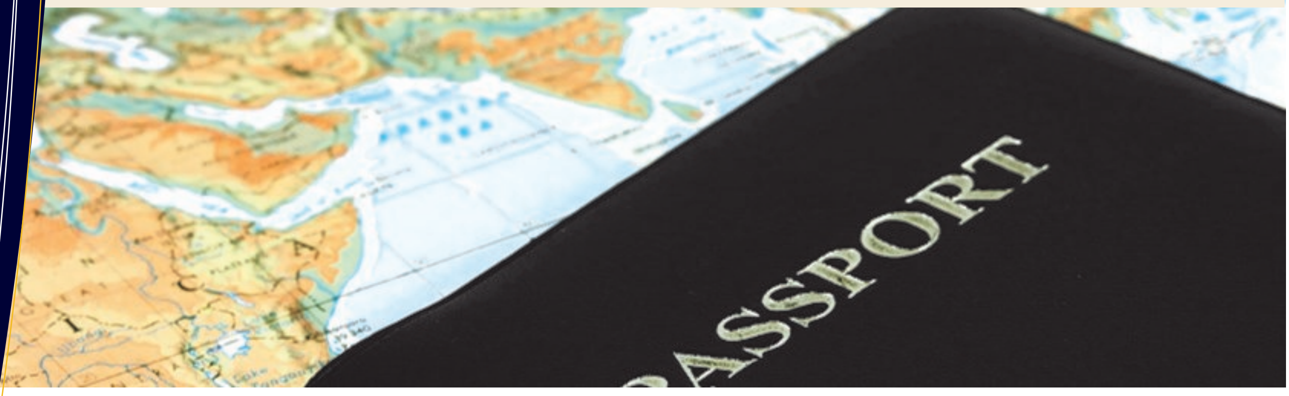
How it affects you

If you have settled a trust in New Zealand for the benefit of your family, and either your children have gone offshore or you yourself are looking at moving abroad, we recommend that you speak to your Tax Advisor to understand what, if any, taxation consequences there will be, and how best to manage them. Like many things, the more notice you have of a change pending, the better the plans that can be put in place to manage the consequences.

- From WHK's Sharp-As Tax

Quick Quote

If you make any money, the government shoves you in the creek once a year with it in your pockets, and all that don't get wet you can keep. ~ Will Rogers



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