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Stephen Larsen and Co
TAX AND BUSINESS ACCOUNTANTS

TAXTALK

More tax changes afoot

The Inland Revenue Department and the Government have recently introduced a multitude of tax changes. We outline some of the important ones below.

More on company cars and FBT

From 1 April 2018, the Government is proposing to let close companies (most small companies) calculate the private use of a company car in the same way as a sole trader.

You will have to keep a log book and apportion the costs. However, you will also need to make an adjustment for GST on the car, as well as its running costs. For many people the log book idea is going to be more hassle than it's worth.

This option will be available only provided there are no other fringe benefits and no more than two vehicles are involved.

If, when the law is changed, you prefer to keep a log book and avoid fringe benefits tax (FBT), tell us. Remember, however, your compliance costs will increase a little. There'll be calculations to make and GST adjustments to do.

FBT is a quick, easy and economical method of adjusting for private use of a vehicle. It will often give you a more favourable result, **but not always**.

Use of home

There is a proposal to change the rules for claiming "use of home".

For years, Inland Revenue has said that to make a claim for this cost you must set aside a room as an office. This isn't quite true.

A court case some years ago settled this matter. You can apportion the cost of a room used for business between your business use and family use, based on the time each activity uses the room.

Now, the IRD is planning to get its rule enshrined in the law, so if the law changes, you will need to have a room set aside as an office, if you want to claim for the use of a room for business.

To make claiming this cost simpler, the department plans to set a rate for utilities per square metre ($x for power etc). You will add your adjustment for rents, rates and interest.

You won't have to use the IRD calculation but it might save you hassles if you do. The bigger the power bill, the more likely you won't want to use the IRD rate.

Shareholder/employees

Currently, you are either a provisional taxpayer or you get a PAYE salary. A mixture of the two is not strictly permitted unless the provisional income is at least half the PAYE salary.

In practice, it makes very little difference and for this reason, the Inland Revenue Department is proposing to do away with the restrictions and allow shareholder employees to take a PAYE salary and then top up their incomes at the end of the year, once the profit is known. We look forward to this change becoming law.

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Being a trustee carries responsibilities

Every so often we remind clients of the risks involved in being a trustee. It doesn't matter whether the trust is a family trust or a charitable trust. Trustees are directly responsible to the beneficiaries for their management of the trust assets.

Beneficiaries can sue trustees. In a family trust, it is not necessarily a beneficiary who causes the trouble. It can be the spouse of the beneficiary who makes the bullets.

There are also obligations to the Inland Revenue Department. Until you advise Inland Revenue you've ceased to be a trustee, you're still personally responsible for its taxes.

Wait for profits

Also from a tax perspective, you should remember if the trust makes losses they can't be passed out to the beneficiaries. You have to wait until the trust makes profits before you can use up the losses. So, if you buy an asset which is expected to generate on-going losses for some time, it might be better to not have it owned by your family trust.

Perhaps it should be owned by someone who can use the losses to save tax. It can be transferred to the trust for asset protection purposes at a later time. This would normally be when it's making profits (trustees don't generally want loss making assets) but, of course, this may mean additional costs.

Don't be passive

There is no such thing as a passive trustee. If you choose to be passive, be it on your own head.

Some years ago X and Y were appointed trustees of a family trust. Immediately, they decided they would hold quarterly meetings. At one of these meetings one of them proposed the trust should take out an insurance policy on a factory owned by the trust, for loss of rent in the event of fire or other accident.

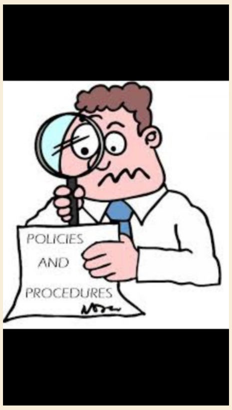
Two years later the factory burnt to the ground. This serves as a very good example of how trustees ought to operate. They ought to hold regular meetings and minute decisions made.

Interference

What if the person who set up the trust wants to interfere? Maybe he/she didn't want to incur the premiums for taking out that loss of rents insurance policy.

The answer is simple. If you're a trustee, it's your job to steer the ship. Your responsibility is to look after the interests of the beneficiaries. You and your co-trustees make the decisions. If anyone starts to bring pressure on you to do as they wish, the correct course of action is to resign. Above all, never be a passive trustee.

Read every word of insurance policies



Strangely, one of the biggest risks in business is our insurance policy.

We're all familiar with the problems Canterbury people have had with their home insurance. If ever there's was a document you need to read very carefully it is your insurance policy.

We've heard of someone buying travel insurance for a six-week period only to find, when a claim was lodged, that the policy was limited to a maximum of one month away from the country.

Read every word of your insurance policy and if there's anything which is not clear or looks as if it's not covered, raise the matter with the insurer or agent.

Make sure you get a response in writing.
A telephone conversation is not enough

Salary exchange for private use of a company vehicle

If you pay your employee a lower salary in exchange for them using a company vehicle for their private use, this will affect their Working for Families Tax Credits entitlements and student loan obligations as the salary reduction is treated as part of their income.

You should make sure your employees are aware of this if you have this arrangement or are considering offering it.

Q: Should part-time employees be paid for public holidays?

A: *Your part-time employee would have to be paid if the day would "otherwise be a working day"*

Your employee would have to be paid if the day would "otherwise be a working day" for her (s 49 of the Holidays Act 2003).

You should attempt to reach agreement with her about whether an upcoming public holiday would be such a day. Section 12(3) of the Holidays Act gives a list of factors that you and she should consider. They are:

- her employment agreement (which will include any variation - written or oral - you have both agreed to in the course of employment)
- her work patterns
- any other relevant factors, including:

  - whether she works for you only when work is available
  - your rosters or other similar systems
  - the reasonable expectations of you both that she would work on the day concerned, and
- whether, but for the day being a public holiday, she would have worked on the day concerned.

The employee's "work patterns" (eg whether she habitually works Mondays in certain months of the year or when large orders need to be fulfilled, and whether she has worked several consecutive Mondays before the public holiday) (s 12(3)(b)) and "the reasonable expectations of the employer and the employee that the employee would work on the day concerned" (12(3)(c)(iii)) would appear to be particularly relevant here when deciding whether a public holiday would otherwise be a working day for the employee.

If you cannot agree on whether the day of a public holiday would otherwise be a working day, a determination can be sought from a Labour Inspector (s 13). This is binding on the parties, unless a determination by the Employment Relations Authority holds to the contrary.

REFERENCE:

Holidays Act 2003, ss 9, 12, 13, 49.

Source: CCH/TEO Question & Answer Service

TAX SOLUTIONS

If you have made a donation you may be able to claim a tax credit for it by filing a Tax credit claim form (IR526) for the relevant tax year. You can claim a tax credit for each receipted donation of $5 or more to:

* an approved donee organisation
* an approved New Zealand religious organisation
* approved overseas aids funds
* kindergartens
* state schools, integrated schools and other schools who have been approved as a donee organisation
* school boards of trustees or parent teacher associations.

WEB SOLUTIONS

If you're tired of typing up endless reports, or your arms ache from too much typing, you might want to consider some voice recognition software.

This software can be easily installed on your computer or mobile device. Essentially the software recognises your voice and puts it into text.

Dragon is a market leader in this software, but others can be found if you Google "voice recognition software". Dragon costs start at $122 + GST for a home version, $244 for the office, $280 for a Mac and $840 for the super -duper professional version. There's even one for medical professionals, which allows them to dictate appointment and medical record notes directly into their electronic health records.

So what does it do? The biggest advantage is hands-free dictation into your computer or device. It allows you to automate phrases and terms common to your work (such as medical or mechanical terms), and add punctuation. But it can also edit documents and spreadsheets, and use commands to surf the web, open and close email and other programs, and more.

Cash jobs aren't tax-free income

While most people pay the right amount of tax, IRD knows some people think they don't have to pay tax on cash jobs. Undeclared cash jobs take unfair advantage of honest businesses and cheat those who pay the right amount of tax.

It's okay to do jobs for cash or for your mates, as long as you declare the income in your tax return.

You must:

- record every job, no matter how big or small, and provide your customers with receipts
- charge GST if you're registered for it. You must register for GST when your annual turnover exceeds $60,000
- declare all your income when you file your tax return.

If you're already paying tax on all your income, there's nothing more you need to do. If you're not doing the right thing we can help you get back on track.

If you've left some income off your tax return it's best to let us know now by making a full voluntary disclosure.

Quick Quote

Oh, my friend, it's not what they take away from you that counts. It's what you do with what you have left. ~ Hubert Humphrey

Cancelling your GST registration

You must cancel your registration within 21 days if you:

- stop your taxable activity, and
- don't plan to start any taxable activity within 12 months.

If you keep business assets after cancelling your GST registration (for private use or use in another business) you need to make an adjustment in your final GST return.

The adjustment is made in box 9 on your return. It's calculated based on the open market value of the asset. The open market value is the price you might reasonably expect to get for an asset in a competitive auction setting in New Zealand on that date.

How ACC calculate levy invoices

ACC use the following pieces of information on a tax return to make sure their customers are paying the correct levy:

- Business Industry Classification Code (BIC), and
- earnings and/or payroll information.

That's why it's important that the information provided in your tax return is correct.

Based on the BIC code, ACC assigns a classification unit (CU) to group together levy payers that share similar workplace injury risk. CU rates are based on the cost of work-related injuries that have occurred and the rates are calculated against the earnings of levy payers.

ACC has put together an invoice guide so levy payers know what their invoice looks like and descriptions of key parts.

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