Flavell & Chamberlain Ltd

Chartered Accountants
From Wayne, Dianne and the Team

299 Palmerston Road, P O Box 200, Gisborne
Phone (06) 868-6065 Fax (06) 868-6063
E-Mail: team@taxsolutions.co.nz

NEWS LETTER

December 2011

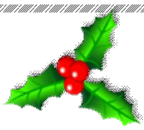
CONTENTS

December/January Are Short Months

As December is a short working month please ensure that all November GST papers have been brought in to us early December. We will also need December GST papers during the week beginning the 16th of January.

Payment Dates
20 Dec 2011 for November PAYE
15 Jan 2012 for November GST and Provisional Tax
20 Jan 2012 for December PAYE
28 Jan 2012 for December GST

Christmas Break



Our office will be closed for annual holidays from 12.00 Midday Friday 23 December 2011 and will re-open on Monday 16 January 2012. If you require assistance over this period please leave a message on the answerphone and one of us will get back to you.

Remember that you must have a valid GST Tax Invoice for everything — without it, you run the risk of IRD disallowing the spend, and hitting you with penalties.

Hello Everyone and Merry Christmas

With the approach of the festive season, it is the pleasure of Wayne, Dianne and the team to extend Season's Greetings and wish you a New Year abounding with Health, Happiness and Prosperity.

A big "thank you" for your support in 2011. We look forward to working with you in 2012 and onwards.

Tax Changes – IRD are getting tougher!

IRD have made quite a few tax changes (not all of these are good) over the last two years, some of which will be more evident to you in the 2012 Income Tax Year.

Along with these changes IRD are also taking a tougher line with overdue returns and accounts. If you have any returns outstanding you are best to tidy up your affairs and file those outstanding returns and deal with IRD. Make arrangements, if you can't afford to pay, and then stick with the arrangement made and keep all your other tax payments / obligations up to date!

The IRD Is Just another creditor, and then some

It often seems that spending priorities look like: stuff I need to make money, stuff for me and home, and then hopefully something for the IRD. People understand that they need to spend money to make money and if they don't keep the suppliers happy, the things that go into what you make money from stop arriving. But, IRD is just like another supplier — if you do not pay your tax bill they can seriously cramp your style.

And in some instances, the money actually belongs to IRD and needs to be paid to IRD rather than used to prop up the business. Payroll deductions and GST, in particular, are funds you "hold on behalf of IRD", so IRD get really peeved about this debt, and you need to flip somersaults to make sure that you keep this up to date.

But income tax debt is also important – your cash budget for home must be based on your after tax income. When you are on wages, you only get to see the income after tax has already been deducted. So for every $100 me money it's $125 before tax. So you can't draw to the limit of the funds available, you need to leave some for the IRD. There are various strategies that people adopt:

1. Put money aside into a tax account. When we do your accounts we then know the tax amount.
2. Work out what percentage of income you need to save, and put that aside.
3. Pay the IRD in advance a regular amount.
4. If you have debt, pay small amounts when you can, in addition to the agreed amounts.
5. As a last resort, go onto PAYE — but see us before you do this, because it tends to create more problems than it solves.

Remember, also, if you have IRD debt, without an arrangement the penalties and interest charges mean PAYE will double in 9 months, GST will double in 18 months, and income tax in about 2 years.

Having trouble making ends meet? Perhaps maybe

- we are unclear about what is essential and what is nice to have
- you've been spending too much on supplies
- you're not charging enough to recover your time and costs
- people aren't paying you on time
- you aren't selling enough
- you can't see enough work coming through (so you slow down to make it last)

Sometimes when we are having trouble making the ends meet, we start focussing on the dollars and lose sight of the bigger picture. The trick is to remember that dollars are the end result of a bunch of actions, and we need to focus on the actions first in order to get the right result in the bank. Cutting costs is not always the right way to make ends meet. If you are certain that you have figured out the difference between needs and wants, then maybe it's time to focus on one of the other five factors.

GST — a few thoughts

There is no GST on residential rental property, bank fees, life insurance, court fines and Speeding tickets. So you cannot claim the GST on them.

If the spending is personal, you cannot claim the GST. So, the home gym won't be a work expense, and the GST cannot be claimed.

You must claim the GST on actual expenses —when you take $200 out of the ATM — it's fully drawings. Once you identify the cash purchases, you claim the GST on those items.

If you are not GST registered, you cannot charge GST, and if you do charge GST you must still pay it to IRD.

If you are GST registered and are selling imported goods or "on behalf of, there is GST on the sale, and you must pay that GST to IRD.

You can only claim GST if it is your name on the invoice — which is why sole traders can claim GST on the home office, and companies cannot.

Company Motor Vehicles, and other assets

It's tempting to want to get the GST back when you buy a car — but there are consequences.

If you have a passenger vehicle in a company, then if it is available for personal use, you must pay for that, either through paying FBT, or an adjustment in your accounts at tax time.

This then means that you claim all the expenses through the year. It is nothing to do with how much (or little) you actually use it, it's to do with whether it is available.

What's more, if the car is in the company, it must be owned by the company. And if the company goes into liquidation, you lose the car. And the same goes for the computer, the drill press, and any other assets you may want to put "in the company".

IRD are now also beginning to get serious about "cashies"

There's not a lot of difference between not paying tax, and double dipping on benefit — both result in government revenue being depleted. NZ tax law is very clear — you must pay tax on all of your income. IRD are getting slick at targeting high risk areas and have new methods of putting information together — adding up all the tips and traces to get a clear idea of what and who to target.

Some examples of where they get their information from:

- People dobbing in others
- Walk-through audits
- The accounts not "adding up" in the right ratios

So, don't do it. If you do it, and you get caught, the problem is going to then be bigger than just some missed tax. You will probably end up with a full audit going back a number of years (and no matter how good you think your record keeping is, there will be missing expense documents which may then also be disallowed), the people you have worked for and with may also get audited, you will get penalties for filing false tax returns, you will have use of money interest, you may get a criminal conviction, and the IRD will be watching you like a hawk into the future.

If you let a subbie "do cash", you can't deduct that expense. In effect, you end up paying the tax that he is avoiding. And you run the risk of an audit if they get sprung.

Family Assistance (working for families)

There have been major and complex changes to the types of income you must tell IRD about when applying for and receiving Working for Families Tax Credits. For the year starting 1 April 2011, IRD need to know if you receive income from the following sources:

- **Attributable trustee income**

Attributable trustee income is all income for the year of a trust that hasn't been distributed as beneficiary income. It includes income from trading and investment activities and the net income of any company controlled by the trust.

- **Attributable fringe benefits**

The value of any attributable fringe benefits is required to be declared by all shareholder employees if they, or their associates, hold voting interests of 50% or more in a company.

- **PIE income**

This includes an amount of income attributed by a portfolio investment entity (PIE) to the principal caregiver or their spouse or partner, except if the PIE is a superannuation fund or a retirement savings scheme (eg KiwiSaver).

- **Passive income of children**

If your child(ren) receive(s) any of the following types of income totalling over $500 a year (per child), you'll need to include the amount over $500 (per child) as part of your family income:

- resident passive income. This includes interest, dividends, a taxable Māori Authority distribution (other than a retirement scheme contribution) and a replacement payment under a share-lending arrangement.
- royalties
- rent
- beneficiary income. However, beneficiary income that is excluded under the minor beneficiary rule is not included in family income (eg, income from a testamentary trust).
- distributions from a listed PIE
- attributed income from a PIE that is not a superannuation fund or retirement savings scheme.

- **Income of non-resident spouse**

If your spouse or partner, who is not a tax resident, is earning an income overseas, from 1 April 2011 you will need to include their worldwide income as part of your family income for Working for Families Tax Credits. IRD may require you to provide evidence of their income.

- **Tax exempt salary or wages**

This includes salary and wages that are exempt from income tax under specific international agreements in New Zealand. It includes employees of international organisations such as the United Nations or the Organisation for Economic Co-operation and Development (OECD), or under the Diplomatic Privileges and Immunities Act 1968.

- **Pensions and Annuities**

This includes 50% of the amount of pension or annuity payments from life insurance policies or a superannuation fund, (excluding NZ Super).

- **Other payments**

These are payments from any other person or entities that are used for the family's day-to-day living expenses. If the total amount is more than $5,000 for the tax year, then the total amount must be included as family income. However if the total amount for the year is less than or equal to $5,000 you do not need to tell IRD about it.

A payment is considered to be used to meet day-to-day living expenses if it is:

- replacing lost or reduced income (eg; payments from an insurance policy that covers loss of earnings/employment).
- used to pay regular liabilities (for example, car payments, hire purchases, mortgage, loans).
- used to meet the family's usual living expenses (eg; monthly phone bill or power bill).
- paid directly by another person on behalf of the principal caregiver, or their family members, for regular expenses (eg; paying the power, phone, gas bills directly).

Payments can include soft loans. A soft loan is a loan made available to a person on favourable terms, such as no or little interest payable and no set repayment date.

The following are excluded:

- any one-off capital payments, such as payment from the sale of a house
- any payments that have specific purposes other than income-related purposes, such as funeral grants, educational scholarships, lump sum ACC compensation payments, non-taxable payments under the Social Security Act 1964, charitable distributions or compensation based payments
- any student loan payments, including the living costs component
- any specified item or amount of income, or income from a specified source, that's declared not to be income for the purposes of the Social Security Act 1964 by regulations made under section 132 of that Act, such as payments to victims of crime
- periodic payments received from the repayment of loan principal or when the recipient of the sale of an asset is paid in instalments
- one-off gifts such as gift vouchers for a persons birthday
- payments that are already included under another family income provision
- payments that are received as a result of being adversely affected by an event declared to be an emergency event by the Commissioner.

- **Income equalisation scheme deposits (excludes "adverse events" deposits)**

This includes any deposits made by:

- you
- a company controlled by you or your trust, or
- your trust

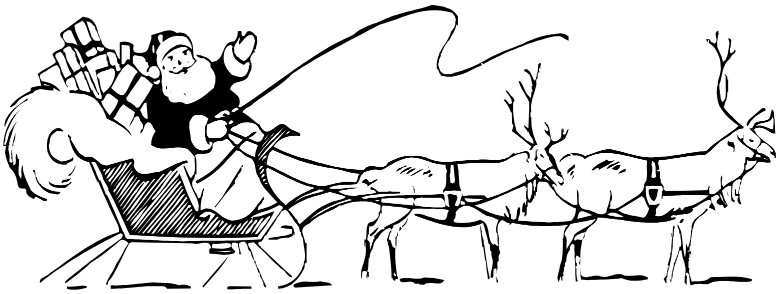
to an agricultural, fishing or forestry business income equalisation scheme account at Inland Revenue.
Subsequent refunds from these accounts (excluding interest) shouldn't be included as income for WfFTC.

The above income types will need to be included in the 'other income' box of the Working for Families Tax Credits application form (FS1) along with **income from interest, dividends, rents, royalties, estates, trusts and Māori authorities**.

<u>If you are receiving your family assistance weekly or fortnightly, there is now a very real risk that your weekly/fortnightly amount may be too high</u>, because it is only based on your current PAYE (if on salary) or your 2011 income (which can include depreciation losses) if you are self-employed or have rentals.

Expenditure quirks

Entertainment is only 50% tax deductible, and only 50% of the GST can be claimed, and must be clearly related to earning income in order to be permitted.
Fines and penalties are not tax deductible, and do not have GST on them.
Clothing is not deductible, unless it is protective, or distinctly marked for advertising.



Wayne, Dianne and the team wish you a
Safe and Merry Christmas
and a Happy and Prosperous New Year.

Thank you for your support in 2011.
We look forward to assisting you in 2012 and onwards.

Christmas Thoughts

“Christmas is the time when kids tell Santa what they want and adults pay for it. Deficits are when adults tell government what they want and their kids pay for it.” ~Richard Lamm

“There are four stages of man: he believes in Santa Claus; he does not believe in Santa Claus; he is Santa Claus, he looks like Santa Claus.” ~Bob Phillips