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NEWSLETTER

March 2011

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Hello Everyone

We're definitely moving towards the change of financial year, for some it has already happened, for some it includes the search for paperwork you haven't yet sent us, or sent back to us. We now include the forms for the 2011 financial year. Now is a good time for you to consider what changes you want to make in your business, and talk to us about them.

Things to do in March, for the end of financial year

- identify any bad debtors, and write them off by ruling a line through them in your book or writing off in your debtors ledger
- get rid of any obsolete stock now, so you don't need to count it on 31 March
- clean up your asset holdings (ring us if you want a copy of your asset register)
- be careful if you go on a spending spree. Assets don't reduce taxes, and stock on hand at 31 March is added back in. But some expenses are okay — stationery, for example.
- think about what you are going to do next year, and if you are going to make any changes. Sometimes we need to plan for that in this tax year.
- set up your new company before 31 March
- <u>if setting up a computer programme, including payroll, be ready to go by 1 April</u>

Company Changes

If there are changes you want to do, then you need to talk to the accountant first.

Sometimes what you want to achieve will take time to prepare, sometimes a new company will be needed, occasionally we will refer you back to your lawyer.

It's especially really, really important that you do not change the shareholding of a company without talking to your accountant first. If there are losses carried forward, you may lose the losses.

If there are Dividend Imputation Credits in the Imputation Credit Account, you may lose the credits. If it is an LAQC, you may destroy the LAQC status and be unable to use the losses the way you always have.

Qualifying company changes and the new look-through company

On 1 April 2011 changes to rules for qualifying companies (QCs) and loss-attributing qualifying companies (LAQCs) will come into force, effectively ending the LAQC tax entity for income years starting on or after 1 April 2011. This will be the 2011–12 income year for companies with a standard or late balance date, or the 2012–13 income year for companies with an early balance date.

A new look-through income tax treatment for electing close companies has also been introduced called the look-through company (LTC).

<u>QC and LAQC changes</u>
Changes to the rules for QCs and LAQCs will take effect for income years starting on or after 1 April 2011. These changes will mean:

- companies won't be able to elect to become a QC or LAQC for any income years starting on or after 1 April 2011
- companies that are QCs or LAQCs for the income year immediately prior to the income years starting on or after 1 April 2011 will be able to remain as a QC, but without the ability to attribute losses to shareholders.

Existing QCs or LAQCs will be able to continue as a QC without the ability to attribute losses, or choose to revoke their QC status, or change into another tax entity, such as a look-

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through company (LTC), partnership or sole tradership, without a tax cost.

IRD *Qualifying companies – changes (IR 870)* factsheet summarises the rule changes and the options for existing QCs and LAQCs. The factsheet is available at www.ird.govt.nz (keyword: ir870).

Look-through company (LTC) rules

The new LTC rules are available for income years starting on or after 1 April 2011.

An LTC is, generally, transparent for income tax purposes. This means the LTC's income, expenses, tax credits, gains and losses are passed on to the LTC's owners, in proportion to their shares in the company. Profit from the LTC will then be taxed at the owner's marginal tax rates, while any losses from the LTC can be offset against their other income, subject to a loss limitation rule.

IRD's new *Look-through companies (IR 879)* guide will be available at www.ird.govt.nz from April 2011.

We are currently in the process of reviewing all our companies — those who are LAQC's will need to transition to a new entity before October 2011. We are in the process of reviewing each of our LAQC's, and will be in touch with our recommendation.

"Cashies"

NZ tax law is very clear — you must pay tax on all of your income. And the IRD is getting pretty clever about working out whether you are trying to hide cash.

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 may 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.

It's pretty hard to avoid the IRD — child support, family assistance, student loans, all tie you back into the IRD. Cashies are also usually cheap — do you really want to get a reputation that you do cheap work —once you start, word does seem to travel very fast.

Personal expenses are not tax deductible

Clothing is only deductible if it is protective in nature (hi-viz jackets, boots, wet weather gear), or if it is clearly and distinctively marked with your business details.

Food is only deductible if you are staying out of town, or is half deductible if you are out to lunch with a business contact.

Medical expenses, massage, physio, chiropractor, are not deductible because they are personal in nature. Same with health insurance. Spectacles are only deductible if they are used solely for business and are not used privately. Traffic fines, and any other penalties are never deductible, because it is "contrary to good public policy".

Training is only deductible if it relates to the current income. If it is intended to lead to a new way of earning income, then it is not deductible.

Entertainment expenses need to be very narrowly restricted to your business activity, and are mostly only half claimable.

New tax depreciation rules

Budget 2010 removed depreciation deductions for most buildings (those with useful lives of 50 years or more) from the start of the 2011–12 income year.

You can still claim:

- depreciation on the fit-out of commercial and industrial buildings
- 20% depreciation loading on assets in certain circumstances (see below).

Commercial fit-outs depreciable

The law has been clarified so that commercial and industrial fit-outs remain depreciable property.

Items of fit-out that are shared between commercial and residential purposes, eg, lifts, electrical cabling, fire protection, sewerage and water reticulation, in a mixed-purpose building, will be depreciable if the dominant purpose of the building is commercial. Fit-outs used only for commercial purposes will be depreciable property.

A definition of "dwelling" has been added that excludes a number of types of buildings that provide residential-type accommodation. This ensures that fit-outs associated with these buildings will continue to be depreciable property. The types of buildings that will be specifically excluded from the meaning of dwelling are:

- hospitals
- hotels, motels, inns, hostels and boarding houses
- certain serviced apartments
- camping grounds
- convalescent homes, nursing homes and hospices

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• rest homes and retirement villages—from hospital care through to residential care facilities.

A new rule will allow commercial building owners, who don't itemise building fit-out separately from the building at the time of acquisition, to amortise up to 15% of the building's adjusted tax book value at 2% straight-line per year until the building is disposed of.

Residential fit-outs not depreciable

Residential fit-outs are generally non-depreciable.

Depreciation loading

Depreciation loading was removed on a prospective basis as part of Budget 2010. Loading continues to apply for assets purchased or constructed before 20 May 2010 or when there was a commitment to purchase or construct an asset on or before 20 May 2010.

Under the new rules an asset will be eligible for depreciation loading if:

• it was acquired on or before 20 May 2010, or
• there was a decision to purchase or construct it and its owner either:
  – entered into a binding contract for its purchase or construction on or before 20 May 2010, or
  – incurred expenditure in relation to it on or before 20 May 2010.

Evidence of a decision to purchase or construct an asset can be provided through documents that conclusively show such a decision was made. Alternatively, a statutory declaration sent to the Commissioner of Inland Revenue stating a decision was made is acceptable.

Changes to GST rules relating to Land Transactions

The Taxation (GST and Remedial Matters) Act 2010 enacted in December 2010 introduces changes to the GST rules relating to land transactions. The Act also clarifies the zero-rating of supplies of emissions units.

GST-registered vendors will be required to charge GST at the rate of 0% on any supply to a GST-registered person that wholly or partly consists of land, if at the time of settlement:

• the recipient intends to use the goods for making taxable supplies, and
• the supply is not a supply of land intended to be used as the principal place of residence of the recipient or a person associated with the recipient.

Other features of the new rules include:

• a definition of "land" which largely follows the definition used for income tax purposes but which excludes most commercial leases
• an obligation for the purchaser to advise of their registration status and intentions in respect of the land
• special rules to deal with situations when a supply is either incorrectly zero-rated or incorrectly standard-rated.

The new rules will apply to supplies made on or after 1 April 2011.

For transactions entered into before 1 April 2011 but for which the time of supply is after that date, the supplier has the option of treating the transaction as being governed by either the current GST rules or the new rules.

Full details are given in the *Tax Information Bulletin* Vol 23, No 1 (February 2011) at www.ird.govt.nz "Newsletters and bulletins".

Working for Families Tax Credits income changes

The definition of family income for Working for Families Tax Credits has been amended. From 1 April 2011 people receiving Working for Families Tax Credits will no longer be able to use investment losses, such as from rental properties, to reduce their family income.

The definition will also include an extra nine income types:

• attributable trustee income—including income of a company controlled by the trust—if you're a settler of a trust
• attributable fringe benefits—when 50% voting is held by shareholder employees or their associates
• PIE income—excluding superannuation funds or a retirement savings scheme
• passive income of children—includes interest, dividends and rent. Amounts over $500 a year (per child) are included as family income
• income of non-resident spouse—worldwide income
• tax exempt salary or wages—under specific international agreements in New Zealand (eg, United Nations)
• main income equalisation scheme deposits—made by you, your trust or a company controlled by you or your trust
• certain pensions and annuities—includes 50% of payments from life insurance policies or a superannuation fund (excluding NZ Super)
• other payments—received from any person or entity and used for the family's day-to-day living expenses. This is only included if the total amount exceeds $5,000 per family.

If you are receiving weekly or fortnightly Working for Families Tax Credits payments, IRD need to know if you have any of these types of income as soon as possible. This is so IRD can pay you the correct entitlement. If you are receiving Working for Families Tax Credits as a lump sum at the end of the year, IRD need to know about these types of income before the end of year assessment is completed (year ending 31 March 2012).

For more information, including examples, of these income types, please go to www.ird.govt.nz (keywords: wfftc adjustments).

Forestry In The Emissions Trading Scheme

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There are two important deadline dates which are now less than a year away. Any of our farming clients who have forestry blocks need to make some decisions and act now.

Exemptions

Applications for a less than 50 hectare exemption close on **30 September 2011**.

There are some relatively complex issues with associated persons, (including related companies and trusts), joint tenants, tenants in common etc, when calculating the land holding for the less than 50 hectare exemption.

Most hill country farm forest blocks tend to be on areas of land that were not suitable for farming and are likely to be replanted in pine trees after harvest. Any farmer in this situation should seriously look at applying for an allocation of New Zealand Units (NZU's).

New Zealand Unit (NZU) is defined as the unit of trade in New Zealand's Emissions Trading Scheme which represents one tonne of carbon dioxide (CO2) equivalent of emissions or removals. Growing trees sequester carbon (remove it out of the air and into the tree; we emit carbon when we cut the trees down).

NZU's are currently worth about $25.00. As they are a tradeable unit, the dollar value will change based on the demand for units by carbon emitters and the supply of units that are available in the market.

Applying For An Allocation of NZU's

The allocation of NZU's for pre 1990 forest land is a one-off allocation from the Government to partially compensate land owners for the potential loss in value of their forest land which is compulsorily dragged into the Emissions Trading Scheme.

This allocation of NZU's is GST exempt and income tax free, and at current NZU prices are potentially worth up to about $1,500/hectare. So a farmer with (say) 24 hectares of pre-1990 forest land could collect the allocation of units and convert them to about $36,000 cash - tax free. There will be no future liability **provided** the land is not deforested.

There are different levels of allocation depending on how long the land has been owned

60 NZU's per hectare for pre 1990 forest land that has not changed ownership arrangements since 31 October 2002.

39 NZU's per hectare for pre 1990 forest land transferred to the current landowner on or after 1 November 2002.

The deadline for applying for an allocation of NZU's is **30 November 2011.**

10 Time Management Techniques Really Worth Using

1. **Tame the E-mails/Phone** just because it's arriving / ringing doesn't mean you need to answer it now
2. **Minimise Formal Meetings**
3. **Use a bring up system** to temporarily file the later stuff
4. **Make and use lists** Where to be, what to do, who to call
5. **Link Everything to your Goals**
6. **Be absolutely punctual** and expect it of those around you
7. **Block Your Time, do things in chunks**
8. **Live off-peak** avoid the extra time needed in peak hour
9. **Fill up waiting times** with micro tasks
10. **Minimise Unplanned Activity**

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