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**FINANCIAL FEATURE
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We welcome any input into areas you would like us to cover. If you have any topics you would like covered in a future newsletter, please provide us with the details and we will try to accommodate your request.

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OFFICE MATTERS

Goods and Services Tax Records

Due to the Inland Revenue Department's alignment of Goods and Services Tax and Income Tax, our office has a substantial number of Goods and Services Tax Returns to complete.

Therefore, we ask that you get your records/papers to us promptly by the date stipulated on the reminder letter to avoid your return being filed late.

PHISHING & ONLINE SCAMMERS

Online phishing (fishing) scammers send out fraudulent emails to literally thousands of customers everyday. Many promise a tax refund to customers.

Some phishing scams are becoming more sophisticated and convincing while others use poor English and contain spelling mistakes.

If you receive an email asking for your tax information including your IRD number, password or user ID you should always check the following:

- is the sender's email address "@ird.govt.nz"?
- does the login page start with https://?
- does the website have "govt.nz/" in the address?

If you answered NO to any of these questions, delete the email permanently and also deleting it from your trash is a good idea.

Also, if the content of the email is written using poor spelling or grammar, you should delete the email immediately.

Tips to avoid phishing and identity theft:

- use strong passwords that have a mixture of numbers, letters and symbols
- have a different password for each website you use
- never share your passwords with anyone
- before you login, check that the website address begins with "https"

If you would like to report any suspicious emails or online activity of this kind you can email phishing@ird.govt.nz or contact our office.

ONLINE TRADING

Many people sell things they no longer want or need using auction websites such as Trade Me or Ebay. Usually, there are no tax consequences with these transactions.

However, many people who sell things on a regular basis may be regarded as being in business and should be declaring the sales for Income Tax purposes.

As a general rule, you are regarded as being in business (and should be declaring sales from online trading) if:

- you acquired the goods with the purpose of on-selling
- the purpose of the activity is to make a profit
- your business involves dealing in these goods

As well as Income Tax, businesses with sales of over \$60,000 per year are required to be registered for Goods and Services Tax.

The Inland Revenue uses data matching to identify people or businesses that may not be declaring income from online

trading. They have advised that they recently identified a group of people with significant trading volumes and are following up on this.

If you think you have made a mistake regarding your online trading tax obligations, you can make a voluntary disclosure to the Inland Revenue. Please contact our office if you have any questions on this matter.

CHANGES TO QUALIFYING COMPANIES (QC) AND LOSS ATTRIBUTING QUALIFYING COMPANIES (LAQC)

The budget presented by the Government in May 2010 signaled changes that are going to be made to the Qualifying Company regime.

The main thrust of the change in legislation has been to remove the status of LAQC's by the 2012 financial year. The QC status will remain for a couple of years to come, in the transition period, however these will eventually become 'extinct'.

LAQC's will not be able to attribute losses, starting from 1 April 2011. The LAQC status will automatically revert to a QC status and any new companies formed after 1 April 2011 cannot elect to be a QC or LAQC.

If you have a QC or LAQC you have a few options to consider when changing your ownership structures and we will be happy to run through these alternatives with each individual client.

Your options include;

Look Through Companies (LTC)

The LTC structure allows for losses and profits to be allocated to the shareholders of the company. The shareholding must be the same as the original QC\LAQC, or a new entity will be deemed to have been formed.

The downside of the new entity being formed is a disposal of the assets will be deemed to have taken place. This will trigger the sale of an asset and have many consequences. Depreciation claimed in the past may 'crystallise' as income as a transfer of assets between 'associated entities' is required to be completed at market value.

Capital gains could also be attacked as the transfer of property between 'associated entities' may be deemed to be taxable.

However, the company's IRD number remains the same and there are no GST issues on property sales.

The LTC has certain quirks that may benefit some clients and not others. Losses can be distributed, but only to the value of capital introduced, or funds guaranteed by the shareholder. This will suit some businesses, where the shareholder continually helps fund the company's cashflow shortfall.

With this structure, application should be made to the Inland Revenue within the first two years after 1 April 2011 to be a valid transfer. The year of transfer will be the 'transitional year'. If the application is lodged within the first six months, the whole year will be treated as if the company was a LTC.

Partnerships\Limited Partnerships and Sole Traders

Under these structures, the shareholder(s) will become the sole trader, or new partners of a new entity. In this situation, there will be no tax cost for the transfer. However, there are many 'snakes and ladders' in this area and these could not be adequately covered in this newsletter. We would need to meet with you to discuss which entity would best suit your needs.

The new entity must have the same ownership structure of the company, whereas the shareholders become partners, or the sole shareholder becomes a sole trader.

There is a disposal of property in this situation, as a new entity will be formed. All assets, liabilities and legal title transfers need to be made in the 'transitional year'. If they are not made, the process will have failed and the QC\LAQC will be deemed to be a normal company. The problem here is that any losses in the entity are effectively quarantined within the company forever.

Ordinary Company

You may have a profitable company that you may wish to revoke the QC\LAQC status on. This is a relatively simple process where a letter to the Inland Revenue is sufficient. Your company continues to trade in the same way it had before 1 April 2011.

Conclusion

If you want to transition in to a new ownership structure, it is beneficial to do this in the first six months of the company's financial year. In this circumstance, the company will be treated the same throughout the whole trading year.

If an election to change ownership structure is made in the last 6 months, only the last half of the trading year will be under the new structure, the first half will need to be returned as a Qualifying Company.

MINIMUM WAGE RATE INCREASE

The minimum wage rate for adults (over 18 years) will increase from \$12.75 to \$13.00 per hour from 1 April 2011. The 'new entrants' rate will increase from \$10.20 to \$10.40 per hour.

The adult rate increase will mean those working a 40 hour week will receive a gross pay of \$520. The 'new entrant' 40 hour pay week rate will entitle the employee to \$416 (before tax).

Remember the 'new entrant' rate applies to 16 and 17 years olds for the first 200 hours, or 3 months of employment. After 3 months employment the 16 and 17 year old workers revert to the full adult wage.

WORKING FOR FAMILIES TAX CREDITS – JOINT FAMILY INCOME NET SPREAD WIDER

For the income year starting 1 April 2011, your Working For Families Tax Credit (WFFTC) calculation will need to include income from a lot more sources. These include;

- attributable trustee income
- attributable fringe benefits
- PIE income
- passive income for children
- income of a non-resident spouse
- tax exempt salaries and wages
- pensions and annuities
- income equalisation scheme deposits
- other payments

In the past trust income has been ignored, unless distributed directly to ‘Mum and Dad’. Income from a trust is now included where Mum or Dad is the settlor. The settlor is the individual(s) who provided the capital to set the trust up. This excludes trustees who carry out the running of the trust.

Fringe benefits include the use of a company vehicle, free or discounted goods and services received, low interest loans and subsidised transport. The value of these benefits will be added to your income.

More relevant examples include receiving free goods and services. For example, a farmer provides a beast to a farm worker, or takes one for themselves. The value of the animal will be added to the recipient’s joint family income.

Portfolio Investment Entities (PIE’s) are exempt from being included in the recipient’s tax return as long as the correct Prescribed Investor Rate (PIR) is used. It is now required to be accounted for when completing the WFFTC calculation.

If your children receive passive income, this will need to be included. For example, where your children receive a distribution from a family trust and Mum or Dad are not the settlors. That distribution could come from a grandparent’s trust and be treated as income.

REDUNDANCY TAX CREDIT

If you are in the unfortunate situation of being made redundant, you have some relief from Income Tax. You can apply for a tax credit up to 31 March 2011.

This was in response to the first Canterbury earthquake, where employees were made redundant due to businesses closing down. The employee’s salary and redundancy payment would be taxed as if all received in the first half of the year and therefore at a rate higher than their potential earnings in the second half of the year.

If you feel as though this affects you, we can look at your case

to see if a potential credit exists. The most likely affected group would be high income earners whose redundancy payments would tip them over the \$70,000 marginal tax rate limit, as they would be taxed at 38 cents per dollar.

COMPANIES AND MARKET SALARIES

In the past, we have liaised with clients to pay shareholder employees a salary that would not adversely affect the company’s or individual’s Income Tax.

A recent case taken by Inland Revenue against Orthopaedic Surgeons (CIR v Penny and Hooper) has changed the way the Inland Revenue are dealing with salaries paid to shareholders. In the past the Inland Revenue has mainly focused on paying extraordinarily high salaries to gain a tax advantage.

The current case mentioned has gone through the court system and will end up being decided in the Supreme Court. In this case the surgeons paid themselves salaries well below market value. They, in effect, saved themselves tax at their higher marginal tax rate (as high as 39%) while the company was taxed at 33%. A tax advantage the Inland Revenue could not overlook.

The directors file a resolution every year dictating the salary of each shareholder. This will need to be able to be justified in the event of an audit.

GIFT DUTY TO BE ABOLISHED

The above heading will be music to the ears of settlors of trusts where the assets have been introduced without substantial liabilities attached.

Those of you who have acted on advice from professionals, such as lawyers, accountants, or just advice from friends, will not have to visit their lawyer annually to revise their current gifting programme.

From 1 October 2011, the Minister of Revenue, the Hon Peter Dunne has done the decent thing by reducing legislative pressures on taxpayers that derives little benefit to the Inland Revenue coffers.

Currently, individuals are allowed to gift up to \$27,000 per year each without incurring gift duty. The rates of duty for breaching this threshold are outlined below.

Limit	Duty
Up to \$27,000	Nil
\$27,000 - \$36,000	5% on excess
\$36,001 - \$54,000	\$450 plus 10% on excess
\$54,001 - \$72,000	\$2,250 plus 20% on excess
Exceeding \$72,000	\$5,850 plus 25% on excess

For larger assets, you can see how gift duty can place an onerous burden on assets settled on trusts.

INCOME EQUALISATION DEPOSIT

With the payout from dairy companies on the increase farmers have the option of using the Income Equalisation Scheme to defer income to future financial years.

This scheme allows individuals to deposit a sum with the Inland Revenue and have the value suspended from their current taxable income. The taxpayer can retain the deposit within the scheme for 5 years before it is required to be withdrawn from the scheme and treated as income.

This is beneficial in years such as 2011, where the highest marginal tax rate for individuals decreased to 33% from 38%. Other factors can also help reduce income (for example; herd scheme valuations) and leave the deposit to be withdrawn from the scheme and taxed at a lower marginal tax rate.

There are rules around withdrawing the deposit early, which include hardship, development expenditure and the purchase of livestock. Contact us if you believe this scheme would be beneficial to your farming entity.

If the deposit is withdrawn early, you do not receive the 3% interest paid on the deposit. The deposit must have been in the scheme for more than 1 year to receive interest.

PROPERTY SALES – GST NEUTRAL

Land transactions will be zero-rated for GST in certain circumstances from 1 April 2011. Vendors will be required to sell land without GST attached to the sale.

Transactions between sellers who are registered for GST and purchasers who are not, will not be affected. The new rules introduced by the Government in December 2010 are where the principal purpose of the land is to be used by the purchaser (or associated person) as a place of residence.

The legislation attempts to avoid refunding the GST to the purchaser where no GST payment has been made by the vendor as the company/business has been wound up.

STUDENT LOAN REPAYMENT THRESHOLD

The student loan repayment threshold for the 2010 year was \$19,084. The rate for the 2011 year is also set at \$19,084.

The interest payable for those who do not qualify for the remission of interest will have interest added at a rate of 6.8% for the 2010 year. This will reduce to 6.6% for 2011.

NEW USE OF MONEY INTEREST RATES

The Inland Revenue charge interest for underpaid taxes. The Department will also pay for overpaid taxes, but as you have already guessed, they charge more than they refund.

The new rates came in to affect on 16 January 2011:

Underpayment 8.89% (down from 8.91%)

Overpayment 2.18% (up from 1.82%)

When deciding on whether to pay taxes late, please note that penalties may also be charged on late payments and unlike UOMI, penalties are not a deductible expense. Be advised, a part payment will more than likely stop penalties being charged, with UOMI charged on the unpaid balance.

VISAVIEW – IMMIGRATION NZ

Our firm has registered for VisaView which allows employers to check whether their employees have a relevant work Visa. If the prospective employee does not have the right to work in NZ, you are not legally allowed to employ them.

The Immigration Act 2009 came into force from 29 November 2010 and states that a business must not employ a non-New Zealander who isn't entitled to work in New Zealand.

FINISH WITH A JOKE

The inmate on death row was scheduled to be put to death by firing squad the following morning.

Throughout the day, the prison guards were being very nice to him. But when they asked him if he wanted something specific for his last meal, he said he didn't want anything special. When they asked if there was something special he wanted to do, he said nothing. It went on like this all day.

Finally, when he was put before the firing squad, the guard asked if he wanted a cigarette and a blindfold.

"No," the inmate said, "just get it over with."

"Well, is there anything that I can do for you before you go?" said the guard. "You didn't even want a special last meal!"

The inmate thought. "Actually," he said, "Music is my life. One thing I would really like would be to sing my favourite song, one whole time through, with no interruptions."

The guard nodded and told him to go ahead.

The inmate started, "One billion bottles of beer on the wall..."

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