



RichardsWoodhouse

Update

Budget Announcements in Summary

June 2010
Issue 66

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IMPORTANT DISCLAIMER

The information contained herein is of a general nature only. Not all of the information will be of interest to all clients; however we hope there is some content that is of benefit to you. If this information requires more detailed explanation, or should you require information on topics not covered by this newsletter, please contact our office. The information in the report is confidential to clients and staff of this firm. While every effort has been made to ensure accuracy, no liability is accepted for errors of fact or of opinion herein.

The Budget presented on 20th May 2010 included the following which will impact on the current tax system:

- **Comparison of old and new income tax rates**

Income	2009/10 Current Rates	2010/11 Composite	2011/12 New Rates
\$0 – 14,000	12.5%	11.5%	10.5%
\$14,001 - \$48,000	21.0%	19.25%	17.5%
\$48,001 - \$70,000	33.0%	31.5%	30.0%
Over \$70,000	38.0%	35.5%	33.0%

- The **Company tax rate** will also fall next year from 30% to 28% - a move that will put New Zealand below Australia's rates. This will also be the top rate for PIE's, unit trusts, superannuation funds and life insurance policies.
- There will be no change to the **trust tax rate**, it remains at 33%.
- **GST will go up to 15%** on 1 October 2010. Please see over page for some planning suggestions.
- From 1 April 2011 the calculation of a household's income when calculating **Working for Families** (WFF) will be broadened. Trust income and/or capital distributions, losses from rental properties, as well as investment losses and PIE income etc. maybe counted as a family's total income for the purposes of WFF. Exact details are still to be confirmed by IRD.
- From 1 April 2011 property investors/owners will no longer be able to claim **depreciation on their buildings**; except for specialist industry related buildings where the lifetime is less than 50 years (for example farm barns and glass houses).
- **New asset depreciation** loading of 20% is removed from assets purchased after budget day (20th May 2010).
- The **Commercial building fit-out policy** is to be reviewed and clarified (political speak – will be tightened or go) from 1 April 2011.
- **Qualifying Companies (QCs) and Loss Attributing Qualifying Companies (LAQCs)** will be treated as limited partnerships from 1 April 2011 meaning QC/LAQC income will go into the shareholder's tax returns and the loss limitation rule will apply to LAQC losses. Losses will be limited to your equity in the company. Legislation to implement these changes will be enacted later in the year. Should you be a shareholder in a QC/LAQC, please contact our office to discuss how these changes will affect you.

BUSINESS PROTECTION – Employment

Relying on insurance policies to protect your business is not enough. Your employees can easily build up knowledge of your business, contacts and customers then use that information to set up their own business or even work against your business.

The Employment Court in a recent decision confirmed employees are bound by duties of fidelity, good faith and trust. In this case there were no written employment agreements so the Court focused on the implied duties.

Prudent employers will ensure there are written employment contracts in place and that they include confidentiality clauses. There may also be clauses for payment in lieu of notice. An employer may wish to bring forward a termination date and pay the employee in lieu of the remainder of the notice period.

An obligation to return all company property and information on demand is another safeguard. Careful consideration should be given to whether there is a need for **restraints of trade not to compete**. These could be made specific to a certain employee.

Legitimate propriety business interests such as confidential information, customer relationships and goodwill can be protected in the form of post termination restraints.

Restraints not to compete with the employer, solicit customers & suppliers, poach staff from the employer will only be enforceable if they are no wider than is necessary to protect the employer and its business.

GST RATE INCREASE – Plan Now

For those clients that are GST registered the GST rate increase from 12.5% to 15% will impact on your business in various ways. The time of supply of the goods or services is the key trigger point to consider with the new rate change. This means supply prior to the 30th of September will attract 12.5% and 1st of October onwards 15%. For someone on payments basis GST returns this means an invoice raised in September and paid in October will be recorded at 12.5%. To record this change the IRD may require two GST returns to be prepared covering both GST rates.

The following is a list of further considerations:

- Changes will need to be made to your accounting system, and your GST system will have to be modified to take account of the new rates. Can you add two rates into your system?
- Can you increase the price you charge customers to cover the GST uplift?
- Can you identify transactions at both the 'old' and 'new' rate?
- Can your accounts payable system process tax invoices at the 'old and 'new' rate?
- Can your system issue credit notes at the correct rate? Credit notes should be issued at the same rate of GST that applied to a supply.
- Businesses that regularly make periodic supplies to customers (e.g. rent) will be required to issue updated perpetual tax invoices.

Just a reminder that it is only compulsory to be GST registered if your turnover is over \$60,000. Once your turnover exceeds \$2M you must change from payments to invoice basis GST returns.

We are well aware that the GST change and some of the above questions will cause people in business concern and anxiety. As soon as we get answers from the IRD we will send you out further information clarifying these issues.

We are also considering running some client training sessions - please let us know if you would find training beneficial.



LATE PAYMENTS

If you know you will not be able to pay TAX on the due date, **please contact Wendy our Tax Manager BEFORE the payment is due.**

The IRD have various payment options. These include up to 6, 12 & 24 month instalment periods and in most cases IRD are quite flexible. Setting up an instalment plan before a due date will help minimise any penalties that could be payable.

GIFT DUTY

For gift duty purposes, a gift is something you give where you receive nothing in return, or you receive something in return with a value that is less than the value of the property you gave.

A gift includes:

- transferring any items of property (for example, company shares or land)
- making any form of payment
- forgiving or reducing a debt, and
- allowing a debt to remain outstanding so that it can't be collected through normal legal action.

If you are providing gifts or setting up a trust, there are tax issues you need to be aware of.

Any person who gives gifts of more than \$27,000 in a year is liable to pay gift duty. However, any person making gifts with a combined total value of over \$12,000 in any 12-month period must complete a Gift Statement and forward it to Inland Revenue.

The following gifts are exempt from gift duty:

- Those made to create a charitable trust
- Those made to establish any society or institution exclusively for charitable purposes
- Any gift in aid of such trust, society, or institution.

Value of Gift	Duty Payable
\$0 to \$27,000	Nil
\$27,001 to \$36,000	5% of amount over \$27,000
\$36,001 to \$54,000	\$450 plus 10% of amount over \$36,000
\$54,001 to \$72,000	\$2,250 plus 20% of amount over \$54,000
Over \$72,000	\$5,850 plus 25% of amount over \$72,000

The above table sets out gift duty rates. If you have any queries regarding gifts or gifting, please contact the office.



ANNUAL HOLIDAYS

All permanent staff who have worked for you continuously for 12 months are entitled to four weeks annual holiday. **Annual holidays cannot be cashed out!** (This holds unless you allow the employee more than the legal entitlement each year; i.e. more than four weeks. In this case you could cash out any time over and above the four weeks.) You may give an employee leave without pay, but you cannot allow them to take holiday pay without leave.

It is the employer's responsibility to manage the leave entitlements. Should you allow the holiday entitlement to continue accruing, you will have to pay this out at the time the employee leaves. If you have not managed the holiday entitlement, this could be a sizeable sum to pay out. An example we have recently heard of, is an employee has been allowed to accrue five months worth of annual leave!

Every employee has the right to take two weeks of their annual holidays in one uninterrupted block. This ensures the employee has an opportunity to enjoy an extended break from work rather than having to take the annual holiday entitlement in piecemeal fashion.¹

What do you do if the employee doesn't want to take the time off?

You cannot take away their entitlement, but you can direct the staff member to take their leave. Discuss this with your staff member, and ask them to take some of their holiday entitlement. Should they refuse, the employer is able to give 14 days written notice instructing the staff member to take some time off.

If you find it difficult to keep accurate records of the leave entitlements, or any other wage requirements, we recommend Ace Payroll as it is a very user friendly and simple program to use. Please contact us if you are interested.

¹ Kiely, Thompson, Caisley Guide to Holidays and Leave (2nd ed) pg 38

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STAFF CHANGES

We welcome our new tax manager, Helen Palmer. She replaces Jo Clementson who leaves to join her husband in business.

Some clients may have already met or spoken to Annalisa O'Donnell, our new receptionist. She takes Aleisha's reception position as Aleisha heads to Greymouth and a career change with the District Council there.

We also have a new office junior, Alison Carmody, who takes over Courtney's role.

We extend a warm welcome to all our new staff and best wishes to those leaving.

The logo for Orbus, featuring the word "Orbus" in a bold, sans-serif font. The "O" is orange, and the "rbus" is black. A curved line underlines the text, starting from the "r" and ending under the "s".

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