



RichardsWoodhouse

Update

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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.

QC/LAQC

(Qualifying Companies & Loss Attributing Qualifying Companies)

Restructure Deadline 30 September 2011.

Our December 2010 newsletter outlined the draft legislation reforming the QC/LAQC regime. The legislation has now passed into law. From 1 April 2011 a company can no longer be a LAQC company. There are options to restructure or default to QC company status.



We have reviewed all our QC and LAQC company clients and formed a recommendation for each as to how the company should be structured for the future.

The restructuring options include a new tax entity known as a look-through company (LTC) or transferring to a sole trader business or partnership structure.

For a LAQC company operating at 31 March 2011 any elections to restructure to a different entity type need to be filed by 30 September 2011.

We have sent letters of recommendation to all our QC & LAQC company clients. If you have not already responded to our letter, **we urge you to contact the office to confirm the future structure of your QC/LAQC** as the deadline to file elections looms.

Carbon Credits – Pre 1990 Forests

A **reminder to foresters** with pre 1990 Forests, deadlines for applications are very soon:

- Exemption for area of forested land less than 50 hectares: **30 September 2011**
- One off allocation of carbon credits: **30 November 2011**

Information for applying for the 50ha exemption and applying for carbon credits is available on the Ministry of Agriculture and Forestry website.

WARNING ABOUT SUSPICIOUS EMAILS

We are aware some clients have received scam emails purporting to be from **Inland Revenue** or a **Tax Refund Agency** and attempt to trick recipients into responding with personal information. Often they ask you to click on a link that will take you to a fake website.

IRD are aware these emails are circulating. Inland Revenue emails do not include a hyperlink.



We suggest you do not click on a link or reply to any emails you find suspicious.

DEPRECIATION CHANGES - BUILDINGS

Included in the 2010 Budget was the change to the depreciation rate on buildings. The depreciation rate on buildings or structures that have an estimated useful life of 50 years or more for the 2011/2012 income year is 0%. The removal of this deduction could have a significant impact on your 2012 income and the 2012 provisional tax position.

The majority of our clients have a March balance date. For them this change comes into effect from 1 April 2011. March balance date taxpayers are due to pay their first installment of 2012 provisional tax on 28 August 2011.

If we have not already discussed the impact of this change with you on your 2012 income, we encourage you to contact the office to ensure the correct level of provisional tax is paid.

IRD FOCUS ON OVERSEAS INCOME

We noted in our last newsletter IRD have identified certain sectors for compliance. These included operators in the hospitality industry. Inland Revenue has now released its compliance focus for 2011/12. Budget 2011 includes \$10.6 million extra on debt collection and \$13.5 million additional funding for taxpayer audit.

There is a large project looking at foreign sourced income. New Zealand has already signed many tax information exchange agreements with other countries.

It is about to sign one with the Cook Islands.

IRD is actively matching income derived offshore by New Zealanders to NZ tax returns. We understand IRD have information, going back 6 years (they could go back further) from at least 16 countries relating to at least 40,000 taxpayers who have earned income off-shore and the income cannot be identified in the tax returns filed.

The law relating to retirement schemes changed in the UK from 6 April 2006 and this meant some schemes ceased to be exempt from the FIF (Foreign Investment Fund) rules. We understand IRD has obtained details of members of UK retirement schemes who have transferred to a NZ scheme and will be checking to see the correct tax has been paid.

There is also the review of migrants from 4 years ago who

qualified as "transitional residents" that they are now paying the correct tax.

Finally with regard to overseas income, we have heard IRD are examining investments held by New Zealanders in the Cook Islands.

There are thousands of New Zealanders with billions of dollars invested with OM-IP/MAN Investments. These investment funds are operated from Australia but the funds are based in the Cook Islands so the FIF (Foreign Investment Fund) rules apply.

Please contact us if you think some income has been left out of your return. By making a "voluntary disclosure" of the mistake, the penalties may be a lot less than if IRD find out first.

IRD are also monitoring income splitting by individuals, excessive remuneration and asset transfers to minors. Although the changes in personal tax rates have narrowed the range of tax rates over different entities IRD are looking at individuals who avoid paying the top tax rate by diverting personal income to companies, trusts, or using other techniques and also manipulate their income to claim more social support than they're entitled to, e.g., Working for Families Tax Credits (WFTC), or to reduce their liability for payments, such as child support.

From 1 April 2011 WFTC recipients can no longer claim rental losses against their income. IRD are exploring more legislative changes to further reduce the ability for individuals to structure or split their income.



Foreign Investment Funds (FIF)

The Foreign Investment Fund (FIF) rules were extended from 1 April 2007 and many investors who had previously not dealt with FIF rules are now subject to a complex tax regime.

While these changes are intended to simplify taxation from the investor's perspective, as accountants preparing their tax returns we now deal with many classifications of investments.

The government introduced new rules in relation to the taxation of shares held in foreign companies, foreign super schemes and foreign life insurance policies.

The following is a brief summary of the tax changes regarding investments overseas which come under the FIF rules and the basic information we require to complete the tax returns of clients holding shares in foreign companies.

Instead of just declaring the dividend income received from a foreign investment, we need to account for movements in the value of overseas investments. Gains are limited to 5% of the opening value and losses can only be claimed in very limited circumstances.

The reason why this regime has been introduced is that the government noticed that the dividend payout is typically lower in overseas companies as opposed to New Zealand companies.

There are some exemptions that limit the income required to be included to the income actually received such as:

- Exempt Australian listed companies. The IRD have provided a list of companies that comply for this exemption for the 2011 financial year.
- Some Australian unit trust investments
- Australian superannuation schemes
- The company GPG has a temporary exemption until 1 April 2012
- Foreign Pension or Annuity rights.

For individuals, there is also an exemption from the FIF rules, if the total cost is under \$50,000 at any time during the financial

year. The definition of cost takes into account situations where the investments have been inherited or have been purchased a long time ago and we are unable to determine the original cost. Some clients would have noticed that we have been asking a lot more questions in relation to this.

There are a number of methods of calculating income under the FIF rules; however in our experience for the majority of clients, we have only used three. Generally we must use the same method for all FIF investments in the same income year. In relation to different years, we can pick and choose which method we use. For example when we completed the 2009 tax returns, for the majority of clients, we chose the comparative value method, as the value of investments went down. However for the 2010 year when generally the value of investments went up, we used the Fair Dividend rate. The most used methods are as follows:

- Fair Dividend rate. This is calculated based on 5% of the opening value + (5% of the purchase price of any shares that were purchased **and** sold in the same financial year or the gain made on any shares that were purchased **and** sold during the same financial year).
- Comparative value method. This is calculated on the formula (closing value + sales + dividends) – (opening value + purchases). In some circumstances, we can only use the comparative value method. In these situations if the value of the investment went down, we are able to claim the loss. Company investors can only use this method when they are forced to use the comparative value method.
- The cost method, which is simply 5% of the cost, and the cost base increases by 5% each year.

These rules have meant that we require specific information from clients, typically the information we are asking for is as follows:

- A copy of the portfolio valuation at year end, in addition to the income report. This allows us to check the calculation provided by the portfolio manager, particularly where we have more than one portfolio investment.
- Details of the original purchase, when the investments were purchased and for how much
- Opening & closing values of investments, where the clients have not had the funds invested with a fund manager.



Gift Duty Repeal

In June 2010 the Minister of Revenue, Peter Dunne released a statement revealing the Government's intentions of abolishing Gift Duty Taxes. Inland Revenue have since prepared an impact statement of the implications of repealing gift duty and have concluded with a recommendation that gift duty should be repealed. We are still awaiting legislation to be passed but the repeal is expected to take effect from 1 October 2011.

The Ministry of Economic Development & Inland Revenue will be monitoring the effects of gift duty repeal. Of concern will be the ability of individuals to reduce their income tax but there will be concerns such as creditor protection & personal asset – stripping in order to qualify for various forms of social assistance. We suggest clients with gifting programs contact their advisor to discuss future gifts.

Employment Contracts

The Department of Labour is reminding employers that the law now requires them to keep signed written employment agreements for all their staff.

Since 1 July all employers are required to keep signed copies of employment agreements or current terms and conditions for all employees, or they may face a penalty.

“Employment agreements are required for all employees no matter when they started work,” says Annie Newman, the Department’s Acting Chief Adviser of Employment Relations.

This affects all employees including those hired on a verbal agreement or employees who do not have current written agreements in place. They must include the name of the employer and employee, a description of the work to be



performed, the place of employment, times the employee is to work, the wages or salary, and an explanation of services available for solving problems. It is the employer’s responsibility to maintain and keep an up to date copy of each employee’s agreement and provide a copy of the agreement if an employee requests it.

The Department of Labour has developed an Employment Agreement Builder to help employers through this process.

Failure to ensure an employment agreement is in place for all employees may result in a labour inspector taking a penalty action against an employer. This involves a seven-day notice period to rectify the breach and if this isn’t complied with then penalties may be sought in the Employment Relations Authority of up to \$10,000 for individuals and \$20,000 for companies. More information on the recent [changes to the Employment Relations Act](#) and help with employment contracts can be found on the Department’s website.

STAFF UPDATES

In June 2011 Hamish Tomlinson received his New Zealand Institute of Chartered Accountants (NZICA) certificate. This confirms his Chartered Accountant (CA) professional status.

Hamish received his certificate at the AGM and annual dinner of the Marlborough-Nelson Branch of NZICA and it was presented by the NZICA President Ross Jackson. Congratulations Hamish.



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