Tacks FAX

DON'T LET THE IRD NAIL YOU

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Fixing PIR for year starting 1 April 2010

Start with taxable incomes, excluding PIE income, for 2009 and 2010. Be sure to ask about the amount of PIE income when giving advice on the PIR to use.

Individuals

Taxable income of Individual	**+ PIE income Not more than**	**Use PIR**
$14,000 or less*	$48,000	12.5%
$0 to $48,000*	$70,000	21.0%

Where combined income > $70, 000 in both years 30.0%

* Choose the option which gives the lower PIR for clients with incomes in the range $0 to $14,000. E G Client has personal income of $5000 and a combined income of less than $48,000 choose PIR 12.5%. Whereas a client with personal income of $5000 and combined income is greater than $48,000 you have to use 21.0%.

Watch for the client who has recently retired and will have a very low income for 2010. If you can calculate that income, near enough, use the lower PIR, if applicable. You don't have to have completed the tax return.

Joint investments should be split and separate PIRs and IRD numbers supplied. You don't have to keep them combined and take the higher PIR for the whole lot.

We think it would be prudent to ask for information about PIE investments in your annual accounts questionnaire. Take the opportunity to check the client is using the correct PIR.

Family trusts

You can choose between 0, 21 and 30%. **21% is not a good choice if the PIE makes a loss** because it is only if a 0% PIR is used that the trust can claim the losses, if it is permitted to do so, – see Tacks Fax 0910.

If an individual has PIE investments, a distribution from a family trust could push up the PIR. For example your client has an income of $10400 per year and is using a PIR of 12.5%. A distribution from a family trust of more than $3,600 will increase the PIR to 21%.

If the same person gets say $20,000 PIE income through a family trust, most of it will probably be taxed at 21%, as the person's income, but if the same $20,000 PIE income had been the individual's investment the PIR would probably have been 12.5%, depending on other PIE investments.

Companies, incorporated societies and charitable trust – use 0%

Non residents – use 30%

PIEs with early balance dates cannot use these new rates until their 2012 year.

Low income secondary job

Clients who expect an income from all sources to be less than $14,000 can use a tax code SB which has a tax rate of 12.5%.

How to calculate cost price + 5% for FDR

Where a client has to use "cost price" because an investment has no readily available figure for market value, you could do your calculation in two ways:

1. Take last year's figure in $NZ and add 5%
2. Take last years figure using the foreign currency, convert to $NZ and add 5%

The second choice is the correct one. It can make a big difference, particularly if you are converting from sterling.

For example: My client has an investment at 1 April 2007 of Stg 2000.

Last year Stg 1 = $NZ3. Stg 2000 = $6000. We put 5% of this into income.

This year Stg 1 = $2.5. Stg 2000 = $5000. This year we add 5% to $5000 and include 5% of the total as income.

Companies electing to use wrong PIR

A company must use 0% for its PIR.

What if the directors choose a PIR available for individuals like 19.5% and the PIE uses this rate?

The logical consequence is that the client has not used the 0% rate and therefore brings its income into account as though it was zero rated.

An issue can arise if there are available losses to claim – see Tacks Fax 0910. In this case, you have a company which has not elected a zero rate so it cannot claim any losses available to it. Section DB 53 only applies to those who have **elected** a zero rate.

The PIE should never have accepted the rate used. It should therefore be required to notify the IRD of the error and have its tax corrected. Any resulting gain or loss should be allocated to your client's investment in the PIE.

Message: If a company client is electing to use a rate other than zero per cent get this corrected as fast as possible.

Do you use tax pooling?

If you have a client who could not pay their tax at 7 April 2010, it is still not too late to make the payment and avoid penalties and reduce UOMI from 8.9% to 6.32%. Use a tax pool. No amount is too small. The law allows tax pools 60 days after 7 April for the tax to be paid. This means TMNZ sells 2009 tax until 24 May 2010. It can still sell your client 28 August 2008 tax (P1 for 2009)!

Reminders

Legal Expenses

When the total legal expenses for a client for the year are less than $10,000 the legal expenses of a capital nature will be deductible. However, they are only deductible if they meet the tests laid down in the Act. See our Tacks Fax 0903. A recent NZICA course did not make this clear.

Dividends where attribution applies for Non QC companies

Pay dividends as though the company were a QC.

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