Tacks FAX

DON'T LET THE IRD NAIL YOU

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Getting the GST ratio right

The GST ratio is adjusted by the IRD each year based on the financial statements for the previous year. The department sends notification of the new rate. The rate printed on the GST form may not match the new figure supplied.

The new rate can be applied if the due date for payment is more than 30 days after the date on which the new ratio calculation was determined.

The ratio was determined for one client on 20 October for GST due for payment on 28 November. There was more than a month gap. The printed form from the IRD showed the old (and higher) rate. Using the new rate made a significant difference to the tax payable.

LAQC

IRD says one of the most common errors is claiming LAQC losses when the taxpayer is not entitled to do so. The department's website does not show when a company updates its LAQC status. It only shows when the company was first registered as a QC. This might give some practitioners a false sense of security. Check with the Companies Office and the company's own share register, each year, to ensure your client could not have lost its QC status? A thorough check of the ICA and the share register, when taking over a new client, is also important.

Unfair wear and tear on clothing

Do you get clients who want to claim for the cost of clothing? A fast foods manageress, in Australia, was not allowed a deduction for clothing even though the clothes were subject to excessive wear and tear due to soiling, and required frequent heavy washing and stain removing treatment, which lead to the deterioration of the clothing.

If you consider an Australian case a reasonable precedent, then the answer to a request to claim for the cost of clothing should probably be no. Under NZ law the answer would probably be the same. While the reimbursement would be deductible, it would be part of wages, unless the employer used a standard uniform.

Henry report and ICA

The Henry report on Australian tax has suggested the imputation system should cease at some future date.

What if the NZ Government were to follow suit? One could imagine shareholder salaries becoming bigger and small company profits contracting towards zero, particularly if the top rates of tax for individuals and trusts were to become aligned.

The report recommends against mutual recognition of Australian and NZ ICA credits.

Income splitting

Income splitting is being planned for a start date of 1 April 2012. Working for Families will take care of the "income splitting tax credit". Those who are not claiming Working for Families, will need to register on line through the Working for Families" system. It looks as though income splitting, if passed, will only apply to families with children.

Independent Earner Tax Credit

This scheme is effective for the 2010 year. Look out for clients having incomes in the $24,000 to $48,000 range. Can you justify salaries in this range without there being an issue of tax avoidance? For more details, see Tacks Fax 0901, which we have reproduced below for easy reference.

IRD has changed depreciation rules for RRP

The rules for determining when an asset may be separately depreciated in a residential rental property have been reviewed again.

There is a 3 step process, which briefly is:

1. Is the item attached to the building? If yes, go to 2. If NO it is depreciated as a separate asset.
2. Could the building function properly without this item? If NO it is part of the building. If YES go to 3.
3. Now look at how much damage to the asset or the house would occur if this asset were removed. If the item is part of the fabric of the building it should be depreciated at the building rate.

There are likely to be arguable cases. We have summarised IRD's examples below, for easy reference.

Foreign tax credits from FIF income

The latest Agents Answers mentions clients have been incorrectly claiming foreign tax credits. Where you are dealing with less than 10% interest in shares in foreign companies and accounting using FDR or CV, each investment is a separate interest. If your clients are paying tax on their investments from the USA, for example, you may claim foreign tax credits against the NZ tax generated on each of those equities taken separately. You cannot claim the foreign tax paid over your client's entire FIF portfolio nor the client's entire income.

If a client is paying tax on foreign dividends (someone below the $50,000 threshold), claim foreign tax credits by segments. A segment is a country, with reference to a particular source or nature.

GST - apportionment of cost of bare land

If an apportionment of land for private use based on area produces an unfair outcome, you have to find another method, which must not be artificial.

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Independent earner rebate, new S. LC 13

The new Government has introduced a new rebate for NZ residents, starting from 1 April 2009, aimed at middle income earners who do not get any State assistance, which includes Working for Families (WFF). The rebate is $520 per year and is to rise to $780 per year from 1 April 2010. It is available to those with incomes over $24000 and under $48000. From $44,000 the rebate reduces at the rate of 13 cents in the dollar, disappearing at $48000. If the person is in a relationship and the partner **is entitled to** WFF the rebate is not available. It could be unfortunate if the WFF entitlement is minute. However, it appears if the partner gets New Zealand Superannuation the credit is still available. WFF only is excluded for the purposes of partner income. The revenue is further protected by excluding anyone (or partner) getting the equivalent of State assistance from outside New Zealand.

- There will now be an incentive to justify shareholder salaries of at least $24,000 per year to get the rebate. There will also be a disincentive to even up incomes in a relationship if the tax saving is less than the rebate lost. Note: the top personal tax rate is being reduced.
- If the client qualifies for part of a year, a claim can be made for a proportion of the rebate based on the number of whole months the taxpayer qualifies.

IRD examples of new depreciation rules for RRP

IS10/01 Residential Rental Properties

Asset type	**How to be treated**
Plumbing and piping	Part of building
Electrical wiring	Part of building
Internal walls	Part of building
All doors	Part of building
Garage doors	Part of building
Fitted furniture	Part of building
Kitchen cupboards	Part of building
Bathroom fittings and furniture	Part of building
Linoleum	Part of building
Tiles (wall and floor)	Part of building
Wardrobes and cupboards not built into the wall	Separate asset
Carpet	Separate asset
Curtains	Separate asset
Blinds	Separate asset
Water heaters and hot water cylinders	Separate asset

Heating/air conditioning systems Can be either. It depends on how the system is installed. Units which can be readily removed are likely to be separate assets.

You might like to compare the following with what we allowed here.

Changes in Oz for small businesses

- Tax on small companies is to be reduced to 28% **ahead of big companies** from the 2012/3 year
- Immediate write off of small assets to be limited to $5000
- Depreciation pool with no size limit and rate 30% from the 2012/3 year

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