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Provisional Tax due reminder

The first provisional tax payment for the year ended 31 March 2011 is due 28 August 2010.

This payment date applies to any individual who pays provisional tax, any self-employed person who is registered for GST on a two-monthly basis and for any company (or trading trust) which is registered for GST on a two-monthly basis.

Late payment will result in a penalty being charged by IRD so we recommend that you make payment on time.

GST increase

GST will rise from 12.5% to 15% from 1 October 2010.

If you are registered for GST then you will need to be prepared for this change so that you don't end up having to pay GST to IRD at 15% when you have only collected GST at 12.5% from your customers or clients.

The GST rate change should not be a problem if your business is registered for GST on an invoice basis. However if your business is registered for GST on a payments basis an adjustment will need to be made at 30 September.

For Xero users this adjustment should be handled automatically by Xero. If you use desktop accounting software like MYOB, Quicken or Cash Manager then you may need to upgrade your software (there is more detail about this in our GST Change FAQ on our website) and/or make manual adjustments.

Manual Adjustments

If you send invoices at 30 September with 12.5% GST then you won't want to pay the GST at 15% when you receive the funds in October.

To get around this you can make an adjustment on a separate form that IRD will send you. On this form you'll need to enter the amount of creditors at 30 September, that is the amounts you owe at 30 September with GST at 12.5% but not paid at that date **LESS** debtors at 30 September 2010, that is, the amount of invoices that you had sent by 30 September but which you hadn't been paid for by that date.

Divide the difference between these two figures by 51.75 (this is the difference between the two GST rates).

If the difference is negative then this provides a credit or refund. If the difference is positive then you have GST to pay.

This is a one-off adjustment and there is more information on the GST adjustments required upon changeover at www.gstadvisory.govt.nz.

Remember to date and send invoices at 30 September for work completed in September if you only want to pay GST at 12.5%.

New GST fraction

When GST is added at 12.5% then the GST as a fraction of the total price is one ninth.

When GST moves to 15% from 1 October the new fraction is 3/23. So if you charge GST on your hourly rate of $100 then your new charge out rate is $115 ($100 plus 15%) and to calculate the GST amount then take 3/23 of the total price to get the GST portion ($15) – not generally a calculation that many can do in their head.

New personal income tax rates

The new personal tax rates from 1 October 2010 are as follows:

Tax rates: individuals	2009/10	2010/11	Composite rate
0 - 14,000	12.50%	10.50%	11.25%
14,001 - 48,000	21%	17.50%	19.25%
48,001 - 70,000	33%	30%	31.50%
70,001 upwards	38%	33%	35.50%

The composite rate is the "average" for the year.

The company tax rate decreases from 30% to 28% from 1 April 2011. The rate remains at 30% for the rest of this tax year.

The PIE tax rate (on investments) will also reduce to 28%.

There is no change in the trust tax rate which remains at 33%.

LAQC update

LAQCs will be changed to limited partnerships from 1 April 2011 meaning that losses will continue to be allocated out to shareholder partners in accordance with their shareholding but now surpluses or profits will also need to be allocated out to shareholder partners in the year incurred. IRD requested submissions on the proposed changes with a closing date of 5 July and we are waiting to hear the results of this consultation process.

Penny and Hooper

In the latest court decision in the Penny and Hooper case the Court of Appeal has found that taxpayers cannot use other structures to pay themselves an unrealistically low salary and split income to other taxpayers to avoid tax.

In this case two Christchurch orthopedic surgeons used company structures owned largely by family trusts. They then paid themselves salaries and paid the remaining profits as dividends to the family trust, significantly reducing the amount of tax they would have otherwise paid.

The Court of Appeal found that they had paid too low a salary, had control over the amount of salary paid each year, and used the structures to divert or split income generated by their own personal exertion.

The penalty for tax avoidance is payment of the unpaid tax, penalties of up to 100% and interest. When a case such as this has spanned up to 10 years the cost could be around three times more than the original tax.

It is not clear if paying themselves a higher salary would have been enough for the Court to decide there was no tax avoidance.

This decision appears to expand the personal services income attribution rule. Previously this rule has effectively allowed individuals to split income as long as more than 20% of the income has come from different sources or from the efforts of different individuals.

IRD has released a revenue alert on how they will be interpreting this decision in future and full details are provided on IRD's website at

http://www.ird.govt.nz/technical-tax/revenue-alerts/revenue-alert-ra1001.html

Clarification is being sought from IRD as to whether dividends may still be paid from surpluses as long as market salaries have been paid.

This may not become clear for some time yet as Penny and Hooper have lodged an appeal with the Supreme Court on the decision and this case is expected to be heard later this year.

Gift Duty

The government is proposing abolishing gift duty as the costs of administering this duty outweighs the revenue received.

The sticking point appears to be concerns about business owners using gifts to shelter assets from creditors when in financial difficulty. We understand there are also concerns about people using trusts to minimise income to access government benefits. Meanwhile trusts have traditionally been used to protect assets for beneficiaries and are particularly important with the recent Relationship Property legislation.

The maximum debt that may be forgiven in any one year without incurring gift duty has remained at $27,000 for many years, an unrealistically low amount given inflation over those years.

So removal of gift duty makes sense if concerns about trusts being used to avoid creditors can be addressed. Removing gift duty will also save considerable administration by accountants and lawyers.

The generally poor administration of many trusts in New Zealand has led to calls for a government body to regulate trusts in much the same way as the Companies Office registers companies. This would provide a framework for registering and monitoring all trusts although it is unclear whether there would be limits for registration. For example would it just apply to trading trusts or would it include family trusts which just own the family home?

We'll keep you updated as further information becomes available.

New staff member

We welcome Charmaine Meyers to our office. Charmaine is a chartered accountant, having worked previously at Careers Service, Curtis McLean and Urlich and Kippenberger. Charmaine is experienced in all aspects of chartered accounting and you can find out more about her and the rest of the team on our website www.dowsemurray.co.nz.

Tech Corner

Xero Tip – when reimbursing yourself for expenses you have paid for personally you can use the Xero expense claim. However the expense claims are designed for larger organisations than most of us have and the processing flow is quite long winded. If you have the full version of Xero with invoicing then you can quickly create a payables invoice instead to record and pay your expenses.