# DowseMurray

Newsletter # 27, December 2009

**In this issue:**



**Important Reminders**

Provisional tax due 15 January – recommend you pay before you head away on holiday.

**Happy Christmas!**

## Taxes due reminder

If you are a provisional tax payer or if you pay GST 2 monthly you will need to make a provisional tax payment on 15 January 2010. This is probably in the middle of your Christmas holiday so we recommend that you make payment before you go away.

IRD will charge interest and penalties if your payment is late. The penalties start at 1% for one day late and then 5% if a week late. Another 1% penalty is added each month. It adds up very quickly and interest is charged in addition to the penalties!

So if you are uncertain what you need to pay please contact us.

## GST due

GST is also due by 15 January for those taxpayers who are GST registered on a 2 monthly basis. This is the GST due for the period ended 30 November 2009. If your GST return is late you will also be charged a late filing fee, usually $50.

## Paying GST and provisional tax

If you are paying both provisional tax and GST and you are completing your GST return online we recommend that you **just** complete the GST return online. When the system asks if you are also paying provisional tax please select the "No" option. The form can be unclear and the provisional tax option on this form is only for those paying provisional tax on the ratio method. You will know if this applies to you.

So our recommendation is that you just complete the GST return online, make payment for the GST, then make a **separate** payment for the provisional tax. Provisional tax payments don't need a separate letter to IRD: if paying by internet banking you will be asked for the IRD number, the tax type, eg income tax and the year, 2010.

Several clients have tried making one payment but the one payment ends up in GST at IRD, appears as overpaid and is refunded. This can then lead to penalty charges for late payment of the provisional tax.

Therefore we recommend that you make separate payments for GST and provisional income tax.

## Update - IRD activity on LAQCs

For several years IRD has advised against an individual selling their home to a company set up as a loss attributing qualifying company (LAQC), living in it, paying rent and claiming all the costs against the rental income. The resulting loss has then been offset against salaried income resulting in a tax refund at year end.

We have consistently advised against this practice as it is a private activity. IRD has recently taken its first test case to the courts on the basis that the action is tax avoidance, Case Z20. The court agreed.

In this case the owner had claimed $71,000 in losses over 4 years and offset them against their other income. If the taxpayer was on a 39% tax rate then they would have had to pay back tax of $27,690. Normally penalties and interest would have been added but in this case only the interest was charged. This could have resulted in a tax bill of more than $30,000.

Given IRD's success in this case it is likely that further, similar, cases will be pursued in the courts.

Remember then that you cannot sell your own home to an LAQC, continue to live in it, pay rent and claim expenses and then offset any resulting loss against your other income to receive a tax benefit. This is tax avoidance.

## Transfer of Australian Super Funds

Under a bill currently before Parliament, New Zealanders will be able to transfer their funds in certain Australian Superannuation Schemes to New Zealand's KiwiSaver if they have moved permanently back to New Zealand.

Under the proposed changes New Zealanders moving permanently to Australia will not be able to cash up their KiwiSaver savings but will be able to transfer them to an Australian Scheme. These contributions include their own contributions, employer and Government contributions and any member tax credits.

New Zealanders emigrating to another country will still be able to cash up their KiwiSaver retirement savings.

As Australians can withdraw their retirement savings at age 60 New Zealanders will be able to withdraw their Australian contributions from KiwiSaver at age 60. However New Zealanders moving to Australia and transferring their savings to an Australian Scheme won't be able to withdraw those savings till age 65.

Savings transferred from Australia to New Zealand can result in taxable income but the changes will ensure that there are no entry or exit taxes on these transactions.

The proposed changes are expected to come into effect later in 2010.

## Children and KiwiSaver

Under other changes proposed in tax legislation before Parliament only legal guardians will be able to sign up children under 16 to KiwiSaver Schemes and 16 and 17 year olds will have to sign up jointly with a legal guardian giving permission. Those without a legal guardian will have to sign a form giving permission.

The changes are designed to stop family members signing up younger family members to KiwiSaver so that they can receive the $1,000 kick-start. These children will then be "locked in" to KiwiSaver and as soon as they start working, KiwSaver contributions will be deducted from their earnings even though they may not want to contribute.

This change is likely to take effect around July 2010.

## Personal Budgeting Tools

Look out for the new range of personal budgeting tools either available or being developed.

ASB has Track My Spending, BNZ has Xero Personal and Kiwibank has Heaps – these tend to be free to customers. PocketSmith operates an online tool that isn't bank specific and provides a range of low cost options from free to $4 a week.

These tools essentially enable you to quickly categorise bank transactions so you can use that information to better understand where you are spending your money personally. You can then use the other tools provided to set up budgets etc.

## Investments and The Tax Working Group Conference

I recently attended the Tax Working Group public conference at Victoria University. It was a full day event and gave an update on the group's current thinking and likely recommendations to the Government.

Bill English opened the conference and made it quite clear that the Government would only consider recommendations that were equitable, revenue neutral and would get broad political support. He also noted the Government wanted to align the top personal, company and trust tax rates at 30%. This rules out radical reform.

The tax working group presented an number of packages of changes that could meet those aims and included options with a capital gains tax, a land tax (similar to land rates but levied by the central government), increasing GST to 15%, removing depreciation allowances for rental properties and/or applying a risk free rate of return to calculate tax for rental properties.

Peter Dunne noted in his closing address that the Government was looking to implement something before the next election but it didn't need to be the complete solution, it may just be a few steps on a long journey.

**So what to expect?** Not a capital gains tax (political suicide), possibly an increase in GST to 15% (difficult but do-able), no land tax (too radical), and an alignment of the top personal, trust, and company tax rates at 27% or 30%. However if as expected the Australians drop their company tax rate to 25% we will need to do something similar which would result in our company tax rate being lower than our personal and trust tax rates.

One thing that everyone seemed to agree on (except property investors in the audience) was that rental property owners don't pay enough tax and something had to be done to remedy this. The tax working group was not keen on ring fencing losses (too easy for accountants to circumvent it) but did like the idea of removing deductions for depreciation. The tax working group also proposed using a risk free rate of return method that calculates taxable income based on a percentage of the equity in the property – in this case rental income would not be taxable and expenses and depreciation would not be deductible. This is covered in some detail in the presentation by Arthur Grimes.

The most likely outcome for rental property owners is that depreciation allowances will be removed.

Conference presentations can be viewed here http://www.victoria.ac.nz/sacl/cagtr/twg/programme-slides.aspx.

## Public Holiday Rules from DOL

If you are an employer it is important to know how to manage staff holiday and leave entitlements over the upcoming Christmas period.

To help you understand annual leave, closedowns, and public holidays (including transfer rules for Boxing Day and 2 January) the Department of Labour has a range of helpful information and tools to assist. To find out more visit www.ers.dol.govt.nz/holidays.

## What can we do for you?

While we provide general accounting and tax services there are a range of other services we provide which you may not have been aware of (or you may have forgotten about!).

So here's a brief outline of some of the other things we can do for you so you can concentrate on running your business:

- Business plans including establishing KPIs
- Business valuations
- Business needs analysis – this questionnaire delves into what you are looking for from your business and leads to decisions about where to go next
- Business development to increase cashflow and profit
- Review of structures to minimize taxes
- Business health checks – what do the figures really mean? What are your risks (back-ups, illness, theft, systems failings, reliance on one client/ product etc) and how are these being managed?
- Cashflow projections and budgeting – including for the bank
- Succession planning
- Filing annual returns to the Companies Office and Companies Office updates eg changing shareholder details, share transfers, updating Qualifying Company registration etc
- Trust gifting documentation
- Monthly review of your operations and discussion with you
- Company set ups, LAQ registration
- For Xero clients – GST returns (often not cost effective for clients not using Xero)
- Xero training.

Plus we are associated with PWC for specialist tax services.

Please call to discuss any of the above you may be interested in. If the benefit won't outweigh the cost we won't recommend doing anything.

And remember our website provides lots of useful information – www.dowsemurray.co.nz

## Tech Corner

I was asked the other day what the terms software as a service and cloud computing meant.

**Software as a Service (SaaS)** is where the application is hosted by the vendor or a third party and made available over the internet to the end users, usually via a web browser (Internet Explorer, Firefox etc;). No software is installed on your PC and you don't have to worry about upgrades or backups – they are all taken care of for you. Rather than buying the application you pay a subscription fee to use it. Some SAAS applications are free to use.

Examples of subscription SaaS applications are iPayroll and Xero, examples of free SaaS applications are Gmail and Facebook. As Internet speeds increase and mobile access becomes prevalent SaaS applications will become increasingly popular – you just have look at what your children are using the PC for to see that!

**Cloud Computing** is using web applications and/or servers accessed over the Internet that you pay to access, rather than software and hardware you buy and install yourself. A SaaS application is an example of cloud computing. Alternatively if you have developed an in house application you could rent capacity on say Amazon's cloud and run it there rather than buying your own servers. The big attraction of cloud computing is that you pay for what you use and someone else buys, installs and supports the underlying hardware and software.

## Christmas

Happy Christmas to everyone. We hope you have a safe and enjoyable Christmas break.

As you know we never close! You can always contact us by email or phone.