Baubre Murray
Chartered Accountant

Newsletter

No. 5 March 2003

Intro

It's nearly the end of the financial year and income tax payments are due in March and April as well as GST at the end of April!

I have included a section this time on Qualifying Companies (QCs) and LAQCs – see below. If there are other topics you would like explained, let me know.

Topics in this Newsletter

- Provisional Tax Due 7 March
- Final 2002 Tax Due 7 April
- 2002 Returns
- 2003 Returns
- GST returns on line
- ACC Update
- Qualifying Companies and LAQCs – what are these and do you need them?
- Conference
- Contact details

Provisional Tax

The third and final instalment of 2003 provisional tax is due on Friday 7 March 2003.

IRD no longer sends out reminders so make sure you make your payment on time.

You should know if you have provisional tax to pay and the amount but if you have any queries please call me.

Penalties and interest will be incurred if you don't make the payments on time.

This is also your last chance to estimate your provisional tax for the year if you are using the estimation basis.

Final Tax 2002

to pay, is due 7 April 2003.

2002 Returns

2002 tax returns must be filed with IRD by 31 March 2003. If yours hasn't been done and I haven't contacted you (everyone should have been contacted by now!) or if you know of someone who needs a 2002 return completed, please contact me as soon as possible.

2003 Returns

I complete 2003 tax returns on a "first in first served" basis.

So if you are ready by the first week in April let me know. I have attached a checklist, which you may find useful, to this newsletter.

GST returns on line

Anyone can now complete their GST returns on line. Go to www.ird.govt.nz. There is a direct link from there. You will need your paper return as it has a unique number that has to be keyed on to the electronic return.

Give it a go as it is perfect if you are receiving a refund (it speeds things up) and saves paper and postage!

If you bank with the ANZ, Kiwibank or Westpac you can also pay your tax over the internet. Otherwise send a cheque in the mail as usual.

ACC Update

If you are self-employed ACC started sending out invoices in November and should be finished by May this year. So if you haven't received anything by the end of May it may be worth following it up with ACC as ACC payments are no longer paid through IRD.

Employer invoices were sent in August 2002.

Your final tax payment for 2002, if you have anything

Qualifying Companies (QCs) and LAQCs

Often I am asked about QCs and LAQCs. Both are elections made with IRD on form IR 436 after the company has been registered at the Companies Office. Election can take place at any time after registering a company but if it isn't done in a company's first year of operations QCET (QC Election Tax) may be incurred. QCET involves paying tax on capital profits held in a company, for example, from the sale of assets.

Why become a QC?

Under current Income Tax legislation any payment or distribution from a company is taxable in the hands of the recipient even if it is of a capital nature (unless the company is being wound up). This is despite the fact that we don't have a capital gains tax in NZ!

The QC regime was brought in by IRD in 1993 to recognise that small, closely held companies (often family companies) had no means of distributing capital profits tax free.

Capital profits may arise via, for example, the purchase of a commercial property or office premises, the development of training materials or software, the purchase of residential rental property or a farming activity.

The regime requires that you agree to be personally liable for the company's taxes if unpaid by the company in exchange for being able to pay all capital profits to shareholders tax free.

I would recommend that all small, closely held companies (ie less than 5 shareholders) register as a QC to enable capital profits to be distributed tax free to shareholders.

Even if your business is currently service based and you may work from home or lease premises, your circumstances may change unexpectedly. For example, I know someone who wanted to sell her training materials to one of her clients. This would have resulted in a sizable capital profit but she was looking at having to wind up her company to access the profits tax free. She was reluctant to do this because of the business name and credibility she had established. Operating through a QC would have avoided this problem.

So what is an LAQC?

An LAQC is a Loss Attributing Qualifying Company. The advantage of an LAQC is that it enables you to other personal income. In this regard it is similar to a partnership.

You may wish to register as an LAQC if
there is a likelihood of the business making losses, even if only for the first few years. The company may start off as an LAQC, making losses which are offset against all shareholders' personal incomes.

Later years may see business surpluses being available for distribution even though the company is still an LAQC. So you don't need to continually make losses to be an LAQC. Obvious businesses to be registered as QCs and LAQCs are forestry and residential rental property where these are making losses for the first years.

Other businesses which have registered as LAQCs include investment and software development businesses, often involving payments of significant management fees to directors. Some have faced difficulties recently as IRD has determined that the businesses were registered as LAQCs purely to avoid tax and that some payments were circular in nature rather than genuine business or commercial transactions. The difference between these companies and those described earlier eg forestry and property is that these other businesses may have only incurred losses because of the management fees paid or because it was not clear that profits would eventuate.

So if you have a residential rental property, forestry or a new business that will make losses for a few years before making profits, and if you have income from other sources eg salary then register the company as an LAQC.

Conference

I am going to the Institute of Chartered Accountants Public Practitioners Annual Conference in Christchurch from 13 to 15 March so I'm hoping to come back with lots of useful ideas!

Contact details:

Feel free to contact me as follows:

Phone: 971 1500 or 025 389 972

Email: Baubre@baubremurray.co.nz

offset the company losses for the year against your	