

## Instalment arrangements for payment of tax debt

The IRD have recently released a standard Practice Statement that sets out the new procedures for dealing with overdue tax debt. The following is a summary of the key points:

The Commissioner must not recover tax debt from a taxpayer, being a natural person if recovery would place that person in serious hardship.

A taxpayer is allowed to apply for financial relief by requesting to enter into an instalment arrangement with the Commissioner.

The Commissioner will negotiate with the taxpayer to determine what method of payment best suits the taxpayer's financial situation, and will maximise recovery of the tax debt from the taxpayer.

Applications for relief by way of an instalment arrangement may be made by telephone or in writing.

The Commissioner may require relevant information to be provided in support of the application. This may include financial information and the filing of outstanding returns. This information must be provided within 20 working days or a longer period allowed by the Commissioner.

Upon receipt of a taxpayer's application for an instalment arrangement the Commissioner may accept the request, seek further information from the taxpayer, make a counter-offer or decline the request.

The Commissioner's authority to enter into instalment arrangements for the payment of tax debt is further qualified by the requirement:

- To maximise the recovery of tax debt from a taxpayer, but not if:
  - Recovery would represent an inefficient use of the Commissioner's resources, or
  - A taxpayer, being a natural person, would be placed in serious hardship by enforcement of the debt.
- That, if the Commissioner can recover more through an instalment arrangement than from bankruptcy or liquidation action, the Commissioner is required to enter into an instalment arrangement.

## TAX CALENDAR

May 7

2nd instalment of 2006 provisional tax  
(September balance date)

June 7

2nd instalment of 2006 provisional tax  
(October balance date)

3rd instalment of 2006 provisional tax  
(June balance date)

May 31

FBT quarterly & annual return date

RWT on intact reconciliation

## Quote of the Month

When a person with money meets a person with experience, the person with experience gains money, and the person with money gains experience.

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## CLIENT NEWSTALK

April/May 2006

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### 9 - 5 Car Lease

Legislation was recently passed that has effectively removed the tax benefits from leasing vehicles under '9-5' or 'FLIP' leases from 1 April 2006. If you have a 9-5 or FLIP lease currently in place, please contact us to discuss your options for terminating the lease.

On the bright side, the percentage used to calculate the value of fringe benefits has been decreased. As a general rule, the value of the annual fringe benefit upon which Fringe Benefit Tax is calculated has

dropped from 24% (6% per quarter) to 20% of the cost price of the vehicle (incl gst) or 36% of the opening tax depreciated value of the vehicle (incl gst).

### Interest Free Student Loans

FROM 1 April 2006, former students are entitled to a write-off of all their student-loan interest, subject to the following conditions:

1. Initially, they must stay in New Zealand for 183 consecutive days. The write-off is then backdated to the first day.
2. They may go overseas during this time on the condition they are not away for more than 31 days within this period.
3. Once borrowers have qualified for the write-off, they remain entitled to it unless they become absent from the country (see below). This means your daughter could take five months off and go to Europe and still not lose her entitlement to write-off. However, when she becomes aware she will be absent from New Zealand for more than three months, she must write and tell Inland Revenue as soon as possible.
4. If your daughter was away from New Zealand for 184 or more consecutive days, she would become absent and lose her loan write-off from the day she left.
5. The 184 days rule can't be avoided by popping back here for a few days. She would need to be back for more than 31 days out of the 184 days.
6. An absentee can re-qualify by complying with condition 1 (above) again. If your daughter went away for two years, she would cease to get the write-off during this time. However, on returning, she could serve her 183 days and get her rights back. She would pay interest on the loan for the two years she was away.
7. Part days in New Zealand are treated as being present for the whole day. The day your daughter leaves and the day she returns count as being in New Zealand.

### Exemptions are available:

1. She is working overseas for the New Zealand Government.
2. She is working for a "charity" on no pay, or very little, for a maximum of 24 months.
3. She is an accompanying a life partner on conditions set out in the Act, including proof of the relationship.
4. She experiences an unexpected delay as specified in the Act.
5. She has an unplanned personal absence as specified in the Act.
6. She is employed or is in a business requiring her to be overseas on conditions set out in the Act. These are designed to ensure she is earning income, which will be taxed here.
7. She is absent for post-graduate study on provision of specified information.

### Amnesty for those who have skipped and not made loan payments

Non resident borrowers, or someone on their behalf, can apply to have penalties cancelled provided:

- They are non-resident at 31 March 2006.
- They meet all their obligations under the Act for two years from the date IRD receives their application.
- Their application is received by IRD by 31 March 2007.

### Wendy wants greater wealth

WENDY rang us and asked "can you tell me how I can make my business more profitable?" Some of the points we discussed might also help you.

1. Make a long-term business plan. Describe your business as you want it to be in, say five years.
2. Prepare a plan for the coming year. The thinking, which goes into the plan, is the most important part. Many firms take their staff away from the premises to ensure there are no interruptions.
3. Involve your team in your planning. It is more likely goals will be achieved and the team will contribute ideas.

### Business promotion

- To existing clients. Are you catering for all their needs? Make a list of all possible products and services you can offer and develop ways to tell customers they are available.
- To new clients. Work out all ways to promote the business and choose the best to implement.

- Make sure you put follow-up procedures in place to ensure potential new clients do not slip through the net. For example, ring a new client to find out their reaction to your service.
- How can you make your business different from all others? A hairdressing salon facing a price war advertised that it was the salon, which fixes up the cheap hair-dos.
- Ensure all staff make as many add-on sales as possible. Measure and provide rewards for success.
- Set targets, which require a bit of a stretch to achieve.

### Cost Control

- Count the cost of materials used in your business. Measure the percentage to sale of services. Set a target to control use.
- If you employ staff, measure their wages as a percentage of their sales. Set a target. In Wendy's business, those who work for themselves should have a target for their financial contributions to her firm.
- Look at each category of expense. Can savings be made?

### Risk Management

- Review insurances.
- How can your firm keep up with industry developments?
- Analyse risks to the business and implement whatever steps you can to protect the business against them. For example, what if a key person takes parental leave?

### Budgets

When you have completed your plan, prepare budgets to see what the figures should look like as a result of your plans. Tweak as needed.

### Financial Reporting Act

Any director of a company with 25% or more foreign shareholding is required to ensure that the annual financial statements are audited and filed with the Companies Office. There have been a couple of cases recently where each director was personally fined \$7,000 for non-compliance with the filing requirements.

### Personal Property Security Act

The personal property securities legislation continues to provide us with interesting questions and issues. Suppliers should note that:

1. Registration, on its own, does not establish a valid security interest. Registration on the PPSR is only notice of a security interest. It does not create the interest. There must also be an enforceable security agreement.
2. What constitutes an enforceable security agreement? Are terms of trade printed on the back of invoices enough? Probably not.
3. How detailed does the description of the collateral in the written security agreement have to be?

The Personal Property Securities Act (Section 36) says that the written security agreement must contain "an adequate description of the collateral by item or kind that enables the collateral to be identified".

A general description is probably sufficient, as the description does not operate as the sole way to identify the supplier's goods. As the agreement is not registered other creditors are not reliant on it. The description need only be consistent with the goods.

*(This article courtesy insolvency specialists Meltzer Mason Heath)*

### GST on rental pending development

1. What is required to be returned for GST purposes when renting out a residential development property pending sale? The Court Appeal in the Lundy case thought a fair apportionment of the revenue costs would be 25% exempt and 75% taxable, based on the dual-purpose test. The capital portion requires the depreciation adjustment on the building, only. The reason for this is the building is used for the exempt supply and the land for the taxable supply.
2. What can be claimed back when the property is sold/applied fully to the taxable activity?
  - All the capital use adjustment on building because it is assumed the building has not gone down in value.
  - When you sell you might get tenants to vacate, early. Revenue costs from this time are now fully applicable to the taxable activity. You may have paid some expense in

advance e.g. Insurance. Adjust for part of this cost being now applied to the taxable activity, only. i.e. Insurance paid 9 months in advance. You have applied 25% to rental. Claim this back.

The above is our comment on the situation. IRD may produce a policy statement with its own views.

### Performance bonus and profit share

Some small business owners agree to share profits with some of their staff. Such arrangements are often verbal. IRD has raised a question about the timing of deductibility. It says, if there is no written agreement and a clear way to calculate the bonus arising before the year ends, there is no evidence to support the performance pay as being a binding contract and hence a creditor at balance date. The department has been adding back these amounts to income.

If you share profits with employees you should commit the agreement to writing and be specific on how the amount is calculated.

**Reminder:** The payments still have to be made within 63 days of balance date if they are to be accrued.

### Little Snippets

#### • Financial Reporting Relaxation Signalled:

The Minister of Commerce has indicated a relaxation of the rules, which will allow more companies to be exempted from reporting requirements. Especially welcome will be the new ability of certain overseas companies to, for the first time, access an exemption from reporting requirements.

• **Consumer Price Index:** For the year ended December 2005 the CPI is 3.2%. For more details [www.statistics.govt.nz](http://www.statistics.govt.nz)

• **Labour Costs Index:** In the same period the LCI rose 3.0%. This is the biggest annual movement since the year to December 1990 and was caused by increased contributions from the health and community services; transport, storage and communications; and wholesale trade industry groups.

• **Fourth week of annual leave:** All employees will be entitled to a minimum of 4 weeks annual leave on their next anniversary date falling on or after 1 April 2007. It would be prudent to now start accruing for this leave.