

Change to tax payment dates

GST is now payable on the 28th of the month instead of the end of the month. If the 28th falls at a weekend or public holiday, including Anniversary Day, the GST can be paid and the return sent in, on the next working day.

From 1 April 2008, income tax dates will be aligned with GST dates. Provisional tax will become payable six times a year. To achieve this, income tax and GST period end dates will have to be aligned. Where they are not, the taxpayer will have to put in an extra GST return to achieve this or change their accounting year end by a month, subject to the Inland Revenue Department approval.

KGA Announcements

We are very pleased to announce that Carien Louw has been appointed an Associate in the practice. Carien has been with us now for over 8 years and manages a significant portfolio of clients. Her appointment as an Associate is a reflection of her senior standing and expertise in KGA and we welcome her promotion.

Gwynyth Carr has been appointed Practice Manager. With continuing growth in the practice we are pleased that Gwynyth has accepted this new position in KGA. Gwynyth joins us from another accounting practice where she held a similar position.

Deepak Lala has joined us recently as a Senior Business Manager from another accounting firm where he has held a similar position for the past 11 years. Deepak replaced John Mercer, who has moved on to other things and we are pleased to welcome Deepak to KGA and wish John all the best.

Company Tax Rates to be Reduced

In May the Government introduced a number of transitional measures in its Tax Bill as a consequence of the Budget announcement of a reduction in the company tax rate to 30% from the present 33%.

The changes introduce a "transitional period" commencing from the beginning of a company's 2009 tax year (i.e. ending on 31 March 2009 or equivalent balance date) through to 31 March 2010. During the transitional period a company can pay or declare dividends with imputation credits attached at the 33% tax rate to the extent that imputation credits are available. As an anti-avoidance mechanism though the Bill provides that any dividends paid during the

transitional period to a corporate shareholder can only have imputation credits attached at the 30% rate - this will result in the permanent loss of 3% imputation credits.

These measures will also likely result in the need to maintain two imputation credit accounts - one at the 33% rate and one at the 30% rate.

The issues that then arise, that we will need to address with all corporate clients, is at what stage are retained earnings distributed to shareholders with 33% imputation credits attached. If before 31 March 2010 individual shareholders will incur an additional 6% personal tax liability and if after that date an additional 9% personal tax liability. For companies with corporate shareholders this decision will have to be made before 31 March 2008 otherwise the imputation credits are restricted to 30%. While such dividends may not then be onward distributed to the ultimate shareholders (either a family trust or individuals) it will nevertheless create a contingent liability at the 9% level rather than the 6% level.

Of course it may well be that consequent upon a National led coalition government that the rates of tax for individual and trust taxpayers are also reduced and thus the conundrums that arise from the anti-avoidance measures outlined above may become irrelevant.

Quote of the Month

An expert is a person who has made all the mistakes that can be made in a very narrow field.

- Niels Bohn

TAX CALENDAR

October 7

3rd instalment of provisional Tax
(October balance date)

1st instalment of provisional tax
(June balance date)

October 29

Six monthly GST payers pay GST for
period ending 30 September by this date.

November 7

2nd instalment of provisional tax
(March balance dates)

Terminal tax
(October balance dates)

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CLIENT NEWSTALK

October 2007

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Tax Calendar

GST on serviced Apartments and B & B's

The IRD has issued an exposure draft setting out how it considers GST applies to holiday homes, home-stays, farm-stays and serviced apartments.

The issue is whether the supplies of accommodation are exempt for GST purposes as supplies of accommodation in a dwelling, or taxable as supplies of accommodation in a commercial dwelling.

In 1996 the IRD issued a policy statement that concluded that someone supplying accommodation in a home-stay was making taxable supplies (i.e. that the home-stay was a commercial dwelling). In their recent statement, IRD say that "in general, home-stays and farm-stays will not usually be commercial dwellings". Accordingly, the supplies of accommodation will be exempt.

With holiday homes they say that the supply of accommodation will also usually be exempt. The situation is not so clear with serviced apartments where there is a wide variation in scale, services provided, level of control and commerciality. However, for all four types of accommodation the IRD points out that there is still a possibility that, in certain circumstances, the dwelling could be treated as a "commercial dwelling". The exposure draft looks extensively at what exactly are the characteristics of a commercial dwelling.

The new interpretation could mean changes are necessary for people who have been treating their supplies as taxable when they should have been exempt. In order to minimise the impact on these people, the Government will change the legislation so that they will not be adversely affected. This will allow them to maintain the status quo until they deregister for GST.

Taxation of Minors

A few years ago the Government decided to combat the tax advantage gained by the use of trusts to split income to children who were taxed at a lower rate. Income could be distributed to children where it was taxed at a lower marginal rate. The Minor Beneficiary rule, which was introduced from the 2001-2002 income year, required income distributions to a minor of more than a \$1,000 to be taxed at the trustees' rate.

Practically speaking, once the rule came into effect, the practice of making distributions of \$38,000 per year to minors became a thing of the past. Distributions to minors very quickly dropped to \$1,000 per year. As is often the case with new rules, the basics are remembered but some of the detail is forgotten. So, a review of the Minor Beneficiary rule would be useful to clarify the point that it does not apply in all cases.

A "minor" is defined as a New Zealand resident under the age of 16 at the Trust's balance date. A distribution made to a minor is not included in the minor's income tax return. The distribution is declared in the Trust's income tax return and taxed along with the Trustees' income.

Disclaimer

The information contained within this newsletter is of a general nature only and readers are advised that even minor differences in factual circumstances may result in significantly different tax consequences. This newsletter is not intended to replace specific tax advice. As always, specific advice should be obtained for the particular factual circumstances. We accept no liability for persons relying upon information contained within this newsletter.

Some Trusts will not be subject to the minor beneficiary rules depending on the source of the settlements that have been made on the Trust.

Broadly speaking, a distribution from a Trust is exempt from the rules if all settlements on the Trust are of the following types.

- Settlements that are not made by relatives or nominees of relatives;
- Settlements that are made under a will or intestacy;
- Settlements required by a Court Order or made under a Domestic Protection Order.

It was recognised by Government that inevitably, many trusts will have settlements, which are subject to the rules. To simplify the treatment of these "mixed" settlements, some minimal thresholds have been set to exclude mixed trusts from the rules when:

- Non-exempt settlements of property do not exceed \$5,000 in total at the trust's year end;
- Loans on which no interest is charged to not exceed \$1,000 in total on any day of the trust's income year.

Although the Minor Beneficiary rules have been around for a number of years, there is still some confusion about how they work.

The 2007 Budget

The Director of Government Relations at the NZ Institute of Chartered Accountants had the following to say about the budget

Themes

Michael Cullen has identified a few themes driving this year's Budget. They include savings and investment, economic transformation and correcting imbalances. These are all good and worthy themes. However, there are others:

Policy on the hoof: It's hard not to get the impression that the bulk of the Budget policy was written in the minister's office, working into the small hours with a few select advisors in the months leading up to delivery day. There are just too many contradictions: Is the Government encouraging home ownership (grants to new home owners) or trying to take the steam out of the economy (high tax take recycled into KiwiSaver)? And the changes to recently announced policy are just too numerous over the past 18 months the *Journal* has published various articles on what Chartered Accountants need to know with respect to KiwiSaver all different!

A return to the past: For those who haven't pondered it, the dominant force in Government policymaking is not evolutionary in nature, but cyclical. This Budget continues the trend of returning to the policies in vogue in the 1970's and early 1980's. Increasingly the Government is targeting activity regarded by earlier Governments as better left to the market, including subsidising product development and market

penetration. Similarly, we are seeing the erosion of a previously very efficient and effective tax system with a plethora of exemptions and tax credits as the Government reverts to picking winners and creating privilege for select sectors. Even the current pay-as-you-go approach to superannuation (KiwiSaver) was rolled out by Bill Rowling in the early 1970's, before it was trumped by Robert Muldoon with the existing national superannuation scheme. Our hope is that we aren't forced to again endure the policies of the mid to late 1980's.

KiwiSaver for Business Owners

MAJOR changes to the original KiwiSaver scheme were announced in the budget, which came out after our last newsletter. This time we deal mostly with KiwiSaver from the business owner's point of view. Articles on KiwiSaver are spread throughout this newsletter. We start here by suggesting some of the things you might wish to consider before you decide whether to join a KiwiSaver scheme.

When will your scheme mature?

KiwiSaver matures when you reach the age of qualifying for National Superannuation. Allowing for an improvement in the life expectancy and the baby boomer problem, is it likely you will still collect the pension at age 65? Will the conditions for getting National Super be changed? It might be related to whether you are properly retired. The ratio of working to non-working adults is declining. This problem has to be addressed. Do not assume your scheme will mature when you reach the age of 65.

What will you get at the end?

You will receive a lump sum you can invest to generate income for your old age. You might be able to reinvest it into a pension for life. How much might you have, in real terms, after adjusting for inflation? Talk to people who have been in savings schemes for many years and hear what they say.

Getting to the end

If your business is a company, you could put yourself on to the PAYE system, just like any staff you might employ. If you want to switch from being a provisional tax-payer to having PAYE deductions, talk to us first, because there are some important tax issues to consider.

Employees are going to receive a compulsory subsidy from their employers of 1 percent of gross salary, starting from 1 April 2008, rising by 1 percent annually until the total is 4 percent. This is a tax-deductible cost for the employer AND the employees do not pay tax on this income. In addition, employers will get a subsidy of up to \$1,040 per year for each employee. If you make yourself a PAYE employee of your company, you will get the benefit of this.

If you start saving before 1 April 2008, you could start with only 2 percent contributions from yourself and 2 percent from your company. This will increase annually at 31 March so it comes into line with the required 4 percent employee contribution. The company 2 percent

counts as an employee contribution for claiming the \$20 per week government subsidy, until 31 March 2008. See "How to join KS" on page 4 for joining KiwiSaver if your income is not subject to PAYE deductions.

Will the subsidies last?

The subsidies will become unnecessary if the scheme becomes compulsory, as some people think it will.

What are the costs of KiwiSaver?

The smaller the fees, the less the fund provider might be willing to do to earn them.

KiwiSaver might be expensive to run because of accounting for so many small payments. Those on PAYE have their savings paid to IRD, who then pass them on to the fund managers. What happens if Ivy discovers one of her payments has gone missing? Is it the funds mistake, Ivy's mistake or IRD's? Who will sort it out and at what cost?

In addition to fees, fund managers might levy other charges, which might not be evident to the investor.

Changing funds

Will there be an exit fee to switch to another scheme? Many funds are not charging exit fees at the moment.

Some risks associated with the scheme

KIWISAVER has its good and bad aspects. In this section we show you some of the risks:

- Your KiwiSaver contributions are not protected against your creditors. If you go bankrupt, you will lose your KiwiSaver contributions.
- Some KiwiSaver schemes might fail. The Government does not insure you against this. The economy, with its full employment, will not always be as good as it is today.
- KiwiSaver providers might sell their businesses, which could lead to changes in investment strategies. Don't invest and forget.
- Expect many new governments during the years you are in the scheme, and hence many rule changes.
- Fees might not stay at the same level as they are today. The Government Actuary controls KiwiSaver fees, but they might increase if the cost of running the schemes proves higher than anticipated.
- Staff with good skills are sought-after and move on. Keep an eye on your fund managers.
- You do not join the scheme and a future government abolishes or severely limits National Superannuation. You wish, as a result, you had joined.
- You do not join the scheme and could have collected the subsidies, when you had the chance and then it becomes compulsory and the subsidies are abolished. You wish you had joined earlier.

Administration new employees

WHEN a new employee joins your staff, you must:

- Give them a KiwiSaver kit within seven days;
- Deduct 4 percent KiwiSaver contributions from the very first pay packet;

- Keep records of KiwiSaver deductions for at least years after the employee has left your employment;

Employees can only opt out by completing a KS10 opt out form. They can complete this form on line. If an employee opts out, IRD will refund all contributions.

Trap: Any new employee providing you with an opt out form within the first fortnight of employment has not opted out. Opt out must be between the beginning of the third week of employment and the end of the eighth week. If you receive a late application to opt out, send it to the IRD and do not act on it.

Little Snippets

- **Keep copies of GST returns**
IRD is providing only one copy of every GST return. Be sure to keep a copy of any return you send to the IRD. It may be needed for preparation of your annual accounts.

- **Airpoints and Taxation**
Airpoints generated by shareholder/employees of a company, **using their private airpoint accounts**, are not taxable. These people can pay for business expenses, get reimbursed by their companies and keep the resulting airpoints tax free.

Can you pay for business travel using personal airpoints? The answer is you can but if you want to be paid for the value of the travel, you will have to pay tax on the money you get. You would be better to save your airpoints for holidays.

Airpoints generated by your company and used privately form part of taxable income. Hold your airpoints account in your own name.

- **How to join KiwiSaver**
To join a KiwiSaver scheme if your income is not subject to PAYE tax deductions, approach any of the KiwiSaver providers. Each has its own rules. You do not need to pay them 4 percent of your income. You can nominate any amount, which fits within the provider's rules. You get the \$1,000 kick-start and the \$20 per week dollar for dollar subsidy. You cannot get an employer contribution.

- **Should you join KiwiSaver?**
On balance, we believe the incentives are such that KiwiSaver should be considered. Having some of your retirement savings locked away is prudent, and if the government is going to provide incentives to do so, all the better.