Tax-e-mail

DON'T LET THE IRD NAIL YOU
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KiwiSaver - 5 key features of changes

- Additional KiwiSaver contribution rates of 6% and 10%
- Maximum contribution holiday to be reduced to one year
- Contributions holiday to be called "savings suspension"
- Over 65-year-olds to be allowed to opt in to KiwiSaver
- Removing the lock in period, which currently affects members who join between the ages of 60 and 65. Applies from 1 July 2019. The other four bullet points apply from 1 April 2019.The lock in period is to be removed because the kickstart $1000 contribution has gone. Those who have joined KiwiSaver over the age of 60, will remain locked in.

Binding rulings for small businesses

The current tax **Bill** proposes to make it easier for small businesses to get binding rulings. Smallness is measured by gross income below $5 million and a question involving tax of less than $1 million. These businesses will be able to apply for an abbreviated ruling. There will be no need to state the tax laws or the proposition of law for which the ruling is sought. The application fee of $280 and the Inland Revenue hourly charge out rate of $140 will be reduced for the smaller businesses. Unfortunately, the lower amounts have not yet been stated.
The current binding rulings system is also to be made easier. This includes allowing more factual questions, the ability for IRD to rule on financial arrangements and on a taxpayer's purpose in certain circumstances. The proposed amendment will include a list of topics Inland Revenue will be able to rule on.

Correcting errors in future tax returns

The current tax bill proposes 2 thresholds for correcting past year errors in the current year tax return. They are up to $10,000 or 2% of the taxpayers taxable income or GST output tax liability, whichever is the smaller. The current $1000 threshold will be retained.

Entity for owning rental property

The availability of losses for setting off against other income is most likely going to disappear from 1 April 2019. Therefore, when advising a client about a suitable vehicle for owning rental property, a family trust now becomes a viable option.

Noise remediation

The law is to be amended, effective for the 2019 tax year and subsequent years, to make this expenditure tax-deductible on the same basis as other pollution remediation expenditure.

Modernising individual's income tax

The Taxation (Annual Rates for 2018–19, Modernising Tax Administration, and Remedial Matters) Bill has the following purposes:

- IRD will proactively help individuals to use the most appropriate tax rates and codes
- there will be tailored tax codes to improve the way secondary sources of income and irregular patterns of income earning are taxed
- year-end tax obligations for individuals will be simplified
- tax refunds and amounts to pay will become automated
- the administration of donation tax credits is to be improved.

The proposed changes will apply from 1 April 2019 and the proposed year end processes will be applied for the year ended 31 March 2019.
PTSs and IR3s will be replaced by pre-populated accounts showing all income information held by Inland Revenue. The taxpayer will have to do nothing.
There will be three groups of taxpayers:
Group A – IRD judges it has all the information it needs assessments and refunds will be issued automatically.
Group B – based on information held by IRD, the taxpayer will be requested to provide additional information or confirm income information held by IRD is correct.
Group C – the individual has no or very little reportable income. He/she will then be required to provide income information similar to the IR 3.

When does GST registration occur?

If registration is required it is effective from the date the person becomes liable to be registered. The Commissioner has discretion to make a registration effective from a later date, if the circumstances make it equitable to do so. This discretion is rarely applied.
For voluntary GST registration, the date of application to be registered is usually the commencement date. However, the Commissioner may agree to an earlier date, such as the first of the month preceding the date of application, provided the applicant has records and systems in place to accurately establish the correct tax payable and it does not impact on any other person.
The Commissioner is open to agreeing to retrospective registration in exceptional circumstances, such as illness, absence overseas and personal tragedy. There are other circumstances such as a genuine belief the activity was exempt from GST, the taxpayer believed GST registration was automatic and so on.
Sections 21 to 24 of the SPS discuss land transactions where purchases status changes. SPS 18/03 is worth keeping handy.

Supplement

Flat being operated as mixed use asset

A client is using a downstairs flat, which is part of his/her home, as a mixed use asset. Do the MUA rules apply? Look at the asset as being the whole house not just the flat. The house is occupied the whole year by the owner. The MUA rules do not apply to the flat portion of the house.

Deemed dividends

Deemed dividends arise when there is a transfer of value from a company to a person resulting from the shareholding relationship. Excessive remuneration is an example. However, generally, where the shareholder is also an employee, you are likely to have an FBT situation as opposed to a deemed dividend. The FBT rules take precedence.
Where the transfer of value is between companies which are part of a wholly-owned group, no deemed dividend can arise.

What are the major issues when cancelling LTC status?

You have to carry out a notional winding up. This means any depreciation recoverable will be taken into account. You should also note shareholder current accounts need to be in proportion to the shareholdings, if there are negative retained earnings. When you have associated persons with a joint current account, the proportion of the joint account is treated as being the same as the shareholdings. Watch out if a trust owns shares as you may have the debts owing to shareholders not being in proportion to the shareholding.
There is no need to declare dividends. Just mark the retained earnings at the time of change over as being already tax paid. Likewise, there is no need to write up goodwill.

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