Tax-e-mail

DON'T LET THE IRD NAIL YOU
Published by The Small Business Institute Limited ISSUE 2105

Imputation credits and Covid 19

COV 21/02 deals with the situation where there is a debit balance in the imputation credit account at 31 March 2020. The taxpayer would have been able to form an imputation group but failed to give the Commissioner the notice of election by the required date (because of Covid 19) to allow credits in a related company to be used to reduce the debit balance. The determination sets out the conditions required for an extension of time for making the application for the year ended 31 March 2020, to 30 September 2021.

Feasibility expenditure

New rules – Immediate write off of feasibility expenditure $10,000 or less. This is totally expenditure relating to completing, creating or acquiring what would be depreciable property

Where the expenditure is more than $10,000 and the depreciable property is subsequently abandoned you have to spread the expenditure over five years.

If the project is later completed within seven years of the last year of the spread, there is a clawback so that all the expenditure has to be treated as an asset. The resulting income arises in the year of completion, creation or acquisition.

National Average Market Values of Specified Livestock

NAMV 2021 has been issued. It sets out the national average market value of specified livestock for the 2021 year.

Cryptocurrencies

Inland Revenue has produced PUB00405, which discusses proposed tax treatment of money received from an "airdrop".

Drought Support

On 28 April 2021 the Minister of Agriculture declared a continuation of drought in various parts of New Zealand. For details of the announcement, click here.

If you click on Discretionary relief, you will find details including extensions of time for making deposits into the income equalisation scheme.

South Island farmers

Inland Revenue has set out assistance available to farmers who have been affected by hailstorms.

Purchase price allocation – business or property

Reminder: from 1 July 2021 the new rules concerning purchase price allocation apply.

Meal expenses for the self-employed

PUB00361 attempts to clarify the tax deductibility of meals costs. It distinguishes between the person who works for him/herself and someone who is an employee of their own company. The shareholder employee is treated the same way as the employee but the self-employed (not operating through a company) is treated differently.

Since meals are normally necessary for sustaining life, the general principle is that the cost of meals are a personal and not a business cost. The self-employed person will only be able to claim a deduction for the cost of a meal in limited circumstances i.e. where specifically due to work, the cost of the meal is more than it would otherwise cost them to eat.

The article also looks closely at the tax deductibility for the employer and whether meals provided to an employee (or shareholder/employee) should be treated as employee income.

The entertainment rules are also covered.

The publication also looks at GST, which follows the income tax rules and at entertainment expenses so it is quite comprehensive. Towards the bottom of the publication, there are a number of worked examples, which will provide useful guidance

Use of Money Interest

From the start of the 2020 income year, if you estimate your final instalment of provisional tax you would be charged UOMI as if the estimate had been for the full year. If you want to pay extra with the third instalment, it is better to make the payment without advising Inland Revenue you are estimating. Estimating at any date now means the person does not qualify for the safe harbour or the interest concessional taxpayer rules. Therefore UOMI will be applied to the short payments on all three provisional payments, instead of just the last payment.

Inflation adjustments have just been announced

DET 19/01 sets the weekly standard cost for household boarding service providers

DET 19/02 sets the daily standard cost for short-stay accommodation.

DET 09/02 sets the standard costs for household services for child care providers

Use of home – square metre rate

OS 19/03 sets the square metre rate for use of home at $44.75 for the 2021 financial year. The figure does not include rates, mortgage interest or rent, which should be added to the claim.

PIE income

These comments assume the taxpayer is a New Zealand resident for tax purposes.

As you know, PIE income may now be included as income in a client's personal tax return, if it has been over taxed and needs to be included if it has been under taxed. What if the PIE makes a loss? The loss is adjusted within the books of the PIE and is not claimed directly by the taxpayer. This is part of the square up process. i.e. if the PIR was incorrect, an individual can have the loss. Any tax paid is also adjusted within the books of the PIE so is not refundable.

What about distributions from a family trust?

If the PIR for a beneficiary is 17.5% and the PIE has paid 28%, you can't get the overpaid tax back in the beneficiary's tax rate unless the family trust also happens to be a PIE, which is unlikely.

There is also an issue with foreign tax credits (FTC). You can transfer them to the beneficiary but if their inclusion in the beneficiary's tax return would result in them being refunded, you would need to leave them out. Look at the marginal tax rate of the beneficiary to decide whether the inclusion of the FTC would amount to getting a refund of the tax **on that investment**. As you are aware, if there are Imputation credits as well as FTCs you will have to show the FTCs in the area of dividends instead of foreign income. This means Inland Revenue is not automatically aware if the FTC is being incorrectly claimed. You therefore need to watch for this.

What do you do if the fund manager for a family trust has confirmed a PIR of 17½% but the actual tax deducted comes out at something like say 19%? It does happen. Strictly, if the PIE income is distributed to the beneficiary, you should be claiming no more than 17½% tax credit.

We believe foreign tax credits (FTC) can be claimed against tax payable calculated according to the FIF rules. This is because the FIF rules are merely a formula for calculating income but the nature is still income from equity. The process is more complicated if the FTC's are from different countries as you will have to apportion them to the FIF income they relate to make sure there is sufficient equivalent NZ tax on that income. However, if the income calculated according to the FIF rules gives you a nil figure, foreign tax paid cannot be claimed but New Zealand resident withholding tax would be claimable.

Publication IR855 could be useful reference material.

Also note Inland Revenue now requires disclosure of PIE income and the related PIR in the tax return. This information is to be found at key point 36 on the IR3.

Accommodation for isolating – Covid 19

Normally, accommodation provided to an employee becomes taxable income for the employee. However provided the following conditions are met the accommodation provided will be excluded from income of the employee:

The criteria are that the accommodation—

(a) Is provided for the purpose of enabling an employee to isolate due to the risk of the outbreak or spread of COVID-19; and

(b) Would not normally be provided as part of the employee's remuneration package for their role or for a similar role; and

(c) Is not provided in substitution for a greater amount of employment income; and

(d) Is provided to the employee for a period of 3 months or less; and

(e) Is provided between 22 April 2021 and 30 June 2022.

Click here for full details of the regulation.