

Improvements for Small and Medium Sized Enterprises

In December 2007 the Government released a discussion document containing proposals aimed at reducing compliance costs for small and medium-sized enterprises. Two sets of proposals were included. The first looked at increasing various tax thresholds. The second involved changes that require greater pre-implementation work, such as proposals to:

- ★ Introduce a 'de minimus' threshold under which all legal expenses and entertainment expenses will be deductible
- ★ Create a Government database to simplify acquiring information from businesses
- ★ Reduce the time for which business records must be held, and
- ★ Make changes to GST invoicing

Draft legislation introduced in July includes various threshold increases that are likely to take effect from 1 April 2009. The increases have resulted from the submission and discussion document process.



Kiwisaver and Employer Contributions

From 1 April 2008, employers have been required to make compulsory employer contributions to their employee's KiwiSaver scheme if the employee is having KiwiSaver contributions deducted from their salary/wages.

The compulsory contribution is set at 1% of the employee's gross wages and will be phased in to 4% by 2011 at an annual increase of 1%.

Also included in the monthly PAYE summary (IR345) form is a box to claim employer tax credits (ETC) which is equal to the amount contributed by the employer, but limited to \$20.00 per member (of the KiwiSaver scheme) per week. The ETC can be claimed for both compulsory and voluntary employer contributions to complying funds from the first pay day after 1 April 2008.

The ETC is offset against the contributions due and only the net amount is payable to the Inland Revenue Department.

In order to avoid delays and processing errors at the Inland Revenue Department the payroll administrator may want to ensure the following steps are taken:

- ★ Use the correct name and IRD number of each employee on the forms.
- ★ Send the Inland Revenue Department the new employee details (KS 1) form *before* the monthly schedules are sent. The Inland Revenue Department can then set up an account for the employee's contributions first.
- ★ Check that the payments are correct. The employer cannot deduct more than 8% of the employee's gross salary of wages.
- ★ Calculate the employer contributions and employer tax credits correctly.
- ★ File the monthly schedules on time. If filing online, the Inland Revenue Department processing time is up to 11pm daily.

The above changes are found in the updated employer guide (KS 4) and employee information pack (KS 3) which were posted to employers by the Inland Revenue Department in February 2008. If you did not receive these, you can call the Inland Revenue Department on 0800 257 773 and obtain the information.

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PROPERTY TRANSACTIONS – QUESTIONS AND ANSWERS

The 2007 Budget included increased funding for Inland Revenue to strengthen auditing of property transactions to ensure people pay their fair share of tax.

The increase in funding will support and enable existing audit activity to be strengthened in an area of risk IRD have been actively pursuing for a number of years. These questions and answers seek to answer most general questions you may have on this area.

When is the sale of a property taxable?

Under current law, income tax will apply to profits made on property sales in the following range of circumstances:

- ★ When land was bought with the intent to resell
- ★ When land has been developed or subdivided
- ★ When the seller is a dealer in land or a builder, or is associated with a builder, dealer or developer

In these circumstances, tax should be paid on the profits, just as it should on income from other kinds of investment

How many houses can I buy and sell before I must consider tax?

There is no set figure. When any property is purchased for the purposes of resale, the profit may be taxable, depending on individual circumstances.

What if I'm not a developer, dealer or builder (or associated with one) and I have not subdivided the land?

Your intent when you purchased the property will determine if the profit from the sale of a property is taxable or not. If your main purpose was a plan, desire or aspiration to sell the land when you purchased it, then it is most likely that the profits made are taxable.

How does Inland Revenue determine my intent?

While your stated intent is considered, the evidence and patterns of sales will also be a determining factor as intent is often verified by action. To determine intent, IRD may look at statements you made to a bank manager or advisor when you bought the property including any plans which may have been made or discussed.



What if I lived in the property?

The sale of a family home is not normally subject to income tax. However, profits may be taxable if the homeowner has established a pattern of buying and selling the properties in which they reside or the main intent when buying was for profit.

What is the 10-year rule?

There are special rules for people involved in either the business of developing or subdividing land, or people involved in the building industry.

These rules also apply when the property is held by an associated person of a builder or developer.

Intent when a property is purchased is usually the determining factor in whether profits from property sales are taxable. However, in the case of builders and developers, if the property is sold within 10 years the profit may be taxable regardless of the original intention when it was purchased.

What are the penalties for not declaring profits made from property sales?

The penalties range from 20% to 150% of the tax that should have been paid depending on the circumstances leading to any omission. However they can be significantly reduced by coming forward voluntarily.

Find out more about shortfall penalties at www.ird.govt.nz/how-to/debt/penalties/shortfall-penalties/sf-penalty-what.html

I think I should have paid tax on my profits, but didn't include them in my return. What should I do?

You should consider making a voluntary disclosure. You can find more information in the IRD booklet *Putting Your Tax Returns Right (IR280)*. You can read or download a copy at www.ird.govt.nz/forms-guides

What are the benefits of this and how do I make a voluntary disclosure?

Penalties are significantly reduced if you come forward before IRD contacts you. This is true of all disclosures not just those about property.

You may be entitled to a 75% reduction in the penalties that would be applied if your activity is detected by IRD in some other matter.

There is also an amendment in a bill currently before Parliament that reduces the penalties faced if you make a voluntary disclosure before being advised that you are to be audited.

The amendment means that if you make such voluntary disclosures you will not attract a shortfall penalty if you have not taken "reasonable care" or for having taken an "unacceptable tax position". That change took effect from 17 May 2007, the date of introduction of the bill.

Find out more about not taking reasonable care and unacceptable tax position at:

www.ird.govt.nz/how-to/debt/penalties/shortfall-penalites

How do I prevent penalties being applied?

You can prevent penalties by voluntarily complying with your tax obligations and declaring and paying tax on all taxable sales. If you are unsure then seek professional advice.

Are you unsure whether income tax will be payable on a property that you currently own or previously owned?

Contact your principal at Graham & Dobson to discuss your circumstances further.

Remember, everyone's circumstances are different and all the facts need to be considered on a case by case basis. You should look at the facts surrounding your purchase and apply these to the question "What was my main reason for buying the property?".

What do I do if I might not be able to pay my tax?

Contact your principal at Graham & Dobson Ltd or discuss your circumstances with the IRD.

You can also read or download the IRD booklet *Debt Options(IR582)* at www.ird.govt.nz/forms-guides



IRD NUMBERS FOR INDIVIDUALS

The Inland Revenue has introduced a new process for obtaining IRD numbers in an effort to prevent identity theft and fraudulent use of IRD numbers.

A tax agent, (ie. Graham & Dobson Ltd), can no longer apply for an IRD number for an individual.

The applicant is now required to produce two original identity documents, one of which must have a photograph of the applicant, to any Automobile Association Driver Licensing Agent (in Gisborne this is Smiths City in Childers Road), Post Shop or selected New Zealand Post outlets along with the photocopies. These could be passports, driver licences, or birth certificates.

These selected agencies will then confirm the applicant's identity and send photocopies to the Inland Revenue Department, who will then send the IRD number directly to the applicant within 8-10 working days.

REDUNDANCY REBATES

Previously, those taxpayers who were in a lower tax bracket and received redundancy payments found themselves in the higher tax bracket in that one year in which they received the redundancy payout. The taxation rules in such a case did not provide a fairer tax rate to these taxpayers who were pushed into the higher tax bracket for only that year.

Changes to legislation now ensure that taxpayers can get some relief by claiming rebates on redundancy receipts from 1 April 2008 for redundancy payments made after 1 December 2006. The rebate is pitched at a flat rate of 6% of the redundancy payout but capped to a maximum of \$3,600 (or redundancy payment of \$60,000) on a per redundancy basis.

Although redundancy receipts are taxable, the rebates will give some tax relief to lower and middle-income earners who would otherwise be overtaxed in any one given year.

Newsletters via the website

A reminder, we would prefer to send an e-mail to clients advising that our latest newsletter is on our website. We consider this to be a more efficient and cost effective way of getting the newsletter to you.

If you would like to receive future newsletters by e-mail, please go to our website at www.grahamdobson.co.nz, click on the "Register for Electronic Newsletter" icon and complete the registration screen.



ELVIS PRESLEY'S SENIOR CITIZEN SONG



Are you lonesome tonight, does your tummy feel tight
Did you bring your Mylanta and Tums
Does your memory stray, to that bright sunny day
When you had all your teeth and your gums
Is your hairline receding, are your eyes growing dim
Hysterectomy for her and it's prostate for him
Does your back give you pain, do your knees predict rain.....
Tell me dear, are you lonesome tonight...

Is your blood pressure up, your cholesterol down
Are you eating your low fat cuisine
All that oatbran and fruit, Metamusil to boot, keeps you like a well oiled machine
If its football or rugby, he sure knows the score
Yes he knows where it's at, but forgets what it's for
So, your gallbladder's gone, and his gout lingers on....
Tell me dear, are you lonesome tonight.....

When you're hungry he's not, when you're cold then he's hot
Then you start that old thermostat war
When you turn out the light, he goes left – you go right
Then you get his great symphonic snore
He was once so romantic, and witty and smart
How'd he turn out to be such a cranky old fart
So don't take any bets, this is as good as it gets.....
Tell me dear, are you lonesome tonight.....

