



## DECEMBER 2010

### End of Year Best Wishes

*The Principals & Staff at Graham & Dobson Ltd thank you for your continued support during 2010. We wish you a safe, happy and relaxing festive season.*

*The offices of Graham & Dobson Ltd will be closed from 4.00pm on Thursday 23 December and will reopen on Monday 10 January 2011 at 8.30am.*

#### USEFUL SNIPPETS

##### ACC CoverPlus Extra premiums deductible

Previously, premiums for ACC CoverPlus Extra (CPX) have not been tax deductible for shareholder-employees. Now, when an employer company pays a shareholder-employee's CPX levy, or reimburses them for payment of those levies, the amount paid or reimbursed (excluding the earner's levy) will be tax deductible as an expense to the employer company.

##### GST refunds

What are your rights when the IRD withholds your GST refund? If the IRD is withholding your GST return, they must notify you within 15 working days of receiving your GST return that they require further information before releasing it or that they are investigating your return. If the notification has not been sent to you within 15 working days, the refund must be released.



If the IRD requires further information, they have another 15 working days after the receipt of that information to either release the refund or request further information. If the refund is withheld on the grounds that they are investigating it, the IRD may take as long as it is required to withhold the GST refund while they are conducting their investigation.

##### "Dwelling" definition clarified

The distinction between what is a 'commercial dwelling' versus a 'dwelling' is important for GST purposes as the supply of accommodation in the commercial dwelling is subject to GST, but supplying accommodation in the latter is not. The current definitions have been the source of uncertainty in the past as activities such as homestays, farmstays and serviced accommodation do not fit neatly into either definition as they are deemed not to qualify as the supply of accommodation. Proposed changes will expand the commercial dwelling definition to specifically include homestays, farmstays and serviced apartments and the amendments will clarify the law by requiring the dwelling to be a person's principal place of residence and be subject to their exclusive possession.

##### Changes to the QC/LAQC Regime

Although legislation is yet to be passed, the Government has announced that changes will be made to the Qualifying Company ('QC') and Loss Attributing Qualifying Company ('LAQC') regimes which effectively propose to eliminate LAQCs from 1 April 2011. Shareholder clients in existing QCs and LAQCs are advised to work through the issues with their Principal at G & D.

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## LEAKY BUILDINGS AND TAX DEDUCTIONS

This has been a hot topic for some time, regardless of whether the building in question is used for private purposes or to derive rental income. Assuming that the building is used for the latter purpose, how should expenditure on fixing a leaky building be treated?

The distinction between expenditure of revenue nature and of a capital nature has not been clear and each case is determined on its particular facts and circumstances.

Expenditure of a capital nature is not deductible. This is incurred when parts of the building or substantially the whole building is either replaced or reconstructed, or the 'repair work' materially changes the character or function of the building. For example, if major repair work is done to only one (leaky) side of the building restoring it to its original function without improving the character, then the expenditure is most likely to be deductible for tax purposes.



### Irreparable Damage and Compensation

In the case where a leaky building is damaged beyond repair, is no longer used to derive rental income, or cannot generate any income, then provided it meets certain other specific criteria (best checked with your Accountant advisor), a deduction may be available for the adjusted tax value at the beginning of the income tax year in which the building is no longer used.

There is no allowable deduction for the cost of demolition as this expense is regarded as capital in nature. However, demolition expenses cannot be capitalised with the cost of the new building either. They are treated as non-deductible and non-depreciable expenses.

Insurance compensation received for expenses that have been claimed as deductions will be taxable to the extent of the deductions. Compensation received for lost rental income will also be a revenue receipt and therefore taxable. Compensation received for any capital or private expenditure is not taxable.



## PROPERTY TRANSFERS TO TRUSTS

It is a common practice for people to transfer the ownership of their family home to a family trust. The home is usually transferred into the trust by way of a debt back to the original owners, which is then forgiven over time. One of the reasons for transferring a home and other assets into a family trust is to protect it from creditors. The outcome of a recent Supreme Court case, *Regal Castings Ltd v Lightbody and Ors*, has however, highlighted that this transfer of assets does not necessarily make them safe from creditors.

In this case, the Supreme Court found that there was an intention to defraud the creditors and ordered that the trustees transfer half the interest in the family home to the Official Assignee. The background to this case is that Mr & Mrs Lightbody were shareholders of a company that was heavily indebted to a supplier called Regal Castings Ltd (RCL). RCL arranged to convert the indebtedness to a term loan to be repaid in regular monthly instalments with Mr Lightbody's personal guarantee.

The Lightbodys owned a family home, the value of which was less than the debt to RCL. Without notifying RCL, they transferred their company shares and family home, the only asset of significance, to a newly formed family trust by way of a debt-back to be forgiven over time. Once the company shares and family home were completely transferred with the debt-back forgiven, the company went into voluntary liquidation, leaving a significant amount, including part of the term loan, owing to RCL. Mr Lightbody was declared bankrupt with RCL unable to recover anything from him. Therefore RCL applied to have the transfer of the home to the family trust voided. The Supreme Court held for the applicant.

## ABOLITION OF GIFT DUTY

A Bill introduced into Parliament on 23 November 2010 includes gift duty to be abolished from 1 October 2011. It is recognised that gift duty no longer raises any significant revenue (gift duty collected has fallen from \$2,348,000 in the 2003/04 year to \$1,621,000 in 2009/10) and imposes a high level of compliance on the private sector – 225,000 compulsory gift duty statements are filed annually and it has been noted that just 0.4% of these statements correspond with liability to pay gift duty.

## ELECTRICITY COMPETITION MAY FORCE REFORMS

Electricity market reforms and increasing competition have the potential to force the creation of at least two electricity retailers with more than 500,000 customers each according to a recent report by PricewaterhouseCoopers on the New Zealand electricity sector. Industry wholesale market changes may drive larger retailers to share back-office service with power providers across the Tasman.

These backoffice functions need not necessarily be restricted to New Zealand as there may be an opportunity to leverage off systems and functions currently undertaken on a more efficient basis by business in Australia: Contact Energy is already implementing an enterprise-wide IT project with its Australian majority shareholder, Origin Energy.



New Zealand electricity retailers are thought never likely to match their Australian counterparts who have annual cost-to-serve benchmarks of around \$90 to \$120 per customer,

because a customer base of 500,000 plus is required to get economies of scale in electricity retailing. Only Contact Energy and Genesis Energy are close to that level with 457,000 and 521,000 customers respectively. However, the current average New Zealand cost-to-serve of \$210 to \$270 per customer would be a target for reduction. TrustPower – the sector’s standout performer on return on assets – recently revealed a \$140 annual cost-to-serve figure. That figure is understood not to include all the costs featuring in competitors’ calculations, staffing and metering costs being the largest variables.

## COSTLY SPRING STORMS

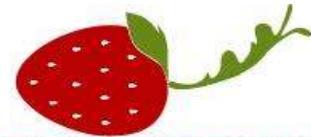
The legacy of a cold wet Spring is 2.8 million fewer lambs on farms than last year (the largest between season fall in 21 years) and \$240 million less for the rural economy. Beef + Lamb NZ is predicting the export lamb kill to be down 1.4 million lambs to a total of 19.5 million. This is expected to keep prices high in the lucrative British and European markets. Prices have been at record levels all year on reduced exports after drought and dairy conversions cut lamb numbers last year.



## GRAHAM & DOBSON TOWN AND AROUND



The Graham & Dobson sponsored pet competition at this year’s A&P show proved to be a popular and interesting event with many well dressed, well cared for entries. Ngatapa School took the prize for the most pet entries put forward for the competition.



## HOSPICE STRAWBERRY FESTIVAL

Undaunted by the wet weather, seven staff members joined others to sell 400 servings of strawberries and ice cream, raising around \$2250 for Gisborne Palliative Care Services.



Ritchie Scott, staff member and chief cook at the Graham & Dobson sponsored Hill Country Farmer of the Year event, deservedly won the Town v. Country BBQ cook-off at October’s Poverty Bay A&P show.

## NEWSLETTERS VIA THE WEBSITE

Thank you for viewing our newsletter online. If you are not already a subscriber and would like to receive our bi-monthly newsletter via email please [click here](#)

## CHRISTMAS TURKEY

On the first day of Christmas my True Love said to me, 'I've bought a big fresh turkey and a proper Christmas tree'

On the second day of Christmas much laughter could be heard as we tucked into our dinner, a most delicious turkey bird

On the third day of Christmas, came the people from next door, the turkey tasted just as good as it had before

On the fourth day of Christmas, some wine and cheese we had, we were bright and happy, the turkey a little sad

On the fifth day of Christmas, off the holiday makers hurried, we stayed at home and had the turkey curried

On the six day of Christmas, Christmas spirit died, the children fought and bickered, we had the turkey fried

On the seventh day of Christmas, my True Love he did wince, when he sat down at the table to the turkey mince

On the eighth day of Christmas, the dog had run for shelter, he'd seen our turkey pancakes and glasses of Alka-Seltzer

On the ninth day of Christmas, by lunch Dad was blotto, he knew the bird was back again, this time as risotto

On the tenth day of Christmas, we were drinking home-brew, and you guessed it, were eating turkey stew

On the eleventh day of Christmas, the Christmas tree was moulting, even with chilli sauce, the turkey was revolting

On the twelfth day of Christmas, we had a smile upon our lips, the guests had gone, the turkey too, we dined on fish and chips!

