



DECEMBER 2013 End of Year Best Wishes

The Principals & Staff at Graham & Dobson Ltd thank you for your continued support during 2013. We wish you a safe, happy and relaxing festive season.

The offices of Graham & Dobson Ltd will be closed from 4.00pm on Monday 23 December and will reopen on Thursday 9 January 2014 at 8.00am.

USEFUL SNIPPETS

UNCLAIMED MONEY

The Inland Revenue holds a list of owners of unclaimed money left untouched for six or more years. The money is usually from deposits left in banks and other financial institutions and includes insurance proceeds, cheques and wages. Unclaimed money is not income tax or any other unpaid tax refunds.

Currently IRD has 71,026 names on this list – persons who are owed a total of \$89,433,000! in sums involving just over \$100 to several thousand dollars.

A check can be made through the IRD's website to see if your name is on the list and follow up can be made by emailing your details to unclaimed monies.

INVESTOR WINS BLUE CHIP APPEAL

The Court of Appeal has ruled a negligent lawyer is responsible for more than \$100,000 in losses to one investor from the discredited Blue Chip property investment scheme.

Investor John Appleton sued Tauranga Law, the practice of Kevin Olivier, alleging the firm's action had caused more than \$100,000 in losses following the implosion of Blue Chip. In December 2011 the High Court ruled that while Tauranga Law and Olivier were negligent, it was not established this

negligence had caused the losses. John Appleton appealed this finding and the Court of Appeal, in the recently released judgment, overturned the lower court's decision and ruled the legal advice provided was seriously deficient. Mr Appleton was awarded costs and Tauranga Law was ruled liable for losses of more than \$100,000.

TRUST TAXED ON REGULAR PATTERN OF FAMILY HOME BUY AND SELLS

In a Taxation Review Authority decision just released, a family trust that bought and sold 11 family homes in 12 years was deemed liable to income tax and GST on the profits.

In all but one case the properties were purchased as vacant sections and a family home was built, lived in for from two to ten months, then on-sold. Judge Sinclair determined that the family home exemption did not apply as the homes were not occupied 'primarily and principally' as a residence. Even if they were, there was a regular pattern sufficient to mean that the exemption did not apply.

Two noteworthy issues from this decision are:

- That you do not have to be a builder to be taxed on family homes buy and sells, and
- That the third professional trustee (family lawyer) has joint and several liability for the entire income tax and GST bill for the period up until the professional trustee was replaced by a corporate trustee established by the law firm.



CONTENTS

Unclaimed Money _____	1
Investor Wins Blue Chip Appeal _____	1
Trust Taxed on Regular Pattern of Buy and Sells _____	2
That Is My Researcher! _____	2
Tax Reforms Encourage Conservation Plantings _____	3
Household Expenditure Guide _____	3
Company Car May Reduce Tax Credits _____	4
Is Ignorance Bliss? _____	4
Changes to System Requirements for Banklink _____	4
NZ's Top Ten Used Cars 2013 _____	4
Certificates of Exemption _____	4
Non Taxable Allowances _____	4
The Christmas Cake Recipe _____	4

THAT IS MY RESEARCHER!

The Inland Revenue is working on an updated policy considering the deductibility of the travel expenses of a companion accompanying a taxpayer on a business trip. It only applies to individuals, sole traders and partners in a partnership. It does not apply to companies where different rules apply (eg FBT and dividends).



In order to be deductible, the companion's travel expenses will have to satisfy the general deductibility provision of the Income Tax Act 2007 – i.e. the expenditure must have sufficient nexus with the assessable income of the taxpayer's business – which rules out the companion accompanying the taxpayer simply for companionship or to attend social functions. However, a deduction may be permitted where the companion supports the taxpayer to a reasonably substantial degree in the business being undertaken. To do so, the companion needs some knowledge of the business being undertaken or must possess some special skills or expertise to be able to provide support in a material way. A cynic would expect there to be growth in the occupation categories of spouses, that is:

- Legal researchers for lawyers
- Accounting researchers for accountants
- Building trends researchers for builders
- Farming systems researchers for farmers!

TAX REFORMS ENCOURAGE CONSERVATION PLANTINGS

Riparian plantings by farmers can now be deducted as an operational expense rather than being classified as capital expenditure after the passage through Parliament in July of amendments to the Income Tax Act 2007.



Conservation Minister, Dr Nick Smith, says the tax change is important for conservation and water quality as it will encourage farmers to plant trees and shrubs in riparian strips along creeks and rivers, increase habitat and reduce the level of sediment and nutrients entering into natural waterways.

Comment:

The key change is that it now explicitly allows deductions for plantings to prevent or mitigate discharges into water courses or water bodies. It also extends the provision from just trees to shrubs and other plantings.

KIWISAVER - BEING INFORMED

From November this year, all Kiwisaver providers have had to publish quarterly 'disclosure statements' outlining the fees, returns and investment mix for each Kiwisaver fund using a standardised format.

Comment:

This will make it easier to compare Kiwisaver providers on a like-for-like basis.

HOUSEHOLD EXPENDITURE GUIDE

This guide, based on data obtained from the Household Economic Survey 2013 administered by Statistics New Zealand, provides a base used as a first step by lenders in determining whether household expenses have been reported correctly and therefore determines any ability to repay debt.

For the purposes of the survey, a household comprises a group of people who share a private dwelling and normally spend four or more nights a week in the household. They must share consumption of food or contribute some portion of income towards the provision of essentials for living as a group. Children are classified as dependent if they are younger than 18 years of age and not employed full-time.

Comparison of regional data - Auckland Urban v. the rest of North Island Urban including Gisborne

Weekly average household expenditure (\$)		
	Rest of North Island	Auckland
Food/groceries	178.30	216.70
Transport	137.70	176.10
Housing & household utilities	236.20	333.10
Telephone/mobile	33.40	37.30
Clothing/footwear	28.00	31.40
Alcoholic beverages & tobacco	27.20	29.60
House contents & services	44.80	47.00
Recreation & culture	99.50	104.70
Education	13.30	23.80
Health	24.80	28.80
Misc goods & services	98.40	106.30
Other expenditure	94.40	140.40
	<u>1016.00</u>	<u>1275.20</u>

COMPANY CAR MAY REDUCE TAX CREDITS

From April 2014 the salary package value of a company car is treated as income for calculation of Family Scheme income, which affects family tax credits, not to mention student accommodation allowances and even community services card. But the 'perk' value will not be included if the salary would not increase without the 'perk'. While the "it's not a perk" defense might work to avoid this new law, it has no effect on the FBT liability for a company as FBT unfairly makes no practical distinction between 'perk' cars and work cars.



IS IGNORANCE BLISS?

In relation to corporate failure, there are some common misconceptions about the liability of company directors. Operating as a limited liability company does provide a level of protection to shareholders – however, company directors can be held personally liable for debts of the company if they have breached their directors' duties.

When a company is placed into liquidation, the liquidator will examine whether the company's directors have breached their duties, including the duty to avoid trading recklessly, and the duty to avoid incurring debt unless there were reasonable grounds at the time to conclude that those debts would be met by the time they fell due. Directors often neglect to meet the latter duty of care if they have put their heads in the sand and not closely monitored the financial health of the company.



The objective test for reckless trading is if the business has been carried on in a manner likely to create substantial risk of serious loss to the company's creditors. This does not have to be deliberate intention. It can be through simple carelessness, which is commonly demonstrated by a company continuing to operate while insolvent.

Failing to comply with 'director's' duties leaves directors exposed to financial claims and can result in the loss of their personal assets or worse, being adjudicated bankrupt. Any such claim is generally capped at the value of the company's total creditors.

Comment:

If you are a director of a company, ignorance is no excuse. You need to know your duties as you could be personally accountable for the company's debts. If you know, or suspect, a company is insolvent, always seek competent advice as to how this may affect you.

CHANGES TO THE SYSTEM REQUIREMENTS FOR ALL BANKLINK DESKTOP PRODUCTS

A recent Microsoft directive means that from 1 February 2014, Windows 2000 and Windows XP operating systems will no longer be supported by MYOB Banklink.

These changes affect MYOB Banklink desktop products only such as Banklink Practice, Banklink Books and Banklink Notes and not online services. This will not affect your ability to operate these products and support will continue on how to use all MYOB Banklink desktop products.

However, if there are any issues that occur with the software not working as expected in a Windows 2000 or Windows XP operating environment (and not the MYOB Banklink product itself), Banklink will not be able to offer a solution.

NZ'S TOP 10 USED CARS 2013

Buying a used car? The Vehicle Information Authority checks over 30,000 cars every month for motor vehicle dealers and the general public. The ten most common vehicles checked are:

- 1 Toyota Corolla
- 2 Toyota Hilux
- 3 Subaru Legacy
- 4 Subaru Impreza
- 5 Ford Falcon
- 6 Toyota Hiace
- 7 Holden Commodore
- 8 Toyota RAV4
- 9 Mitsubishi Pajero
- 10 Nissan Pulsar



Comment:

Two top tips when purchasing a used vehicle:

- Ask to see the last warrant of fitness check sheet so you have a rough idea if there are any upcoming repairs –or ask if the seller would mind putting the car in for a warrant of fitness. If they object, walk away.
- Check that there is a second key for the car. If the key has a transponder they can be expensive to duplicate.

CERTIFICATES OF EXEMPTION

Schedular payments are made to workers who are not employees but who work on a contract-for-service basis. If a worker receiving schedular payments tells you, as an employer, not to deduct PAYE from their income, you need to check they hold a valid certificate of exemption:

- The certificate must be an original issued by Inland Revenue
- It must be current at the time you pay the worker – even if the work was done in a previous year
- The name and IRD number on the certificate must be the same as the name on the worker's invoice.

If all the above points are covered, you can make payments without deducting tax.

NON TAXABLE ALLOWANCES

It is not permitted to guess the amount you, as an employer, pay an employee as a non-taxable allowance. The employer must be able to show the figures and paperwork to justify non-taxable payments so it is best to make sure proper calculations of actual expenditure have been kept.



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](#)

The Christmas Cake Recipe

Ingredients

<i>1 cup flour</i>	<i>1 tsp baking soda</i>
<i>1 tsp of salt</i>	<i>1 cup brown sugar</i>
<i>Lemon juice</i>	<i>4 large eggs</i>
<i>2 cups of dried fruit & nuts</i>	<i>1 bottle Johnnie Walker</i>

Sample the Johnnie Walker to check the quality.

Take a large bowl, check the whisky again.

*To be quite sure it is of the highest quality,
pour one level cup and drink.*

Beat one cup of butter in a large fluffy bowl.

Add one teaspoon of water and beat.

Try another cup of the wetting ingredient

Turn off the mixerer

Break 2 leggs and chuck in the dried fruit

Mix on the turner

Sample the whisky again for tonsisticity

Next sift two cups of salt

Now sift the lemon juice and strain your nuts

Add one table while greashing the oven

Turn the cake tin 350 defrees

Beat off the turner

Check the whisky again and go to bed.