NEWS

JUNE 2009

Credit giving

With slowdown in the economy and the effect of recessionary times felt especially by traders and retailers, suppliers of goods and trade creditors should be wary of giving credit to their customers.

In the case of retailers and traders who sell directly to consumers, credit giving may not be an issue as consumers usually pay by cash or credit card. Those who do have a credit policy should determine a limit and stick to it rather than relaxing the credit policy in order to secure a sale.

However, many suppliers have developed a long standing business relationship with many of their customers and may give large amounts of credit to them based solely on their previous history. This approach may not be in their best interest as it does not protect them if the customer is in financial trouble, or worse, liquidation. Suppliers can protect title to goods supplied on credit by registering a security charge against their customers on the Personal Property Securities Register (PPSR).

The Personal Property Securities Act which came into effect some ten years ago gives trade creditors a proven vehicle to retain title to goods they supply on credit. It is easier to register priority over other creditors for their goods than trade suppliers think – because PPSR is cheap, easy to use and does not require much time to secure an interest.

The process of registering an interest can be summarised as follows:

- The buyer of goods has to agree to the PPSR registration by the supplier of the goods;
- The terms of trade must include a security interest: this strengthens the ability of the supplier to obtain priority over and above the other creditors (such as a bank);
- There needs to be an umbrella description of goods supplied from time to time in the supplier's financing statement;
- Registration of the financing statement on the PPSR (termed "perfecting the security interest') needs to be carried out within 10 working days of starting trade with the buyer.

There is no harm in also having a 'retention of title' clause in the terms of trade although it is not a requirement for registering a security interest.

The PPSR is the perfect vehicle for retaining specific title to goods supplied on credit, and trade creditors should use it.

Student Loans

The Student Loan Scheme (Repayment Bonus) Amendment Bill provides a 10% bonus for both New Zealand and overseas-based borrowers who make voluntary repayments on their student loans of $500 or more in a tax year.

All borrowers will be eligible for the bonus, provided they have met their student loan obligations and have a student loan balance of $550 or more at the beginning of the tax year in which the voluntary payment is made. The bonus will be credited to the borrower's student loan account after the end of the tax year.

A borrower who wants to repay their student loan in full before 31 March 2010 can either:

- Pay the loan balance in full, with the bonus being credited to their loan balance and the overpayment refunded after 1 April 2010; or
- Pay 10/11th of the loan balance, with the bonus being credited to their loan account after 1 April 2010.

Parliament is likely to pass this legislation before the end of the year. Voluntary payments made from 1 April 2009 will be eligible for the bonus.

CONTENTS

Graham and Dobson Ltd
393 Gladstone Rd PO Box 1247
Gisborne 4040 New Zealand
t 06 869 1234 f 06 867 8357
e post@grahamdobson.co.nz
www.grahamdobson.co.nz

Personal Tax Cuts Deferred

The Government announced in the Budget 2009 that it will defer the second and third tranches of planned tax cuts in 2010 and 2011, to avoid incurring further debt. The Government remains committed, however, to lower personal income taxes, and these will be assessed in future Budgets. The Treasurer, Bill English, has stated that the Government has "…taken considered decisions now to avoid having to make harsher decisions later". In all, the Budget's elements are intended to give New Zealanders security and maintain economic activity.

Bill English said that the Government cut taxes on 1 April 2009 because it believes lower income taxes benefit the economy. However, the severity of the recession means tax cuts scheduled for 2010 and 2011 are currently unaffordable and their timing will need to be reassessed as part of future Budgets.

In summary, the Government states in the Budget 2009 that:

- The Government remains committed to lower personal taxes.
- Even with the other debt reduction measures included in the Budget 2009, the Treasury is forecasting large budget deficits - $12 billion, 6.8%of GDP, for 2009/10 and $12.5 billion, 6.9% of GDP for 2010/11.
- The Government has decided to prioritise the safeguarding of entitlements to the likes of income support, improving front-line public services, particularly in health, education and justice and reducing debt – all measures that will ensure New Zealand's economy emerges strongly from the global recession.
- Tax cuts will be assessed to consider whether they are affordable, as part of future budget processes.
- The Government's first round of tax cuts implemented on 1 April 2009 deliver million New Zealand workers. These tax cuts were fully funded from other policy changes rather than through borrowing.
- By deferring the tax cuts, the Government will save around $900 million a year from 2011/12.
- The Government's medium-term goal remains to align and reduce the top rate of personal tax, trust and company tax rates at a maximum rate of 30 per cent.

Longer-term initiatives aimed at raising productivity are to include:

- Increasing investment in infrastructure;
- Improving the regulatory environment;
- Lifting numeracy and literacy skills in young people by providing funding to help students meet national standards

The Tax scale from 1 April 2009:

- 12.5% on income up to $14,000
- 21% on income between $14,001 & $48,000
- 33% on income between $48,001 & $70,000
- 38% on income over $70,000

The IRD & realistic salaries

An eagerly awaited tax case was decided in March this year in favour of two surgeon taxpayers who challenged Inland Revenue Department's assessments on them for increased salaries from their private companies.

The surgeons who initially traded in their personal names sold their respective practices to related companies with the shares held by their family trusts. One effect of this was to shelter income at 33% instead of the 39% marginal tax rate.

The IRD viewed the salary paid to each surgeon as being less than 'commercially realistic' given that the practice income ranged from $450,000 - $600,000.

The IRD did not assert that failure to pay a commercially realistic salary was tax avoidance in itself but that tax avoidance arose by the manner in which the company and trust structures had been used, based on:-

- The artificially low salaries paid to the individuals
- The fact the trading entities were controlled by the individuals
- The continued use of the practice income by the individuals and their families to live
- The lack of commercial rationale for the restructure
- The fact the businesses were sold for inadequate consideration, and
- The tax advantage gained.

The IRD & realistic salaries (cont.)

Firms re-arranging their business structure to fit within a specific tax provision to reduce their tax liabilities have always been an issue for the IRD. For example, back in 2000 when the Labour Government raised the top personal tax rate to 39% on income over $60,000, it created an incentive for people trading through companies or trusts to set their salaries at $60,000. This resulted in a spike in the number of people earning salaries of or around that amount. It also motivated sole traders to sell their businesses into companies or trusts to achieve the same result by effectively capping the tax rate at 33%.

The High Court considered the individual elements of the arrangements before considering the arrangement as a whole. On this basis it was determined that this case did NOT constitute tax avoidance. In essence, where the choice of corporate form is a commercially orthodox one, neither individual nor company tax payers are required to demonstrate a commercial justification for the choice of one form over another.

The decision will be a major blow to the taxman and the IRD has recently filed a notice of appeal.

The view is that IRD will struggle to have the decision overturned because there is already effective support in the higher courts for the position that taxpayers can make structural choices as to how they derive their income – so long as the arrangement is genuine, permanent and the parties subject themselves to the tax, financial and legal consequences which follow such a choice.

More help with Childcare & OSCAR subsidies

The rates for Childcare Subsidy and Out of School Care and Recreation Subsidy have regularly increased. Income limits have also been raised, meaning families not previously entitled to a Childcare or OSCAR subsidy may now qualify for one. If you are in work or study or if you have special circumstances that mean you need access to childcare, you can get:

- A Childcare Subsidy for up to 50 hours per week
- An OSCAR subsidy for up to 20 hours per week during term time, and up to 50 hours during school holidays.

Both income limits and subsidy rates listed below are current as from 1 April 2009:-

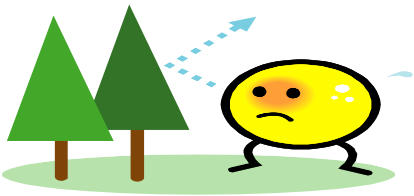
If you have	And your family annual gross income before tax is	The subsidy per child per hour is up to
1 child	$66,248.00	$3.63
1 child	$71,760.00	$2.52
1 child	$77,272.00	$1.40
2 children	$76,180.00	$3.63
2 children	$82,212.00	$2.52
2 children	$88,296.00	$1.40
3+ children	$84,968.00	$3.63
3+ children	$92,144.00	$2.52
3+ children	$99,320.00	$1.40

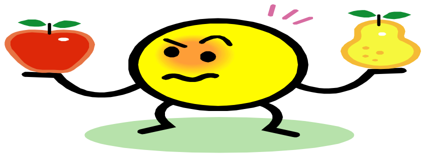
Kiwisaver in the black!

Most returns for Kiwisaver funds are now in the black, showing positive returns for the three months to the end of May. FundSource head, Yvonne Davie, said the top performing funds in each sector had a common feature that contributed to their strong performance. Each had a reasonable allocation to Australasian equities, with both the New Zealand and Australian markets having rallied 'quite strongly' relative to the rest of the world during the three month period. Diversified Kiwisaver funds returned on average 2.36 percent over the three months, while the balanced fund average was 4.86 percent, and the diversified fund average was 8.46 percent. However, over the year to the end of May, only the diversified average was in the black, at 1.8 percent.

Meanwhile, the Dominion Post reported the New Zealand Superannuation Fund had returned to profit for the first time since October after a torrid six months. The share-intensive fund, which had its Crown contributions frozen for a decade in the budget, returned 3.47 percent or $587 million for the month of May. That edged it into the black by $27m since its creation in 2003.

Light Humour





New-age proverbs

These proverbs were completed by school children...
their insight may surprise you!

Don't change horses until they stop running.

Strike while the bug is close

It is always darkest before Day Light Saving Time

Don't bite the hand that looks dirty

A miss is as good as a Mister

You can't teach an old dog new maths

Where there's smoke there is pollution

A penny saved is not much

There are none so blind as Stevie Wonder

When the blind lead the blind get out of the way

Children should be seen and not spanked or grounded

Happy the bride who gets all the presents

No news is impossible

If at first you don't succeed get new batteries

And lastly a real classic!

Better late than pregnant!