USEFUL SNIPPETS

EMPLOYER'S SUPERANNUATION CONTRIBUTION TAX

Prior to the introduction of Kiwisaver, contributions made to an employee's superannuation scheme were subject to withholding tax in the form of Employer's Superannuation Contribution Tax (ESCT). With the introduction of Kiwisaver, an exemption from ESCT applied to the employer's required minimum contribution. From 1 April 2012 that exemption will be removed and the total employer contribution will be subject to ESCT. This change represents an increase in Government tax revenue and a decrease in the amount a Kiwisaver member receives from their employer.

The method for calculating ESCT has also changed. After 1 April 2012 ESCT must be calculated at a progressive rate based on either:

- The employee's annual salary or wages plus the gross employer contributions paid in the previous tax year – applicable in the case of the employee who has been employed for the whole of the previous year ; or
- An estimate of the employee's gross salary or wages plus an estimate of the employer's gross contributions for the current year.

Employers need to bear these changes in mind and be prepared to update their wage processes.

KIWISAVER – EXEMPTIONS FROM AUTOMATIC ENROLMENT RULES

At times you may employ temporary or casual employees. If the employee is employed for 28 continuous days or less, the employer does not need to enroll them in Kiwisaver.

You do not need to automatically enroll an employee if they are:

- Under 18 years old
- Over the age to qualify for New Zealand Superannuation, currently 65 years of age
- A casual agricultural worker, election day worker or private domestic worker who pay their own PAYE
- Employed on a temporary employment contract of 28 continuous days or less.
- Casual employees engaged on an irregular basis who receive holiday pay with their wages
- Not a New Zealand resident
- In receipt of schedular payments only
- Not required to have PAYE deducted from their wages.

WHAT IS THE INLAND REVENUE UP TO?

The Inland Revenue wants to ensure everyone is paying their fair share of tax. In the area of small businesses this year it has signaled it will be taking an interest in:

- Property developers, dealers and regular sellers of land
- RWT rates advised to banks
- Cashies, non-returned cash sales or other income from a hidden economy (including short term letting)
- On-line trading
- Working for Families Tax Credits (especially where income has been diverted to trusts)
- Overseas bank accounts where income earned is not reported
- How losses came about and how they are used

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FRINGE BENEFIT OR ENTERTAINMENT?

Employers often enquire about the treatment of expenses made on account of employees – whether they are subject to fringe benefit tax (FBT) or considered to be an entertainment expense.

Any expenditure that is subject to FBT is fully deductible by employers. Entertainment expenditure, on the other hand, is an expense that is not enjoyed at the employee's discretion, e.g. staff Christmas parties or entertaining customers. These expenses are only 50% deductible for tax purposes. The following checklist sets out the rules regarding the tax treatment of some entertainment expenses:

ENTERTAINMENT EXPENSES CHECKLIST			
	50% Claimable	**100% Claimable**	**FBT Payable**
Staff Xmas party costs	✓		
Gifts for New Zealand clients	✓		
Business lunches in New Zealand	✓		
Morning tea 'shout' on employer's premises (for all employees)		✓	
Transport costs provided to employees to attend staff Xmas party		✓	✓
Entertainment consumed overseas		✓	
Gifts to staff		✓	✓
Light meals provided to employees at lunchtime meetings		✓	
Friday night drinks for employees	✓		
Sales staff meal costs while out of town		✓	
Corporate box costs or season passes	✓		
Subscriptions to sporting clubs, e.g. golf clubs		✓	✓

The above list does not cover every situation. Please contact your Principal if you have queries on any other types of entertainment expenditure.

GIFT DUTY CHANGES

There have been changes made to the Estate and Gift Duties Act 1968 that mean gift duty will no longer be charged on gifts made on or after 1 October 2011. You will no longer be required to file a Gift Statement (IR196) for these gifts.

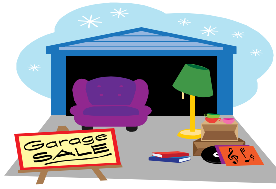

But there are still a number of issues you need to consider, in particular if a trust is involved:

- The debt is an asset for the lenders and often it is used as a means by which to control the trust. Clients need to understand that once the debt is forgiven, they may lose the most effective way to control the trust. This can particularly apply to loans by parents to trusts for their children.
- Should all of the debt be forgiven to a trust? What will your needs be in the future? Requesting repayment of debt may be easier than receiving a distribution from the trust.
- A one-off forgiveness of debt will not give rise to any added advantages in terms of entitlement to residential care subsidies or other WINZ benefits. The rules only allow a certain level of gifts for the five years preceding the residential care application (currently $6,000 p.a), and for periods beyond that at only $27,000 per year. If there is a one-off gift, all but the annual exemption amounts will be clawed back in the calculation. This suggests it may well be appropriate to continue with a regular gifting programme if WINZ considerations are going to be relevant in the future.
- After forgiving a debt to the family trust, the individual may be insolvent. This, in turn, creates issues under the Property Law Act and Insolvency Act. Lawyers may require a solvency certificate at the time of any large one-off forgiveness of debt.
- Documentation recording gifts still needs to be prepared.

GST ON SECOND-HAND GOODS

GST may be claimed on second-hand goods by a GST registered person if those goods are bought from a non-registered vendor, provided:

- The buyer actually pays for the second-hand goods before claiming GST on it;
- The buyer keeps sufficient records such as an ordinary invoice because the unregistered vendor will not be able to issue a GST invoice;
- The goods comply with the definition of second-hand goods in the GST Act.



The GST definition of second-hand goods specifically excludes livestock but land purchased from an unregistered vendor may be second-hand goods; therefore a registered purchaser of such land may be able to claim GST on the purchase price. However, an input tax credit would be available only on that part of the land that is related to a taxable activity. For example, if a farmer purchases a parcel of land that has a dwelling on it for farming activity then GST cannot be claimed on the value of the dwelling and curtilage.

IRD policy requires second hand goods be both previously *used* and previously *owned* by someone else, i.e. prior ownership on its own does not make the good second-hand. There have been instances where taxpayers incorrectly claim GST under the second-hand goods provision. Examples include:

- GST is claimed on second-hand goods before payment is made because the taxpayer is on invoice basis. Regardless of the taxpayer's GST accounting basis, second-hand goods claims are limited to the amount actually paid during the taxable period; and
- Inland Revenue will not allow a claim unless the taxpayer holds a valid tax invoice at the time of filing the GST return. In cases where the supplier claims to be unregistered for GST and the claim is significant, it is best to obtain a written confirmation from them that they are not registered for GST purposes.

CHILD SUPPORT PROTECTED NET EARNINGS

If your employee pays child support they must still receive 60% of their net pay (after PAYE but before all other deductions, including earners' levy). This ruling is called 'protected net earnings'. 'Protected net earnings' at the maximum child support amount of 40% of the net pay normally need to be considered only if the employer is paying the employee less than their usual pay. In these circumstances, if the amount required by the Inland Revenue to be deducted is more than 40% of the net pay, the deduction should be limited to that 40% maximum. The balance is not made up from future pays – the IRD makes arrangements with the employee regarding this.

Protected net earnings only apply to child support. After deducting PAYE, the employer must deduct child support before deducting anything else, including Kiwisaver contributions and student loan repayments.

STUDENT LOAN SCHEME CHANGES

Changes to the student loans scheme to improve the way loans are being managed, repaid and administered are underway and while the majority of changes will take effect from 1 April 2012, it is timely to detail these as study plans for the new tertiary year will now be coming into focus.

- **Late payment penalties**
  From April 2012 the penalty for late payment will reduce from 1.5% to 0.843%.
- **Recalling the Entire Loan Amount**
  Borrowers who have consistently been non-compliant with their repayment obligation need to be aware the IRD has the power to demand full repayment of the student loan, whether or not the entire amount is outstanding.
- **Repayment holidays**
  Repayment holidays for overseas-based borrowers will be shortened to one year and from 1 April 2012 borrowers applying for this concession will need to nominate a New Zealand contact person before they leave the country
- **Reduced Rates for Secondary Employment**
  From March 2012, borrowers with more than one job can apply on-line for a reduced reduction rate (and a special deduction certificate) for their secondary employment if the main (highest paying job) is less than the pay period repayment threshold.
- **New lending**
  From February 2013, borrowers with an outstanding obligation of $500 that has been overdue for a year or more will not be eligible for new lending.

GRAHAM & DOBSON TOWN & AROUND

NZICA President Ross Jackson with Paul Dobson

The Gisborne Branch of the New Zealand Institute of Chartered Accountants (NZICA) celebrated 100 years recently – with Paul Dobson honoured for his 50 year membership. Paul has been a member since 1961 and is the fourth generation of his family to be in the NZICA. Mr Dobson's great-grandfather, Andrew Graham, started Graham & Dobson with Paul's grandfather Ralph Dobson. Paul's father Malcolm Dobson and then Paul followed in his footsteps.

NEWSLETTERS VIA THE WEBSITE

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Here is a TRUE anecdote about Neil Armstrong...

When Apollo Mission Astronaut Neil Armstrong first walked on the moon, he not only gave his famous “one small step for man, one giant leap for mankind” statement but followed it by several remarks, probably the usual communication traffic with the other astronauts and Mission Control. However, just before he re-entered the landing craft Armstrong made this remark, “Good luck Mr Gorsky.”

Many people at NASA thought it was a casual remark concerning some rival Soviet Cosmonaut. However, upon checking, there was found to be no one of the name “Gorsky” in either the Russian or American space programmes. Over the years, many people questioned Armstrong as to what the “Good luck Mr.Gorsky” statement meant, but Armstrong always just smiled.

On July 5, 1995 in Tampa Bay, Florida, while answering questions following a speech, a reporter brought up the 26 year old question to Armstrong. This time he finally responded. Mr Gorsky had recently died and so Neil Armstrong felt he could answer the question.

When he was a kid, he was playing baseball with a friend in the backyard. His friend hit a fly ball, which landed in front of his neighbour’s bedroom window. His neighbours were Mr and Mrs Gorsky.

As he leaned down to pick up the ball, young Armstrong heard Mrs Gorsky shouting at Mr Gorsky. “Sex! You want sex?! You’ll get sex when the kid next door walks on the moon!”

True story.