



JUNE 2010

HOUSEHOLDS SAVING MORE

Households strengthened their balance sheets last year amid the fallout of the financial crisis, increasing savings and shunning debt.

Reserve Bank figures recently released show households lifted their financial assets (which do not include housing) by \$17.6 billion or 9 per cent last year, the largest dollar increase for at least eleven years.

That more than reversed the \$4.5 billion contraction in financial assets in 2008 as financial markets reeled from the fallout of the subprime crisis – according to Brian Fallow, Economic Editor of the Business Herald.

Households did increase their debt last year by \$4.3 billion but that was the smallest increase for approximately eleven years.

Meanwhile, recovery in the property market saw the value of housing assets rise \$35 billion, reversing most of the 7.5% decline in 2008. At the end of last year, debt funded 23.4 per cent of households' assets of \$815 billion – three-quarters of which was in the form of housing.

Reserve Bank data shows households holding 60 per cent of their \$212 billion of financial wealth in bank deposits and fixed interest securities, while 30 per cent is entrusted to superannuation schemes and managed funds and 10 per cent to direct holdings of New Zealand or international shares.

The woes of the finance company sector is evident in the numbers - \$6.8 billion in their hands at the end of last year, down from \$7.3 billion a year earlier.

Partial data for this year shows household debt continuing to grow at the same sluggish pace as last year, while house prices – shown in the Real Estate Institute's stratified index figures – have inched up just 0.5 per cent.

The figures also show that, while household debt may be moderate in relation to assets, it remains high relative to incomes.

Household debt at the end of last year was equivalent to 156 per cent of disposable (or after tax incomes). It has been over 150% of income for the past four years.

The above can be compared with 104 per cent 10 years ago and just 57 per cent 20 years ago.

Encouraging people to spend less and save more of their income was one of the reasons put by the government for the shift in tax burdens from income tax to GST.

KIWISAVER & BUSINESS TRANSFERS

On the sale of a business from one company to another, or when companies amalgamate, existing employees are often employed by either the purchasing or amalgamated company. Typically, automatic enrolment into Kiwisaver occurs on commencement of new employment. However, this type of situation is excluded from being treated as 'new employment' for Kiwisaver purposes.

Specifically, 'new employment' does not include situations where the employee remains on the same payroll or where an employer carries on the 'same business', as long as the employee was previously employed on that payroll or in that business. The 'same business' is defined as a business that in substance carries on the same or a similar role and includes an amalgamated company or a business taken over as a going concern.

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CHANGES TO WITHHOLDING TAX RULES AFFECTING FRUIT CROPS, VEGETABLES AND VITICULTURE

The Government has recently announced changes to the withholding tax rules for those businesses involved in the agriculture, horticulture and viticulture businesses. These rules took effect from 1 April 2010.



Prior to the above date, withholding tax was required to be deducted from a variety of payments, including those made to labour only contractors involved in "horticultural contract work". This was a defined term targeted at contractors involved in pruning packing and picking work for fruit tree and vineyard activities. The Government has now decided to broaden the scope of the withholding tax rules to capture payments made to persons who supply labour to vineyards, orchardists and vegetable growers.

Under the new rules any payment made to a person, company, trust or partnership for the supply of labour or substantially for the supply of labour will be subject to the withholding payments rules if the work or services are carried out on or in connection with land used or intended to be used for growing fruit crops, vegetables and carrying on vineyard activities. If this is the case the payer must deduct withholding tax from the gross amount of the payment (excluding GST) at the rate of 15 cents in the dollar. This is assuming a tax code declaration is held at the time of making the payment, otherwise the rate is 30 cents in the dollar. Examples of the type of work covered by the new rules includes thinning, pruning and picking activities as was previously the case, however, other activities such as drainage, fertilizing or pollinating activities are also potentially captured by the rules.



There are two specific exemptions from the requirement to deduct withholding tax. The first exemption is where payments are made for work that relates to "post harvest facilities", for example payments to pack houses. The second exemption is for payments made to a management entity under a formal agreement between the payer and the management entity. This requires the agreement to be in writing and specifically state that the management entity is responsible for payment for work of services provided.

The upshot of the new rules means if you are directly hiring a contractor who is supplying labour or substantially 'labour only' work or services in connection with land used for fruit or vegetable growing, then there is a requirement to register with IRD as an employer if you are not already.



The only time withholding tax would be not deducted is if either of the two exemptions noted below are met, or, where the contractor has provided a certificate of exemption from withholding tax.

It would be prudent to advise contractors you deal with of these changes. We can assist with applications for a certificate of exemption.

The new changes raise concerns as to what "substantially for the supply of labour" actually means and the exact nature of "post harvest facilities". Clarification on the new rules has been requested from IRD. In the meantime, it would be wise to ensure that the correct withholding tax deductions are made.

TIPS FOR CREATING STRONG PASSWORDS



For an 8 character password in lowercase letters a cracking tool can run every possibility in 2.42 days! Can a hacker guess your passwords?

- **Use long passwords** – the longer your password is, the better. Use a password that is at least 8 characters and for your high-security accounts, experts recommend even longer – at least 14 characters.
- **Mix it up** – use a mix of upper and lower case letters, numbers and symbols – the more types you use the harder it is to guess.
- **Use text that's not in a dictionary** – a password cracking programme can check millions of dictionary words in seconds. Avoid "real" words that can be found in a dictionary.
- **Change passwords regularly** - experts recommend you change your password every 60-90 days. You may like to change them more often depending on the importance of the information the password is protecting.
- **DON'T USE PASSWORD!** – Or variations of such as password01 or drowssap.

NO TAX ON KIWISAVER FIRST HOME SUBSIDY

On 29 April 2010, the Government announced that KiwiSaver members who qualify for the first home deposit subsidy will not be taxed on the subsidy. The rule change making the first home deposit subsidy a social assistance suspensory loan for tax purposes was made by the Order in Council on 26 April 2010. KiwiSavers who have contributed to the scheme for a minimum of three years and who are looking to buy their first home and are having trouble raising the deposit, may be eligible for the deposit subsidy. KiwiSavers who are not first home owners, but are also having difficulty saving for a deposit on a home, may also be eligible.

Provided recipients meet all conditions and live in the home for at least 6 months, there will be no requirement to repay the loan. Normally tax rules would treat such "forgiven" debts as income, which would be taxable. The subsidy provides for \$1,000 for each year of contribution, up to a maximum of \$5,000 and is administered by Housing NZ Corporation.

PAYING INCOME TAX FROM TRADING

It is well known that the Inland Revenue Department has comprehensive powers to request information for the purposes of enforcing the collection of tax.

A recent project by the IRD saw those powers directed at identification of on-line traders (using auction websites such as TradeMe) who collectively had not paid over \$1.2 million of tax over the past three years.



The IRD website advises that, as a 'general guide' business income from trading on-line should be declared (and taxed) if:

- the goods were acquired for the purpose of on-selling
- the purpose of the activity is to make a profit
- the business involves dealing in these goods.

It is important to note that, despite the fact that the Inland Revenue's message is specifically in the context of on-line trading, the same income tax collection principles can be applied to all types of trading activities irrespective of what a

person is doing, whether it is on-line or otherwise. The IRD is likely to apply one of two criteria, namely:

- have the goods been purchased with a purpose of resale, or
- does the level of activity indicate that a business exists.

If either criterion applies, all profits from the trading are taxable. In order to determine 'purpose', the IRD is likely to rely on documentary evidence. Without evidence, it becomes an argument over a person's intention, which is naturally difficult to establish at the best of times. If a person does not have a purpose of resale, the IRD could instead argue that a business exists: case law has shown that this can be proven on the facts of a particular case – *Grieve v Commissioner of Inland Revenue 1984* – 'whether a business existed turned on the intention of the taxpayer as evidenced by his conduct'.

In the 'Grieve' case, the taxpayers had to prove their farming activities were a business in the 1976 and 1977 income years, even though it had been operating at a loss. The result was a thorough analysis of what, in the context of the Income Tax Act, is meant by the term "businesses".

The tests arrived at by the Court are:

- the taxpayer's statements of intention
- the nature of the activity
- the period over which the activity is engaged
- the scale and volume of transactions
- the commitment of time, money and effort
- the pattern of activity
- the financial results
- whether the activity is run in the same way as other business in that particular trade

It is better to consider the tests above, reach your own conclusion and gather evidence that a business exists, before the Inland Revenue Department comes knocking on your door!!

NEWSLETTERS VIA THE WEBSITE

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Football World Cup!

An Act of Bravery

A man arrives at the gates of heaven, where St Peter greets him and says, "Before I can let you enter I must ask you what you have done in your life that was particularly good."

The man racks his brains for a few minutes and then admits to St Peter that he hasn't done anything particularly good in his life.

"Well," says St Peter, "have you done anything particularly brave in your life?"

"Yes, I have," replies the man proudly.

"Please explain," requests St Peter.

So the man explains, "I was refereeing this match between New Zealand and Italy. The score was nil-nil and there was only one more minute of play to go in the second half when I awarded a penalty against New Zealand."

"Yes," responded St Peter, "I agree that was a real act of bravery. Can you perhaps tell me when this took place?"

"Certainly," the man replied, "about three minutes ago!"

