CLIENT UPDATE FEBRUARY 2013

Student Loan Voluntary Repayments.
Remember the 10% discount on voluntary student loan repayments only lasts until 31 March 2013. Give Kathryn a call at our office if you need any help with making a voluntary repayment.

2012 Terminal Tax due 7/4/13.
Tax pay in slips will be posted mid March for 2012 terminal taxes due 7 April 2013.

If for some reason you are not able to pay this on the due date, please contact us before 7 April. The IRD may be amenable to allowing you an instalment arrangement, but such arrangements have to be agreed before the due date of the tax and all your other taxes have to be up to date.

Dividends.
Companies who had retained earnings on their Balance Sheet as at 31 March 2011 (or equivalent balance date) may have 30% imputation credits available to be attached to dividends. To use these credits at 30%, the dividends must be declared before 31 March 2013.

For many clients dividends have been declared during the last year following the finalisation of the 31 March 2012 financial statements.

There are, however, some companies that we will be contacting in the next couple of weeks to confirm whether or not they wish to declare any dividends prior to 31 March 2013.

Accommodation Allowances.
In December 2012 the IRD issued a statement on the tax treatment of accommodation allowances. Basically the market value of accommodation or of an accommodation allowance provided to an employee, is taxable to the employee and PAYE must be deducted.

This is even if the employee is maintaining a home in another location.

Because matters to date have been unclear for anyone making a voluntary disclosure, the IRD will only assess PAYE for up to two years prior to the issuing of the Commissioners statement with no interest or penalties charged.

In situations where the employer is paying rent on behalf of the employee, again the IRD considers these payments taxable and PAYE must be deducted.

A voluntary disclosure may mean the IRD will assess PAYE up to the four years prior to the December 2012 statement. But use of money interest and short fall penalties may still apply.

Why you need a web presence.
According to the World Internet Project the results for New Zealand are:

- 86% of New Zealanders use the internet with 59% doing so daily
- 80% of people search online before buying a product or service and 72% of people make their purchase online
- 69% of people rate the internet as a more important source of information than TV, newspapers or radio

According to the October 2012 MYOB Business Monitor, only 35% of kiwi businesses have a website. Therefore by getting a website you will already have an advantage over a number of your competitors.

It has been established that businesses that have a website consistently outperform businesses that do not.

Leanne Brewerton.

Leanne is due back to work on 2 April following the birth of her daughter Elise in September last year. We along with many clients look forward to seeing Leanne back onboard.

Mixed Use Assets.

Currently there is a bill before Parliament on the taxation of mixed use assets. Our client update of August 2012 also referred to the proposed tax changes. Mixed use assets are generally used partly to derive income and partly for private use. To fit the definition of a mixed use asset, the asset must cost more than $50,000 or be land and not be used for at least 62 days in any year.

The types of assets that will fall into this definition will be holiday homes, boats and aircraft. It is intended that the mixed use asset rules will apply irrespective of the structure that owns the asset.

The new rules will not apply to motor vehicles and other assets where expenditure is already apportioned based on space, floor area, or similar e.g. a home office or bed and breakfast type situations.

There are some quite far reaching definitions in the proposed legislation. For instance the association test between a shareholder and a company is to be reduced from 25% to 5%. In otherwords, if a shareholder owns 5% or more of the company, they will be treated as associated to the company where that company owns a mixed use asset.

Essentially there are 3 types of expenditure.

Deductible expenditure which is expenditure that relates only to the income producing period.

Private expenditure which is expenditure that relates solely to the period of private use.

Mixed use expenditure which does not relate specifically to the business or private usage, but requires apportionment for tax purposes. The apportionment formula is

$$\text{Expenditure} = \frac{\text{business use days}}{\text{business use days + private use days.}}$$

Proposed anti-avoidance provisions include treating the use as private use where the income derived from the use of an asset is less than its market value, irrespective of who is using the asset.

Market value is defined as the price at which the asset is provided for use at a particular time or for a particular season.

- In the open market; and
- Freely offered; and
- Made on ordinary terms; and
- To a member of the public; and
- At arm's length.

As an example, Peter uses his beach house privately, rents it to his brother at market value and also rents it to unrelated people at market value. Both the own use and rent to his brother are considered private use.

In the above example say Peter used the beach house for 30 days, his brother for 30 days and the arms length parties for 30 days. Peter will under the new legislation, claim one third of the beach house costs. i.e.

$$\frac{30}{30 + 60} = \text{one third.}$$

Interest costs will also be apportioned as part of the formula.

Where the income earned from a mixed use asset is less than 2% of the mixed use asset value (latest rates value or acquisition cost) then the excess expenses (expenses that exceed income) may be quarantined. That is carried forward for future year claim. For example if a beach house cost $600,000, the rent was $10,000 p.a. and the expenses were $15,000. Then $5,000 of expenses would be carried forward to future years and the remaining $10,000 would need to be apportioned. Using Peter's example above would give taxable income of $6,667 for the year
i.e. $10,000 – (10,000 x 30/90).

If you or some associated entity own a mixed use asset, then from 1 April 2013 you will need to record the number of days it is used by you, by any people associated to you and including any non-associated people who pay less than a market value rental. You will also need to record the number of days the asset is rented to other arms length parties for market value during the year.

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