footprint
an occasional newsletter
footes limited chartered accountants 30 church street timaru new zealand
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Budget 2012

Redundant tax credits go

Three tax credits have been axed as they 'no longer fit the purpose for which they were created':

- The tax credit for income under $9,880
- The childcare and housekeeper tax credit
- The tax credit for the children's rebate

Removal of these tax credits is effective from the current financial year, meaning the last year for their availability through an annual tax return will be the tax year ending 31 March 2012.
To avoid accusations of taxing children's pocket money the government has replaced the tax credit for children's active income with a limited income tax exemption for children. This means a child earning under $2,340 per annum from babysitting or mowing the neighbour's lawn (for example) won't need to file a tax return.

Mixed use assets

In a bid to save $109m over four years, the government has once again targeted mixed use assets. If you own a bach, a boat or an aircraft that you sometimes rent out then you'll now be required to apportion deductions based on actual income earned and private use of the asset, instead of based on the availability to produce income.
For example if you rented your bach for 20 days in a year and used it for 20 days in that year then you will be able to claim a deduction for 50% of general costs associated with the asset.

Student loans & allowances

From 1 January 2013:

- Student allowances will not be available beyond the first four years of study

From 1 April 2013:

- The loan repayment rate (for borrowers earning over the repayment threshold) will increase from 10% to 12% of income
- The voluntary repayment bonus (a 10% discount on voluntary payments) will be scrapped

From 1 April 2014:

- The definition of 'income' for student loan repayment purposes will be broadened to include other types of income

As the belt tightens, the parental income threshold for student allowances will remain frozen until 2016 and the government will implement an information match system between IRD and New Zealand Customs Service to identify student loan borrowers in serious default.
Changes are designed to ensure the longevity of our Student Loan Scheme and provide better value for New Zealanders.

ACC CoverPlus Extra

Who qualifies?

When a person starts self-employment, ACC CoverPlus for standard personal injury cover automatically applies. An alternative to the standard cover is ACC Coverplus Extra, which is ACC's agreed-cover product for self-employed people or shareholder-employees. Instead of the weekly compensation limit being based on 80% of the individual's previous liable earnings under the standard ACC cover, CoverPlus Extra pays 100% of the agreed cover level. There are a number of common business situations where CoverPlus Extra may better suit your ACC entitlement in the event of an accident or injury.

For example:

- When you don't have a history of liable earnings. In this situation you may only get the minimum payment in the event of an injury;
- If your liable earnings fluctuate from year to year;
- Farming partnerships where one partner is responsible for all, or a majority, of the revenue income.

ACC CoverPlus Extra may also be a good option for you if you feel you need a higher level cover than your taxable income. For example in a partnership, where one partner is a passive earner, the other partner's level of cover can be negotiated with ACC so that it takes into account the total partnership liable earnings.

Premium Deductibility

ACC CoverPlus Extra premiums were not tax deductible either to the company or to shareholder-employees for many years. This was because the shareholder employee is not able to claim expenses relating to his salary and since the ACC levy invoice was not billed to the company, it too could not claim a tax deduction.

However, the Inland Revenue Department now allows the employer company to treat it as a tax deductible expense if it pays the shareholder-employee's ACC CoverPlus Extra levy or reimburses the levy. Note that the Earners' levy portion is excluded.

For more information about ACC CoverPlus Extra or to discuss your own situation please contact this office.

Earners' Levy Thresholds

- The annual maximum earnings for the 2012-2013 income year on which earners' levy is payable has increased from $111,669 to $113,768. However, the levy rate has dropped from $2.04 to $1.70 per $100 of earnings.
- The annual minimum amount of earnings on which ACC is payable has also increased to $27,040 for those working 30 hours or more a week if 18 years of age and over.

Risk Review Letters

The IRD was supposed to send risk review letters around May 2012 to people (mainly professionals) that the IRD considered were avoiding tax. In other words, professionals they consider were operating under structures similar to the Penny and Hooper case. Since the Penny and Hooper case has been thrashed to death in the media we will not go into details. Suffice it to say that the Supreme Court found the two surgeons had diverted their income through company and trust structures to avoid the top marginal tax rate of 39%.

Following the judgement, the IRD conducted a roadshow late last year and indicated that it will not go back more than two years if professionals (who believed they had a similar set-up) came forward and made a voluntary disclosure. The IRD probably expected a large number of professionals to make voluntary disclosures thereby removing the need to send risk review letters altogether but this does not appear to have happened.

It is, however, interesting to note:

- that New Zealand has a higher number of trusts per capita than comparable countries and that the number of companies and trusts formed spiked during the period when the top tax rate was 39% according to some reports;
- that the IRD has published statistics on industry-based financial information such as turnover figures for small, medium and large businesses in say the food industry thereby setting up a benchmark for each industry.

If you receive a risk review letter from the IRD, contact your tax advisor before taking any steps.

Footes would like to welcome their newest staff member, Rebecca Patrick who takes up the role of Office Assistant. Rebecca started with us on 21 May 2012.

Companies Office Fees are changing

On 1 August 2012, the Companies Office will be making a series of changes to the fees it charges for services, and will also begin to collect levies to fund the Financial Markets Authority (FMA) and the External Reporting Board (XRB).
The new Companies Office fee structure addresses a funding deficit and better reflects the true cost of delivering services to the users of the Companies Office registers. FMA and XRB levies will now be included within most registration fees, annual return fees and with the filing of a prospectus.

Note | All fees and levies shown below are in New Zealand dollars (NZ$) and include GST.

Registration changes

Registration fees for NZ and overseas Companies virtually remain the same, with a slight reduction to $150, once the two new levies are included.

Annual returns

The company annual return fee is being re-introduced as the Companies Office can no longer continue to provide this service for free. The new annual return fee will be $45, this includes a $25 registration fee, a $10 FMA levy and a $10 XRB levy.

A new annual return fee will also be introduced for building societies, while annual return fees for Credit Unions and Friendly Societies will be reduced. FMA and XRB levies will be collected for all of these entities, as well as for NZ and overseas Limited Partnerships (LP's).

Registering a prospectus

The fee for registering a prospectus with the Companies Office will now include an FMA levy of $2,000.

FILING, WORKING FOR FAMILIES TAX CREDITS AND LOOK THROUGH COMPANY CHANGES IN THE BILL

Three of the changes in the Bill that will affect a large number of taxpayers for the better relate to filing obligations, WFFTC entitlements, and the Look-Through Company (LTC) requirements.

First, in relation to filing obligations the rules are being amended to minimise the filing obligations for many taxpayers. The changes proposed are three-fold:

- simpler filing requirements for individuals and record-keeping requirements for businesses
- requiring taxpayers who choose to file a tax return also to file returns for the previous four tax years
- removing the requirement for taxpayers to file a return merely because of their Working for Families entitlements

Secondly, there is a change proposed to Working for Families (WFF) entitlements for shareholder-employees. The Bill proposes to extend eligibility for the in-work tax credit to unpaid shareholder-employees of a close company. The Committee has recommended that the effective date of this provision be changed from 1 April 2012 to 1 April 2011. This will mean that a shareholder-employee in a company that made a loss in the 2012 income year will not need to have received a salary to be entitled to WFF assistance. The purpose of this change is to do away with the need to pay a $1 shareholder-salary in order to entitle the shareholder in a loss making company to claim WFF assistance. The Bill has not yet been passed, but the effect will be retrospective and therefore you should consider not filing the 2012 return if you wish to avoid the $1 salary.

Thirdly, in relation to LTCs, the changes assist in calculating the investment a look-through owner has in the LTC if it has transitioned from a QC, and also simplifies the rules regarding guarantees and the amount able to be claimed in the owner's basis. A further change is to remove a working owner from the FBT rules which will reflect the overall intent of the legislation that the company be treated as a look-through vehicle.

SELLING A BUSINESS - GST ISSUES TO CONSIDER

As a result of the changes to GST that have seen the zero-rating of supplies that wholly or partly include land, an issue has arisen as to how this affects the sale of a business. On 31 May 2012, the Inland Revenue Department (IRD) released a statement on the GST treatment of transitional services (such as vendor assistance with business operations for a period of time) where those services are provided by the vendor as part of the sale of a business (that includes the supply of land).

The statement notes that whether transitional services provided by the vendor as part of a sale of a business that includes land will be zero-rated will depend on whether the transitional services and the business/land are part of the same supply.

Most often the business and related land will be part of the same supply. Transitional services will also be part of that same supply where they are not a standalone services in themselves, but rather are a means of better enjoying the business supplied.

This will include situations where the transitional services provide merely ancillary, incidental, minor or peripheral benefits and are not in any real or substantial sense part of the consideration for which the payment is made. Whether the transitional service are separate services for the benefit of the recipient is a question of fact that must be determined in each case.

So where is the line drawn. In the case of British Airways the supply of food and beverages was not necessary or essential to the supply of air transport but was merely an optional extra. The food and beverages were an ancillary, incidental, minor, or peripheral element of the transaction. In CEC v British Telecommunications, the car and the delivery of the car was a single supply of a delivered car. In Dr Beynon v CEC, the personal administration of a drug (such as a vaccine) by a doctor was a single supply of medical services.

The IRD says that where an agreement includes the sale of the land and a building where the business is located and also includes a requirement that the seller will be on-site for a week from the day of transfer, to show how the business operates, to answer any questions, and to facilitate a smooth transfer of the business, this would be zero-rated. If the seller was to manage the business for an initial period of 12 months, this would be a separate supply and not zero-rated.

How it affects you

If you are selling a business, contact us to discuss the GST treatment of the sale to ensure you get it right.

Changes to livestock valuations

The 2012 budget confirms changes to the rules around the valuation of livestock for tax purposes - a loophole previously signalled for tightening.
Elections to use the herd scheme are now irrevocable (with some exceptions). This is effective from 18 August 2011 and any elections to exit the herd scheme made after this date will not be honoured. We're poised, awaiting further detail on how this will affect farmers.

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