trialbalance

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NZ CA
An Association of Independent Chartered Accountants

In this Issue

New foreign superannuation rules

The IRD have taken the commendable step of introducing a new (and simpler) regime that applies to the taxation of withdrawals (including lump sums) and transfers of foreign superannuation schemes. The basic objection to such taxation rules, (that tax is levied on growth of what is essentially a capital asset, and some of which may have accrued while the owner was not a tax resident of New Zealand) remains however.

Some of the pain induced by such rules has been softened by the introduction of simpler and more taxpayer friendly rules. The terminally cynical would suggest that the motivation for this was as much the desire to introduce simpler and more taxpayer friendly rules as to introduce rules which the IRD are themselves able to understand.

A four year exemption from taxation of lump sum withdrawals or transfers to New Zealand or Australia superannuation schemes applies from when the person arrives back in New Zealand. Thereafter tax is levied on a portion of the lump sum withdrawal or transfer value. The longer a person has been a tax resident in New Zealand at the time of such withdrawal or transfer, the larger the portion that will be subject to tax. For taxpayers who have been a New Zealand tax resident for a significant period of time, tax is levied on 100% of the lump sum withdrawal or transfer value, (the schedule method).

Those new rules also include a "formula" approach which applies a complicated formula (in fact, five formulas) to calculate the tax payable on such lump sum withdrawals or transfers. The formula approach is an alternative to the schedule method.

Certain relatively benevolent transitional provisions apply to persons who apply the new rules on or before 31 March 2014 and make a disclosure to the IRD at the same time. These provisions apply where a lump sum withdrawal or transfer has been made between 1 January 2000 and 31 March 2014. The proposed transitional provision will allow people to meet their past tax obligations by paying tax on only 15% of the lump sum withdrawal or transfer value.

Pension and annuity benefits received on an annual basis from such foreign superannuation schemes will be taxed as ordinary income, on a receipts basis.

For people who have previously complied with the FIF rules in relation to a foreign superannuation scheme interest, "grandparenting" provisions are proposed which will allow those rules to continue to be available under certain conditions. This will only include persons who have filed an income tax return declaring foreign investment fund (FIF) income or loss for an interest in a foreign superannuation scheme before 20 May 2013. This may suit taxpayers who are close to retirement age and who are about to start drawing pension benefits. Taxpayers who have complied with the FIF rules may however elect to "opt out" of the FIF rules and apply the new rules instead.

Taxpayers with foreign superannuation scheme interests should consult their tax advisors before 31 March 2014.

Source: nsaTax

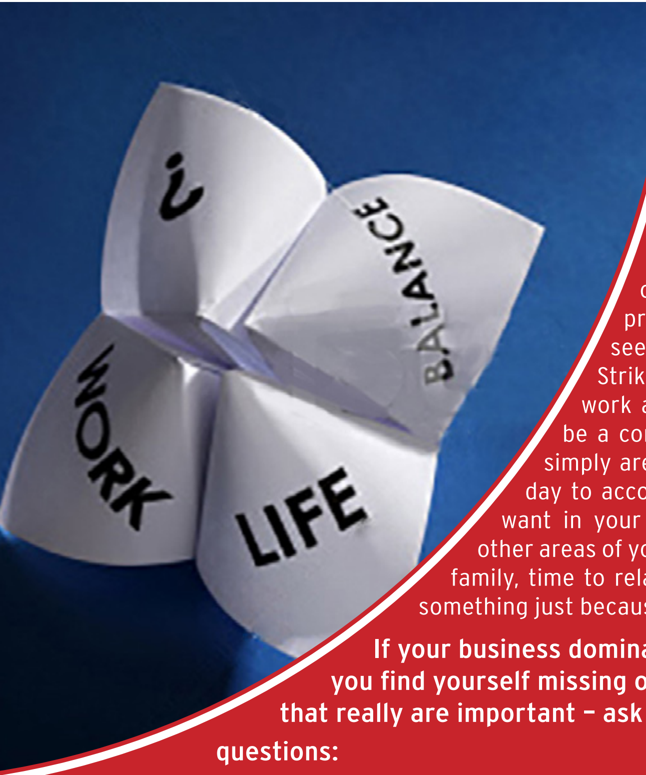
Beware 15 January

The date for payment of the second instalment of provisional tax for 31 March taxpayers should have been 28 December. However, as most people are on holiday at that time, it was changed to 15 January.

Annual leave was subsequently increased to four weeks but the date above was never reset to 22 January as it should have been, following the original reasoning for choosing 15 January. As a consequence the IRD is collecting more penalties and interest.

If you're taking a summer holiday break and have tax to pay while you're away, don't forget to set up the payment before you go.

We notice several clients were late last year. We also notice the IRD does not send out statements but allows penalties to accumulate. So, beware 15 January. Don't pay your tax late.



Work/life balance

Struggling to find a work/life balance?

For many business owners time is as precious, and sometimes seems as scarce, as money. Striking a balance between work and personal time can be a constant struggle. There simply aren't enough hours in a day to accomplish the things you want in your business let alone in other areas of your life - time with your family, time to relax, read a book, or do something just because it's fun.

If your business dominates your life and you find yourself missing out on the things that really are important – ask yourself these questions:

- Do you have a business, or does your business have you?
- Do you spend too much time working IN your business and not enough working ON it?
- Are you up late at night or during the weekend catching up on admin?
- Can your business keep running successfully if you're not there?
- Does your business get in the way of spending time with your family and the things you love to do?
- Does your business work for you... or do you work for your business?

What is a work/life balance anyway?

It's really a misnomer. There is not your work, and then your life. There is just your life, of which work is a component. It's how you fit that component into your life that makes the difference. If this continues to be a challenge, you run the risk of becoming stale, exhausted and stressed out – no good for your business, no good for your family, and no good for you.

I'll let you in on a secret – if you have a life with everything included (and nothing left out), you'll turn your energy on it's head. You'll have a fresh approach, greater clarity and objectivity, you'll feel inspired and accomplish more than you ever thought possible.

If you're constantly struggling to strike a balance between your business and your personal life, perhaps it's time to take back the reins and start really being the boss.

Source: Full Focus

Our greatest weakness lies in giving up. The most certain way to succeed is always to try just one more time.

Thomas A. Edison

Trusts good practices guide

Before accepting appointment as a trustee, it is important that the future trustee has knowledge of what is involved and exactly what is expected of them.

The following is a short and by no means full guide on good practices for trustees.

1. **Know what a trust is.**
2. **Know the trust deed.** The trust deed contains the rules setting out the terms of the trust . It lists who can benefit and what powers and limitations the trustees have.
3. **Ensure that a memorandum of guidance for the trustees is prepared by the settlor(s).** This does not legally bind the trustees, but it should advise the trustees why the trust was formed and what the settlor(s) wishes are for the trust fund.
4. **Know what the trustees' duties are.** The advisor who is assisting in the formation of the trust or in the appointment of a new trustee, should provide details of these duties. The Law Commission, in its recent review of the Law of Trusts, has recommended that if a new Trusts Act is enacted, mandatory and default trustees' duties should be set out in this new Act.
5. **Know who the beneficiaries are and know their circumstances, needs and requirements.**
6. **Take appropriate advice.** Suitable advisors should be consulted for at least accounting, tax, legal and investment matters relating to the trust.
7. **Ensure annual accounts are prepared and signed off by all of the trustees.**
8. **Ensure that income tax returns and GST returns are filed with the Inland Revenue Department in a timely manner.**
9. **Ensure all income tax and GST payments are up to date.**
10. **Ensure regular trustee meetings are held.** Appropriate agendas should be prepared and followed at the meetings and minutes of the meetings should be prepared and signed off by all of the trustees.
11. **Know the risks and responsibilities of the trustees.**
12. **There is no such thing as a "passive" trustee.** Most trusts provide that trustees should be unanimous in the exercise of most of their powers and decisions. Each trustee should apply his or her mind to the exercise of a power or the making of a decision, and not just follow the other trustees.
13. **Have an investment policy document in place.** The investment advisor to the trust will help to prepare this.
14. **Arrange for regular investment reports for the investment portfolio to be issued by the investment advisor.**
15. **Ensure the appropriate insurance covers are in place for the trust assets that require insurance.**
16. **Know and regularly check what responsibilities and/or liabilities the trustees have to banks or other financiers.** Are there guarantees in place and what is the status of those guarantees?
17. **Check periodically that the trust is still performing the function for which it was established and if not, ask why not.**
18. **Ensure the trustees do not exercise powers for an improper purpose – this is a difficult area.** If in doubt the legal advisor to the trustees should be consulted.
19. **Record the actual decisions made, not the reasons for those decisions.**

There are likely to be other items that should have been included on this list but the above are matters that should definitely be included in any good trusts guide.

Trusts and the various individuals involved are never static and trustees should always be conscious of this.

Source: Martelli McKegg Lawyers

Stick to the rules for bad debt claims

If you want to claim a bad debt, you have to obey the rules.

These are:

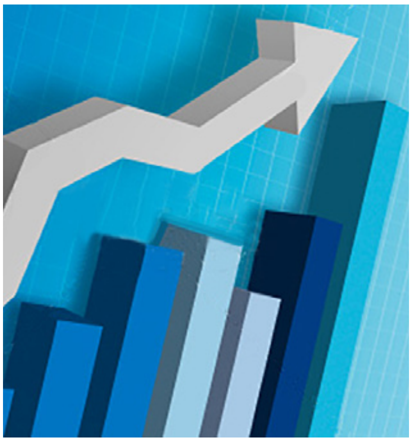
1. It must be written off by the last day of the financial year. We will explain below what "written off" means.

2. You must have made reasonable efforts to collect the money. A typical reasonable effort might be several follow-up calls and written threats to take action if a debt is not repaid.

3. You must have reasonable grounds for considering you may not be paid. A typical situation would be a failed business or a business which has ceased trading or is in a dispute. What does "write off" mean?

The answer depends on how sophisticated your record keeping is. If you have a proper debtors ledger, it is easier to write off the bad debt. You put it through a process, which gets it off your debtor's ledger. Be sure to record the date you did this. Some clients just send out their invoices and keep copies. These act like a debtor's ledger. If you're one of these people, the best thing to do is to move your copy invoice into another folder and write on it "written off as a bad debt" – put the date on it and then sign it.

It's perfectly permissible to continue to pursue your bad debts after they are written off. If you're fortunate and get some money later, treat it as taxable income.



Volume does not equal profit

I heard a joke recently about a couple of businessmen. They were buying cabbages and selling them for the same price they paid for them.

"We're not making any money," says Eric.

"Well," said Fred. "We'd better get a bigger truck so we can sell more."

It's not about the volume of sales so much as profitability. Keep an eye on this. The same applies if you're busy. Being busy is not necessarily being profitable . A plumber friend who proudly said recently his workload was up 30 percent, was shocked to find he'd not made any more profit than a year ago. He was busy doing work that wasn't making him money.

If you prepare two-monthly GST returns, use the figures to monitor your business. You'll probably need to make some adjustments, particularly if you use the payments basis. Discuss this with us.

When your business gets bigger, get proper accounts done, regularly. We've seen too many clients discover how badly their businesses have been performing only well into the following year. Twelve or more months of losses are likely to cost much more than the extra needed for regular accounting.

Good strategy / bad strategy

"The creeping spread of bad strategy affects us all. Heavy with goals and slogans, governments have become less and less able to solve problems. Corporate boards sign off on strategic plans that are little more than wishful thinking. We must demand more from those who lead. More than charisma and vision, we must demand good strategy! The hallmarks of bad strategy include:

1. Failure to face the problem.

A good strategy requires a thorough analysis and diagnosis of the challenges you are likely to face in the future. If you fail to identify and deal with the obstacles, you don't have a strategy.

2. To do lists.

A long list of things to do is not a strategy. It is just a list of things to do. Such lists usually grow out of planning meetings in which a wide variety of stakeholders suggest things they would like to see accomplished. Rather than focus on a few important strategic moves, the group sweeps the whole day's collection into a document they erroneously call a strategic plan.

3. Fluff.

Fluff is a restatement of the obvious, presented as if it were a decisive insight, combined with buzzwords that masquerade as expertise. Here is a quote from a major retail bank: "Our fundamental strategy is one of customer-centric intermediation."

Intermediation means that the company accepts deposits and then lends out the money. Remove the fluff and you learn that the bank's fundamental strategy is nothing more than "being a bank".

4. The magic vision.

The business media has a fascination with so-called charismatic leaders, and the power of a shared vision. Their mistake is to confuse Vision with Strategy, and to make us think that success is a simple matter of creating a vision and sprinkling some fairy dust on it.

The "visionary leader" template goes like this: (1) The leader develops or has a vision of a better future, (2) inspires people to sacrifice (change) for the good of the organisation, and (3) empowers people to accomplish the vision and (4) adds some stretch goals and calls it a strategy.

Creating a compelling vision, coupled with positive thinking is all very well. Just don't call it strategy!

5. Mistaking goals for strategy.

Pushing and motivating the team to reach some lofty stretch goal is not strategy. It brings to mind the trench warfare of World War One, where the officers would urge their troops to climb out of their trench and charge at the enemy machine guns with "Just one last push over the top".

The millions of slaughtered troops did not suffer from a lack of motivation. They suffered from a lack of competent strategic leadership. Maybe that's why motivational speakers are not as popular in Europe as they are in the United States.

What is Good Strategy?

A winning strategy requires careful analysis, and a thorough understanding of how your industry is likely to play out, and getting very clear on the pivotal strategic moves your company needs to make in order to position yourself for future success in your industry.

Source: Results.com

Cashing up annual holidays

Employees can 'cash-up' a maximum of one week of their annual leave entitlement if both the employer and employee agree.

Cashing up annual holidays can only occur at the employee's request and the request must be submitted by the employee to the employer in writing.

Employees can request to cash-up less than a week if preferred and more than one request can be made until a maximum of one week of annual leave is paid.

Once you have agreed to cash-up a portion of your employee's annual leave, you are required to provide the payment as soon as possible, which will usually be the next pay day. The value of the payment must be at least the same as if the employee had taken the holidays.

Tips to remember:

Cashed-up annual leave should be treated as an extra pay or unexpected bonus. Because it's taxable income, pay as you earn (PAYE) should be calculated using the rates for lump sum payments.

If your employee usually has student loan or KiwiSaver deductions made from their pay, deduct these from the cashed-up annual leave as well.

Your employee's child support liabilities and Working for Families Tax Credits entitlement may also need to be adjusted if their family income has changed.

Is Inland Revenue contacting you whilst you have a Tax Agent?

We are aware of instances where Inland Revenue is contacting taxpayers directly (via written communication or telephone) despite the person having been linked to his or her tax agent's list. Such direct communication is not only stressful to the person who may be feeling "under the radar" but also harmful if the person is not fully aware of the details of their tax affairs (usually handled by the tax agent) and as such may not be in a position to provide the correct answer to Inland Revenue. Further, there might be reasons why the taxpayer wishes to discuss Inland Revenue's queries with the tax agent. Either way, the taxpayer should advise Inland Revenue that they should contact the tax agent with all tax queries.

Source: RSM Prince

Lease inducement/payments – think symmetry

For transactions after 1 April 2013 think symmetry when it comes to lease inducements and surrender payments. Lease inducements received on commercial premises are taxable and the payment is tax deductible. Both parties are required to spread the lump sums over the period of the lease, being the shortest time for which a binding contract exists.

You are never too old to set another goal or to dream a new dream.

C. S. Lewis

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Changes in Particulars

Please remember to let us know of any changes in:
* Physical address * E-mail address * Phone and/or fax numbers * Shareholdings * Directorships * Trustees
Or anything else that may be relevant.