

# TAXTEAM TALK

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## INTRODUCTION

Welcome to another tax newsletter from Toovey Eaton & Macdonald Ltd ("TEAM"). Once again, we set out a number of tax changes and points of interest that are significant to Crown Entities.

It has been a busy year on the tax front. New or announced initiatives include KiwiSaver, lower company tax rate, research and development incentives, a review of the international and life insurance tax regimes, new partnership legislation, review of the associated persons rules, and a review of the imputation regime. For individual

taxpayers, there are personal tax cuts next year, income-splitting, and facilitation of charitable giving. These latter points will impact your organisation in terms of HR management.

Whilst the raft of income tax policy and law changes may not impact your organisation directly, the sheer volume thereof illustrates the reality that tax is never static. The message? Complacency with your tax risk management is not recommended.

And who knows what next year's election will bring...

## RELOCATION EXPENSES – UPDATE

On 20 November 2007, an Issues Paper was released by the Inland Revenue Department's ("IRD") Policy Advice Division and New Zealand Treasury proposing that relocation expenditure should be exempt from Fringe Benefit Tax ("FBT") and PAYE.

Even better, it is proposed that the exemptions apply retrospectively, as far back as the 2002-03 income tax year.

The Issues Paper proposes that certain conditions will need to be satisfied, including the following:

- § The relocation will need to be as a result of the employee taking a new job with a new employer; taking up new duties at a new location with the existing employer; or continuing the current job, but at a new location.
- § The employee's existing home must not be within reasonable traveling distance of the new workplace.
- § The expense must be on a defined list of eligible relocation expenses.
- § Only actual relocation expenditure incurred will be exempt.
- § The expenditure must be incurred within certain time limits.

The Issues Paper also questions whether PAYE suffered on relocation expenditure incurred by an employee and reimbursed by the employer should be refunded to the employee or the employer.

The Issues Paper has invited submissions from interested parties, and, as an issue that TEAM has been discussing with the IRD for some years, we will certainly be providing comment. We will update you on the final outcome as soon as it is known.

## GST UPDATE

Having completed a number of tax compliance reviews for Crown Entities this year, a number of recurring common GST issues have been identified:

- § GST time of supply - are you subject to the standard rules, or the special rules for public authorities?
- § GST on grants - is there actually a supply which is subject to GST?
- § GST on levies and charges - does GST apply?

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## KIWISAVER UPDATE

In our May 2007 KiwiSaver Newsletter, we highlighted the significant changes proposed in the 2007 Budget for the KiwiSaver scheme. On 15 November 2007, the Finance & Expenditure Committee reported back on the May Tax Bill, and we can confirm that there has been little alteration to the majority of the changes proposed in May.

However, it is relevant to highlight two additional changes proposed, namely:

- § The KiwiSaver definition of “salary” and “wages” – it is proposed that this will exclude:
- ú Payments or allowances for accommodation or other costs of living overseas;
  - ú Accommodation benefits provided in New Zealand; and
  - ú Redundancy payments.

It will also be altered to include ACC Weekly compensation and paid parental leave.

- § Prevention of ‘double dipping’ – this change exempts employers who are already contributing to a registered superannuation scheme under the terms of a collective agreement settled prior to 17 May 2007 from contributing to an employer KiwiSaver scheme.

The May Tax Bill has yet to receive Royal Assent – intended to occur by the end of December, but this may be unlikely, given the tight timeframe – and only then will we have definitive legislation to work with. However, it is not too early to consider the KiwiSaver policies and procedures that you may need to implement.

It is also timely to mention that salary sacrifice arrangements are still able to be entered into, despite the employer contributions proposed in the Tax Bill, and there may be reasons to consider these before 31 March 2008 – for instance, maximisation of the available SSCWT exemptions.

## TAX RISK MANAGEMENT

A recent article by a Chief Advisor with the IRD provided an interesting insight into the IRD’s views on tax risk management strategies and the operation of large organisations. The article noted a perception that the Board and Executive of organisations are disconnected when it comes to considering tax matters, and that, consequently, most organisations do not actively manage tax risks.

Further, the article noted that the IRD would be more actively challenging large organisations as to:

- § Whether they have documented tax risk management policies;
- § Whether there are robust processes in place to ensure that tax risk management controls are operating effectively; and
- § Whether there is regular reporting on tax issues to the main Board or Board committees.

As a Government agency, you are viewed by the IRD as a large organisation, and, as such, you should reflect on the robustness of your organisation’s tax risk management strategy.

## HONORARIA AND REIMBURSEMENTS

The IRD has issued a discussion paper relating to the tax treatment of honoraria payments and reimbursements made to volunteers.

The discussion paper proposes a number of possible solutions to the issue of taxing reimbursements and honoraria paid to volunteers. These include clarifying the definition of “volunteer”, which is a critical factor in approaching any reform of the current tax laws. The proposed definition contains three essential features, being that the individual makes no financial gain, the concept of ‘free will’, but with sufficient flexibility to encompass *mahi aroha* and other cultural obligations; and that the act of volunteering results in benefits to a third party.

Two options are suggested regarding the tax

treatment of reimbursement payments. These are treating all reimbursement payments to volunteers as exempt income, or imposing a threshold below which reimbursements will be tax-exempt. The former is considered the most appropriate tax treatment, due to its easy application and minimal compliance costs.

The paper also suggest three options in respect of tax treatment of honoraria paid to volunteers. Briefly, the options are that all honoraria up to a threshold would be treated as exempt income, honoraria and reimbursements would be required to be paid separately, or withholding tax would be deducted from honoraria net of reimbursements paid to volunteers.

Each option has its own advantages and disadvantages. We are submitting on these and other proposals in the paper.