

TAXTEAM TALK

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INTRODUCTION

Welcome to another tax newsletter from Toovey Eaton & Macdonald Ltd ("TEAM"). The new Government has wasted little time in making business tax changes, and indications are that these will be ongoing. At the same time, unprecedented IRD audit activity in the public sector reinforces the need for tax compliance to be treated with high importance.

TAX CHANGES

The recent tax changes include a package of tax measures aimed at making it easier and less expensive for businesses to pay taxes.

A number of these changes can apply to Crown Entities, as follows:

- § The value of minor fringe benefits (e.g. vouchers, flowers, gym memberships) that can be provided to employees without attracting FBT has been raised, up to a maximum threshold of \$300 per employee per quarter, and \$22,500 per employer per year. This change applies from 1 April 2009.
- § The FBT prescribed interest rate has been reduced from 10.90% to 8.05%. This change applies from 1 January 2009.
- § The use-of-money interest rate for underpayments of all tax types has been reduced from 14.24% to 9.73%. The rate for overpayments will reduce from 6.66% to 4.24%. These changes apply from 1 March 2009.

Smaller Crown Entities or associated organisations may also be able to take advantage of the following changes:

- § The PAYE once-a-month and FBT annual filing and payment thresholds have been raised from \$100,000 to \$500,000. You may be able to file and make PAYE and FBT payments less often, reducing compliance costs normally incurred.
- § As the GST six-monthly return filing threshold has been increased from \$250,000 to \$500,000 of annual taxable supplies, you may be entitled to file GST returns less often; again, reducing compliance costs. You may also be eligible to adopt the payments basis accounting method for GST, as this threshold has been raised from \$1.3 million to \$2 million.

We *strongly* recommend that you review and amend your tax policies and procedures accordingly, and ensure that your Finance team is aware of these changes. A full summary can be found on our website.

IRD INVESTIGATIONS

In recent years, the IRD has been relatively inactive in the Crown Entity sector, and the likelihood of IRD investigation was minimal. However, it's time to be vigilant, as Crown Entities now face a *real* risk of an IRD investigation. In the past few months, the IRD has been increasing its audit activity in the public sector, and has advised us that Crown Entities will be included in its planned coverage.

How exactly would your Crown Entity be affected by an IRD investigation? In addition to the potential monetary costs, it will also incur significant non-fiscal costs during the process of the investigation.

Monetary costs include core tax liabilities on issues identified by the IRD, as well as tax penalties and

interest that may arise. If your organisation's tax compliance has been less than exemplary, the financial ramifications could be significant in these tough economic times.

Non-fiscal costs include significant disruption to staff in dealing with IRD enquiry, management costs in ensuring that the IRD conducts its investigation expeditiously, and communication costs in keeping all stakeholders informed. And don't ignore the *political risk* arising from any tax non-compliance.

If you have any concerns over tax compliance, particularly in the GST/PAYE/withholding tax areas, action now could eliminate all penalty costs, provided that issues are voluntarily disclosed to the IRD before you receive formal notice of an investigation.

R&D TAX CREDIT

Has your Crown Entity undertaken research and development ("R&D") activity in the past year? Although the short-lived R&D tax credit regime has now been repealed, the R&D tax credit will remain available for eligible expenditure, or depreciation loss incurred, on R&D activities carried out in the 2008/09 income year.

We have been corresponding with the IRD on the application of the credit to Crown Entities. The IRD has recently advised the Government to amend the legislation to clarify which Crown Entities are eligible, and has submitted the following principles in this regard:

- § Whether the Crown Entity contributes to the Government's policy objectives, or whether its primary objective is to make a commercial return for owners;
- § Whether R&D undertaken by the Crown Entity would have a negative impact on the ability of private firms to undertake R&D activities; and
- § Whether there are more effective ways to increase R&D carried out by the Crown Entity than through a tax credit mechanism.

If your organisation has incurred eligible expenditure and you believe that it meets these criteria, you may wish to start the process of substantiating your claim pending a Government announcement on eligibility.

RELOCATION EXPENDITURE

The IRD has released a draft determination on relocation expenditure, issued when the Tax Bill implementing its tax exemption was before Parliament. Whilst the Bill is still to be enacted, the exemption will be backdated to the 2002/03 income year. The

likely enactment date for the Bill is August 2009.

The determination sets out a comprehensive list of proposed expenditure that will be able to be reimbursed or paid to relocating employees tax-free. The IRD requested submissions on the ap-

propriateness of the proposed eligible expenditure, and TEAM has made submissions on behalf of a number of clients on the breadth and scope of the determination.

The draft determination can be found on our website, and we will update you once it's finalised.

VOLUNTARY DISCLOSURE—A RED FLAG

It's not uncommon to make errors in GST and FBT return filing. With ongoing changes to tax law and practice, systems and personnel, it is almost inevitable. How should these errors be rectified?

In our view, it is incumbent on all public sector institutions to be transparent and to notify the IRD expeditiously. Provided that corrective action is taken with 'all cards on the table', resolution should not be problematic. However where the proposed corrective action is, itself, incorrect, then warning bells will ring at the IRD! Be safe and obtain appropriate professional advice regarding voluntary disclosures.

TAX TRAINING

Unless staff with operational tax compliance responsibilities receive adequate ongoing training, whether or not your organisation has hidden tax risks may be more due to good luck than good tax risk management.

TEAM has been carrying out annual full-day tax workshops for local authorities since 2004, and has recently invited your organisation to workshops for the Crown Entity sector. Our workshops have proved popular because they focus solely on practical and topical issues relevant to your sector, and aim to ensure that finance managers and staff

responsible for tax compliance have sufficient current tax knowledge to ensure that your organisation is tax-compliant. Being able to compare their practical experience with that of their sector peers adds a valuable practical dimension to the learning experience.

At the time of writing, there are still places available on 14 & 26 May 2009. If you are interested in attending one of these sessions, which will be held in our office on Victoria Street, please contact Sara Thomson at sara.thomson@taxteam.co.nz or telephone 04 494 2390.

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