

TAXTEAM TALK

INTRODUCTION

The Taxation (Urgent Measures and Annual Rates) Act ("the Act"), introduced under urgency on 9 December 2008, passed its final stages in Parliament on 11 December 2008. The new legislation received Royal Assent on 15 December 2008, and brings several of the new Government's key initial tax policies into effect, including changes to KiwiSaver, the lowering of personal income tax rates from 1 April 2009, and repeal of the Research & Development ("R&D") tax credit regime.

In addition, the new Government has reinstated the Taxation (International Taxation, Life Insurance, and Remedial Matters) Bill introduced in July 2008. The comprehensive Bill includes exemption from tax of eligible relocation expenses, and tax rules surrounding payroll donations.

KIWI SAVER

The Government has stated that it is committed to retaining the KiwiSaver scheme and making it sustainable and affordable for members and employers. The following changes will apply from 1 April 2009:

- § The minimum default member (employee) contribution rate will be reduced from 4% to 2% of gross salary or wages. Those who currently contribute at 4% or 8%, can continue to do so after 1 April 2009, unless they opt to go to the reduced rate.
- § With the reduced member (employee) contribution rate, the transitional rules phased in up to 2011 will be repealed.
- § Compulsory employer contributions will be capped at 2% of an employee's salary or wages, in line with the minimum member contribution rate.
- § The member fee subsidy of \$40 per annum will be discontinued.
- § The employer tax credit up to \$1,042.86 per annum will be discontinued.
- § The employer superannuation contribution tax ("ESCT", formerly SSCWT) will be capped at the compulsory employer contribution rate of 2% from 1 April 2009. For those employers who contribute in excess of 2%, the extra contribution will be subject to ESCT at 33%.

Further, amendments have been made to the KiwiSaver Act 2006 to ensure that employees' gross pay will not be reduced upon joining

KiwiSaver. This is to make it clear that the compulsory employer contributions are genuinely *in addition* to normal pay. On the other hand, the amended legislation will also provide employers and employees with the ability to negotiate their own arrangements, so long as this is as a result of good-faith bargaining. As such, the previous amendment to the Employment Relations Act 2000 will then be repealed.

The Act ensures that the member (employee) tax credit of up to \$1,042.86 per annum will still be available. The Government 'kick-start' contribution of \$1,000 will also remain unchanged, as will the mortgage diversion facility, deposit subsidy, and the first-home withdrawal provisions.

Taking into account the changes summarised above, we recommend that the following action be considered and implemented before 1 April 2009:

- § Review your KiwiSaver policies and procedures to reflect the above changes.
- § Implement updates in your payroll system to ensure that KiwiSaver contributions and other superannuation will be calculated on the correct rates after 1 April 2009, particularly if you have employees contributing at different rates.
- § Ensure that the compulsory employer contribution has been taken into account during employment remuneration negotiations.

PERSONAL TAX RATES

The Act has introduced a three-year programme of personal tax cuts starting from 1 April 2009. The package includes changes to personal income tax rates and thresholds. A summarised comparison to the current tax rates is provided as follows:

Current structure		From 1 April 2009	
Income tax thresholds	Tax rates	Income tax thresholds	Tax rates
\$0 - \$14,000	12.5%	\$0 - \$14,000	12.5%
\$14,001 - \$40,000	21%	\$14,001 - \$48,000	21%
\$40,001 - \$70,000	33%	\$48,001 - \$70,000	33%
\$70,001 and over	39%	\$70,000 and over	38%

R&D TAX CREDIT

The Act has confirmed the removal of the R&D tax credit provisions from 1 April 2009.

Despite the repeal, the credit remains available for eligible expenditure or depreciation loss on R&D activities carried out in the 2008/09

income year. Therefore, if you are eligible to claim the credit, you should ensure that you submit your detailed statement for the credit *no later than 30 days* after the due date for the 2009 income tax return.

Once the tax return and detailed statement have been processed, the IRD will use the credit to satisfy your existing tax liabilities. Any surplus will be refunded or made available for transfer.