

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 for the Central Government sector.

This November, TEAM will have been in business for six years– how time flies when you're having fun! We recently undertook a strategic planning process to reflect on what we had achieved to date, and where we want TEAM to go in the future. A key component of this was to agree on our purpose, being "focused and applied tax services for organisations that matter." "Focused" as in understanding your business environment; and "applied" as in providing *practical* solutions to your taxation needs. Given that TEAM has an almost exclusive public sector focus, it is obvious which organisations matter to us!

TAX POLICIES

The provision and updating of tax policies for our clients has been highly successful since the service was introduced in 2003. We now provide these policies for over 80 clients. As was intended from the outset and is now logistically necessary, the policies are soon to be supplied as an online service,

enabling us to update them in 'real time' as changes to legislation and case law dictate.

The policies will be accessible to subscribers through our website, www.taxteam.co.nz, and clients will receive their personalised access code under separate cover. A small

subscription fee increase is proposed, from \$1,000p.a. to \$1,350p.a. This is the first increase since 2003, and will also help to cover the cost of bringing this service online. The increase will apply from 1 July 2008, subject to the pricing clause in your engagement letter.

NEW-LOOK WEBSITE

In conjunction with launching the online policy service, we are upgrading our website to make it easier to navigate, and to facilitate other online services, such as online helpdesk queries and online usage of the GST property transaction tool. Other online services will be added in the future. Have a look and let us know what you think!

TREASURY DICE PROCESS

In Treasury Circular 2007/16, Treasury reported on the results of the Departmental Internal Control Evaluation ("DICE") for 2007. It is pleasing to note that the average score for the tax obligations element has improved annually since DICE was introduced in 2002. We would like to think that this is due, at least in part, to our tax risk management framework, to which most Central Government entities have subscribed since 2002.

Of concern is that "Payroll Systems" is one of the lowest-ranked DICE elements, factors of which include lack of documented processes for employee terminations, and insufficient documentation or approvals for severance payments, bonuses, etc. One implication is the risk of incorrect tax treatments being applied to such payments, and the associated penalty implications.

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JULY TAX BILL AMENDMENTS

As a result of the 2008 Budget, several amendments have been introduced in the July Tax Bill to lower compliance costs for small- and medium-sized enterprises ("SMEs"). Central Government agencies that fall under the SME category will be able to file returns less frequently and benefit from increased cashflow, while also reducing the associated administrative costs.

Primarily, it is proposed that the PAYE monthly and FBT annual filing thresholds will be increased from \$100,000 to \$250,000 of annual gross tax deductions. Other significant changes include increasing the:

§ GST registration threshold from \$40,000 to \$50,000; and

§ GST six-monthly return filing threshold from \$250,000 to \$500,000.

The Government has suggested that these threshold amendments are the first stage in reducing tax compliance costs. Other changes to the existing compliance rules have also been signalled, including:

§ Simplifying the rules for calculating FBT on cars for SMEs;

§ Simplifying GST invoice disclosure requirements; and

§ Providing an ability to correct minor errors in subsequent returns.

We will keep you updated on these proposed changes when more details are released.

RECENT PENALTY CHANGES

Changes to the tax penalty regime have been introduced in the Taxation (Business Taxation and Remedial Matters) Act 2007, and will apply to tax positions taken on or after 1 April 2008, unless specified otherwise. The main changes are as follows:

Late payment penalty

From 1 April 2008, all taxpayers start with a clean slate in respect of late payment penalties. The IRD will notify taxpayers the first time that their payment is late, rather than imposing an immediate late payment penalty. If, within two years of the due date of the first late payment, another late payment occurs, the penalty will be imposed as usual from the day after the due date.

GST late filing penalty

From 1 April 2008, a \$250 late filing penalty (for those on an invoice basis) will be imposed for failing to file a GST return on time. The penalty will not be imposed the first time that a GST return is filed late. Instead, the IRD will issue a warning that any subsequent late returns in the 12 months following the first breach will be penalised.

Shortfall penalty – unacceptable and abusive tax position

For tax positions taken on or after 1 April 2008, the shortfall penalty for taking an unacceptable tax position will only apply to tax positions relating to income tax—GST and withholding taxes are removed from the scope of this penalty. The abusive tax position penalty minimum threshold has also been removed, with effect from 1 April 2008 (previously \$20,000).

Voluntary disclosure and shortfall penalty reduction

For voluntary disclosures made on or after 17 May 2007, a 100% reduction in shortfall penalty for not taking reasonable care, or for taking an unacceptable tax position or interpretation, is available, provided that the voluntary disclosure is made before notification of a pending tax audit or investigation. Where a Ministry or Department is notified of a pending audit, but voluntarily discloses the tax shortfall prior to commencement, a reduction of 40% of the shortfall penalties may be sought.

TAX POOLING

Currently, tax pooling is used by provisional tax payers to help minimise the costs associated with use of money interest (UOMI). Present UOMI rates are 14.24% for tax underpaid and 6.66% for tax overpaid. Tax pooling intermediaries generally offer more attractive financing rates than the UOMI rates.

The July Tax Bill has amended the tax pooling rules to include GST, FBT and PAYE, in certain circumstances.

The widening of the rules will allow taxpayers to access

tax pooling funds to pay GST, FBT or PAYE liabilities in periods where a reassessment has occurred. This is possible whether the liability has arisen as the result of an audit or by voluntary disclosure. Currently, taxpayers who have voluntarily disclosed errors are still exposed to high UOMI costs, especially if the error occurred some time ago.

If you are interested in tax pooling, please contact us for further details.

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