

# TAXTEAM TALK

## THIS ISSUE AT A GLANCE

*Introduction*

*Tax policies*

*New-look website*

*R&D tax credits*

*Proposed Income Tax  
Return changes*

*GST on development  
contributions*

*Payroll-giving*

*Superannuation scheme  
overpayments*

Contact TEAM...  
PO Box 44  
WELLINGTON  
Tel: 04 494 2390  
Fax: 04 494 2399

## 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 local authorities.

This time of year is particularly busy for finance teams, with the audit of annual reports and the preparation of LTCCPs. However, many local authorities also use this time as a opportunity to ensure that group tax structures are efficient and tax returns are filed expeditiously. If we can assist you with these matters, please contact 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 now supplied as an online service, enabling us to update them in 'real time' as changes to legislation and case law dictate.

The policies are accessible via our website, [www.taxteam.co.nz](http://www.taxteam.co.nz), and subscribers receive their personalised access code by mail. If you would like further information about this service, please contact us.

## NEW-LOOK WEBSITE

In conjunction with launching the online policy service, we have upgraded 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!

## R&D TAX CREDITS

Following on from the 2007 Budget announcement, the legislation regarding tax credits for eligible research and development ("R&D") activities has been enacted, and came into effect on 1 July 2008. Generally, the R&D tax credits are available for New Zealand businesses that perform R&D on their own behalf, or that commission others to perform R&D for them. The R&D must be performed predominantly in New Zealand.

The credit applies at the rate of 15% of eligible expenditure in a year, and is claimed in the annual tax return by offsetting the claimant's tax liability. *Surplus credits are refundable.*

This means that businesses with a tax loss or that are tax-exempt receive the credits in cash.

Eligible R&D activities will include systematic, investigative and experimental activities, and those that resolve scientific or technological uncertainty.

R&D expenditure that is eligible for the credit includes the cost of employee remuneration, training and travel of employees conducting R&D, depreciation of tangible property, consumables, certain overheads, and payments to entities conducting R&D on behalf of the claimant.

**We urge all local authorities to consider the opportunities available in this area.**

## PROPOSED INCOME TAX RETURN CHANGES

The IRD has proposed changes to the income tax return form IR4 (company tax), which is completed by local authorities and CCOs.

The IRD proposes that so-called 'large organisations' (with a total group turnover greater than \$20 million OR total group assets greater than \$10 million) will be subject to increased reporting requirements (e.g. the requirement to provide a reconciliation

between financial profit and taxable income).

A large proportion of the current IR4 form is irrelevant to local authorities and their subsidiaries—as are the additional annual company return forms, which are also proposed to be included in the new IR4 return.

The proposals are likely to increase compliance requirements for local authorities. We have made a submission to the IRD on this matter on behalf of the sector.

## GST ON DEVELOPMENT CONTRIBUTIONS

Under the Resource Management Act 1991, local authorities are required to manage developments and land use in a sustainable way, with particular consideration given to the effects on the community. To facilitate this role, local authorities have the ability to charge a monetary and/or land contribution to any person undertaking a development, or other land use, in order to recoup the costs of additional infrastructure.

GST legislation deems the local authority to have supplied goods and services in return for the contribution, meaning that contributions are subject to GST. GST output tax is required to be returned to the IRD when the "time of supply" has occurred. This is usually the earlier of the issuance of an invoice or receipt of a payment. For time of supply purposes, an invoice is a document notifying an obligation to make a payment.

An unintentional tax risk can occur on documents notifying an applicant of development contributions, resulting in the time of supply being triggered earlier than expected. We urge all local authorities to review the wording of development contribution notices to ensure that there is no unnecessary tax exposure.

## PAYROLL-GIVING

Draft legislation has been introduced for payroll-giving, a voluntary mechanism whereby employers who file their employer monthly schedules electronically may allow their employees to make charitable donations from their wages. Employees who make payroll donations will receive a tax credit equal to 33⅓% of their donation. The tax credit will be offset against the employee's PAYE, calculated on their gross pay, thereby reducing the amount of PAYE payable in that period. Employers will be liable to pass on the payroll donation to the charity within three months. This is expected to come into effect from 1 April 2009.

## SUPERANNUATION SCHEME OVERPAYMENTS

Often, superannuation schemes have a vesting clause, where employees become entitled to employer contributions after a specified period (e.g. after three years' service). It is common practice for local authorities to pay the Employer Superannuation Contribution Tax ("ESCT") (formerly SSCWT) when the contribution is made, not when the employee becomes entitled to the funds.

Accordingly, large reserves of ESCT can accumulate with the IRD without any corresponding tax liability (for instance, the employee has resigned prior to becoming entitled to the employer contribution).

If your superannuation scheme has a vesting clause, it may be worthwhile reviewing your superannuation scheme rules.

© 2008 Toovey Eaton & Macdonald Ltd. All rights reserved.

*Disclaimer: Taxteam Talk is designed to provide a commentary on the issues covered therein, and should not, under any circumstance, be regarded as a substitute for professional advice. Toovey Eaton & Macdonald Ltd will accept no liability for loss or damage incurred as a result of reliance upon this issue of Taxteam Talk.*