

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 the Local Government sector. If you wish to discuss any of the issues raised in this edition, our contact details can be found at the bottom of this page.

RELOCATION EXPENSES – AN UPDATE

We submitted and we have a result! Late last year, the Inland Revenue Department ("IRD") released an issues paper agreeing with our stance that relocation payments paid to employees should be exempt from tax.

Even better, the IRD is looking to back-date the changes by four years to the 2003 income tax year.

Under the proposals, certain conditions will need to be satisfied, including that:

- § 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 one of a list of eligible relocation expenses; and
- § Payment must reflect the actual expenditure incurred.

The expenditure must also be incurred within certain time limits.

The IRD invited submissions on the proposals, seeking comment on who is entitled to any refund issued. Technically, FBT payments were paid by the employer, whereas PAYE was incurred by the employee. However, as we are all aware, PAYE was really grossed up to allow the employee to receive 'in the hand' the amount of the actual expenditure incurred.

We have made further submissions, and will watch with interest the final outcomes on these changes, which will be included in the June 2008 Tax Bill.

RESEARCH & DEVELOPMENT 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 will come into effect for local authorities from 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. As a result, local authorities with infrastructural elements to their LTCCP that require R&D can seek opportunities to improve their tax efficiency by applying the R&D credit rules.

R&D expenditure that is eligible for the credit covers 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.

TEAM urges all local authorities to consider the opportunities available in this area.

CHANGES IN REDUNDANCY PAYMENT

On 11 December 2007, the Government introduced a redundancy payment rebate to make the taxation of redundancy payments fairer for people who are pushed into the higher tax bracket as a result of receiving the lump-sum payment.

The rebate is calculated based on the flat rate of 6 cents per dollar of redundancy payment, up to a maximum payment of \$60,000 per redundancy.

Therefore, the rebate itself is capped at \$3,600. This means that a person receiving a redundancy payment of \$30,000 will be able to claim a \$1,800 rebate, whereas someone who receives a redundancy payment of \$60,000 or more can claim a rebate of \$3,600.

The rebate will apply to redundancy payments received from 1 December 2006, and can be claimed from 1 April 2008.

CHARITIES REGISTRATION

Less than two months (or seven weeks) remain to register with the Charities Commission ("the Commission")! After 30 June 2008, the income tax law changes render taxable all income received by an unregistered charity.

The Commission has stated that only correctly completed applications held as at 30 June 2008 will be registered as at that date. Given that the Commission is taking at least 14 weeks to complete registrations, time is rapidly running out if the application to register has yet to be made. Don't get caught short—get your applications away now, and avoid the dire tax consequences of making an incorrect application.

THE NEW KIWISAVER LEGISLATION

The KiwiSaver changes proposed in the 2007 Budget have now come into force, albeit with some subsequent, minor post-Budget amendments. These are discussed more fully in TEAM's latest KiwiSaver newsletter.

However, arguably the most significant aspect of the 2007 Budget proposals, which follows from the introduction of compulsory employer contributions, is that employment agreements entered into *prior* to 13 December 2007 are null and void, unless the employer *and* employee agree otherwise. For agreements

entered into after 13 December 2007, there are expectations that employers and employees will enter into 'good faith bargaining' in agreeing on the interaction of KiwiSaver with remuneration packages.

If you have yet to reflect on the KiwiSaver policies and procedures that you have implemented, or are soon to enter into remuneration negotiations, it is important to appreciate fully the myriad of scenarios that can arise, and the implications for you as an employer.

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 proposed a number of possible solutions to this thorny, but important area of taxation. 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:

- § The fact 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 leads to benefits arising to a third party.

A subsequent Government announcement states that:

- § Reimbursements that are based on actual costs incurred, or a reasonable estimate of costs, will be tax-exempt to volunteers, with no threshold limits. This is considered the most appropriate tax treatment, due to its easy application and minimal compliance costs.
- § Honoraria will, at present, continue to be subject to withholding tax.

These changes will be included in the June 2008 Tax Bill. Due to the differentiation in the tax treatment, honoraria and reimbursements will need to be paid separately. Local authorities may consider it necessary to amend their internal procedures to accommodate the incoming legislative changes.

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