

# TAXTEAM TALK

## THIS ISSUE AT A GLANCE

*Introduction*

*Taxation of relocation costs*

*Research and Development tax credits*

*Changes at TEAM*

*Charities registration*

*Charitable donations*

*Relaxation of tax penalty laws*

*KiwiSaver update*

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## INTRODUCTION

Welcome to another tax newsletter from Toovey Eaton & Macdonald Limited ("TEAM"). Once again, we set out a number of tax changes and points of interest that are significant to tertiary institutions.

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.

## TAXATION OF RELOCATION COSTS

In late 2006, the Inland Revenue Department ("IRD") released an exposure draft stating its view that expenses incurred by employers in relocating *new* employees are taxable income to the employees.

On behalf of several tertiary institutions, TEAM recently completed a submission to the IRD regarding this exposure draft. Issues were raised at both a practical and policy level.

Our submissions were favourably received, resulting in meetings with representatives from the IRD's Policy Advice Division. It is now apparent that the IRD is considering a law change, whereby the relocation expenses of *new* employees become exempt from tax.

TEAM understands that IRD officials will report back on this matter to the Minister by November 2007.

## RESEARCH AND DEVELOPMENT TAX CREDITS

The 2007 Budget announced tax incentives, by way of tax credits, for organisations carrying out research and development ("R&D"). These initiatives are included in a tax bill that is currently before the select committee. As the legislation is currently drafted, tertiary institutions (and their associates) are specifically excluded from eligibility for the tax credits. However, there are some opportunities for tertiary institutions to structure entities in order to take advantage of them.

In addition, TEAM believes that a marketing opportunity exists for tertiary institutions by promoting their organization's ability to conduct R&D on behalf of third parties who are able to claim the tax credits. This may have financial benefits. To optimise these opportunities, tertiary institutions will require a good understanding of the new tax rules.

## CHANGES AT TEAM

We regret to announce that, in June, Aylton Jamieson has decided to leave TEAM for personal reasons. Many of you would have been inspired by Aylton's presentation skills and passion for the sector. We are sure that you would join us in wishing him all the best for the future.

On a brighter note, we are pleased to announce the recent promotions of Phil Fisher and Keith Wallis to Tax Manager, and Kirralee Mahoney to Senior Tax Consultant.



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## CHARITIES REGISTRATION

The Charities Commission has published a newsletter stating that, as tertiary institutions are public authorities and, therefore, exempt from income tax, they will not need to register with the Charities Commission in order to maintain the income tax exemption. It goes on to state that trusts formed by tertiary institutions that have charitable purposes will need to register with the Charities Commission to establish or retain their tax exemption.

The Charities Commission's comments are of concern on a number of fronts. For instance,

if polytechnics are public authorities, there are technical arguments that FBT will be applicable on any non-cash benefits provided to employees.

In any event, we encourage tertiary institutions and their trusts and subsidiaries to apply to the Charities Commission for registration in order to ensure that donations received will qualify the donor for either a tax rebate or a tax deduction. Remember that registration must be completed by 1 July 2008, otherwise tax-exempt status (at least for trusts and subsidiaries) will be lost.

## CHARITABLE DONATIONS

On the donations front, the 2007 Budget proposes changes to the tax rules surrounding charitable giving. From 1 April 2008, the current upper threshold of \$1,890 for individuals will be removed, and companies' deductions will no longer be restricted to 5% of their income before tax and

donations made.

In addition, the types of company that can avail themselves of this deduction have been broadened to include close companies; that is, companies that have five or fewer shareholders. The donation is still, however, limited to the amount of taxable income that an

individual or company has earned before the donations are deducted.

These changes may provide tertiary institutions with a welcome opportunity to increase the level of donations received. Perhaps this should be actively marketed to past students and alumni!

## RELAXATION OF TAX PENALTY LAWS

Tax penalties can significantly increase the cost of non-compliance. On 7 March 2007, the IRD announced changes to the two penalties most commonly imposed – "Not Taking Reasonable Care" and "Unacceptable Tax Position".

From 17 May 2007, neither penalty will be imposed on taxpayers who proactively 'come clean' with the IRD. In addition, for tax positions taken on or after 1 April 2008 the penalty for an "Unacceptable Tax Position" will no longer apply to GST or withholding tax

types. Use-of-money interest will, however, continue to apply.

The changes are aimed at promoting voluntary compliance, and are both appropriate and welcome.

The benefits of these changes will *only* be realised if you are *proactive* in monitoring/reviewing your internal tax processes and procedures, so that any significant errors are identified within a reasonable timeframe. In other words, regular tax compliance reviews are now essential.

## KIWISAVER UPDATE

Despite KiwiSaver coming into effect on 1 July 2007, there is still much confusion. Tertiary institutions should have been receiving TEAM's KiwiSaver Alerts, but there is still a general misunderstanding amongst both employers and employees, and this is not aided by conflicting advice in the press. However, tertiary institutions will have to start compulsory employer contributions from 1 April 2008, starting at 1% and rising to 4% by 1 April 2011. If you haven't already done so, the cost of these contributions should be incorporated into future budgets.

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