

Newsletter - November 2010



The GST change has been introduced, and I was pleasantly surprised by how few and minor the problems were that were encountered. Thank you for all the feedback about the newsletters and their usefulness in making the changeover as smooth as possible. We only had one person who didn't know that the GST rate was changing on 01/10/10, so I guess that isn't too bad (their excuse was that they had been out of the country and their boss didn't pass on the newsletter). If you would like a second person to receive the newsletter, please send me an email with their email address and I will add them to the mailing list.

Remember, if you are using the Adept GST Tax program you will need to change the GST form when you do your next GST Return. Go to Menu, Select Tax Form and select either NZ 15 Invoice Basis T3 or NZ 15 Payments Basis GST depending on the GST method that you use. Failure to do this will have your return still showing "divide by 9", and will result in underpayment of your GST. More information about Tax forms is in the September newsletter.

Goodbye LAQCs - it's been good knowing you

Don't panic. If you operate an LAQC (loss attributing qualifying company) you will still get your tax losses provided you switch your business to another entity. A government proposal is to allocate all profits and losses of small companies (called "close companies") to the shareholders in proportion to their shareholding. It is creating a new animal called a Look-through Company (LTC). It will still provide the protection a company offers except the profits and losses will automatically be added to (or subtracted from) the shareholders' taxable income. Close company shareholders will be able to choose if they want to become an LTC. LAQCs will be allowed to transfer to other entities such as LTCs without adverse tax consequences. For tax purposes only, an LTC will be very similar to being a partnership. In fact, when you sell some shares in your company, you will really be selling a share of the assets. In some cases, such as property-owning companies, this could mean being liable to pay tax on depreciation recovered. Again, don't panic. There is to be what lawyers call a de minimus rule. If the tax effect is below a defined threshold, the share transfer will be treated just as it is today. So, if you want to give or sell a few shares in your business to your partner or one of your staff, you are likely to be under the radar.

What's wrong with LAQCs?

For a start, the rules have some nasty traps. It will be good to see them go. But, what really got the Government excited was the opportunity to pay tax at 28% in a company instead of 33% in your own name. There was an opportunity for the rich to have all their investments in a company and pay 5% less tax than if they owned them themselves or in a family trust. In fact, all a family trust had to do to save 5 cents in the dollar tax was to hold its investments in a company it owned.

Dividends

The Government is also looking at ways to make the process of paying out dividends, from close companies, easier. In the meantime LAQCs will continue but without the right to attribute losses. You will need to choose which type of entity you want to switch to.

The new rules will start from 1 April 2011.

The GST fraction

Converting a sum from GST inclusive to GST exclusive is not a mathematical nightmare. It can be done in two ways.

Take the GST inclusive amount i.e. the gross amount and multiply by 3 and divide by 23. This gives you the GST content of the payment.

Or divide the gross amount by 7.66666666. You may need 8 decimal places to get complete accuracy, depending on the value of the transaction.

You can negotiate with your bank

One of our clients was concerned about the cash handling fee he was being charged. He called on the bank manager and pointed out that his staff were there to count the cash and to make an extra charge simply because his business had more cash than cheques, was double charging. The bank manager saw the point and agreed not to charge the cash handling fee.

Price increases

Put prices up a little and often. A client increased his prices 16.7%. He upset some customers. It was his first increase in 10 years. Never give your customers major nasty surprises. What about a policy of reviewing prices the same time every year?

Income worldwide must be declared

New Zealand residents have to declare all income they receive from anywhere in the world. "Income" now has a very strange meaning. For example, if you hold shares in a United States company which does not generate any dividends, you have income. This is because your income is calculated based on the value of those shares. Overseas life insurance policies and superannuation funds can also be classed as a source of income, even though you might not receive any money from them. Be sure to tell your accountant if you have one of these. If a policy is taken out in New Zealand with an overseas insurance company, there's no tax problem.

The IRD has been making agreements with a large number of overseas countries to swap information, so don't rely on not being caught.

Some people think they need to declare income only if they bring money back to New Zealand. This is not correct, even if they have paid tax overseas. New Zealand residents are taxed on their worldwide income. Usually, there is a credit for some or all of the foreign tax paid.

There can be special tax rules, in regard to declaring overseas income, for people coming to live here from overseas. They last for four years. If you think you qualify, contact your accountant.

Cash flow problems?

Tax pooling is a great way to conserve your cash. For a reasonably modest interest payment, a tax intermediary will enable you to buy time to pay your tax. It works like this. Suppose you cannot afford the provisional tax payments, for a March balance date being 28 August, 15 January and 7 May. A tax intermediary will arrange to pay the tax for you. All you have to do is pay interest up front and then come up with the right amount of money in the end.

A client was unable to pay his tax for the year ended 31 March 2009. He needed about \$30,000 and had not paid the first two instalments. He went to a tax intermediary and "bought" tax for the 28th August 2008, 15 January 2009 and the 7th May 2009. He paid the intermediary for the tax, which was due by 7 April 2010, a lump sum of money on the 20th April 2010.

If you have cash flow problems and can't pay your tax on time, talk to your accountant about using a tax intermediary. It's cheaper than paying IRD Use of Money Interest and better than paying penalties.

Lotto loot dispute over family trust

A businessman bought a Lotto ticket and won a large sum of money. In a dispute with his estranged wife, he claimed in court he bought it for his family trust. Buying Lotto tickets for your family trust could be a good idea because, if you win, your new-found wealth belongs to the family trust and is therefore protected against your creditors. However, what was revealed in court was:

- The man did not have an agreement signed by all the trustees (and dated) to buy the Lotto ticket.
- This agreement needed to be in place before the Lotto ticket was bought.
- Two separate judges said the purchase of a Lotto ticket was not a typical trustee investment. Trustees are not there to gamble with trust money. They have to handle it responsibly. Buying Lotto tickets on a regular basis might therefore be inappropriate. You would need to refer to the trust deed to see if trustees are permitted to buy Lotto tickets.
- The man regularly used personal money for trustee expenses. This could call into question whether a trust exists at all. Never mix your money with trust money. Open a trust bank account and pay all the trust's bills out of it.

Make your accountant's work easier - keep entity payments straight

A client owned some rental properties in a company (an LAQC) and some other properties in her own name. She paid for some of the company costs out of her personal bank account and for expenditure on her own properties out of the company bank account. Another client regularly paid bills for her family trust out of her own money.

These situations cause extra work for the accountant. If you can't pay bills from the correct bank account, never pay them yourself. Instead, lend your money to the entity which is short of cash, so it can pay the bills. If you pay small bills for your business out of your own pocket, get it to reimburse you, regularly.

KiwiSaver 10% rate dumped

In our last newsletter we told you the Government was going to put up the KiwiSaver top savings rate to 10%. The proposal got in to Parliament and, for no published reason we know of, got dumped. We now have no idea whether this amendment will ever be enacted.

Spreading ACC payments

If you can, pay ACC by the due date. It's very expensive to spread payments. The charge at 10% per month is effectively an interest rate of about 18%. When your accountant prepares your annual accounts they need to get details of unpaid ACC and incorporate the debt in the books. This involves extra work and hence extra costs.

Make the most of what we have ...

The Pike River mine disaster is a reminder to us all that we never know when our time may be up. The country was very lucky that there was not substantial loss of life with the Christchurch earthquake (how well would Wellington cope with a similar magnitude quake?).

As many of my clients are aware, I have daughters involved in competitive gymnastics, which often involves travel around the country to gym competitions. In July, after studying the long range weather forecast, four of us travelled to Nelson for a competition. After the first day of competition, three of us left for Nelson Lakes for three days of kayaking. None of us had ever kayaked on an overnight trip before, so after some last minute purchases of more warm gear and edible supplies, we headed off. Our second day was going to be the toughest day, as we had to kayak both lakes in one day, but we were confident that we would manage it.

The photo below is on our first day kayaking up Lake Rotoroa, the larger of the two lakes, and the less visited. We had perfect conditions for all three days, although after the last day when we got back to St Arnaud it was still minus 3 degrees Celsius at 11.00am (in the sun!)

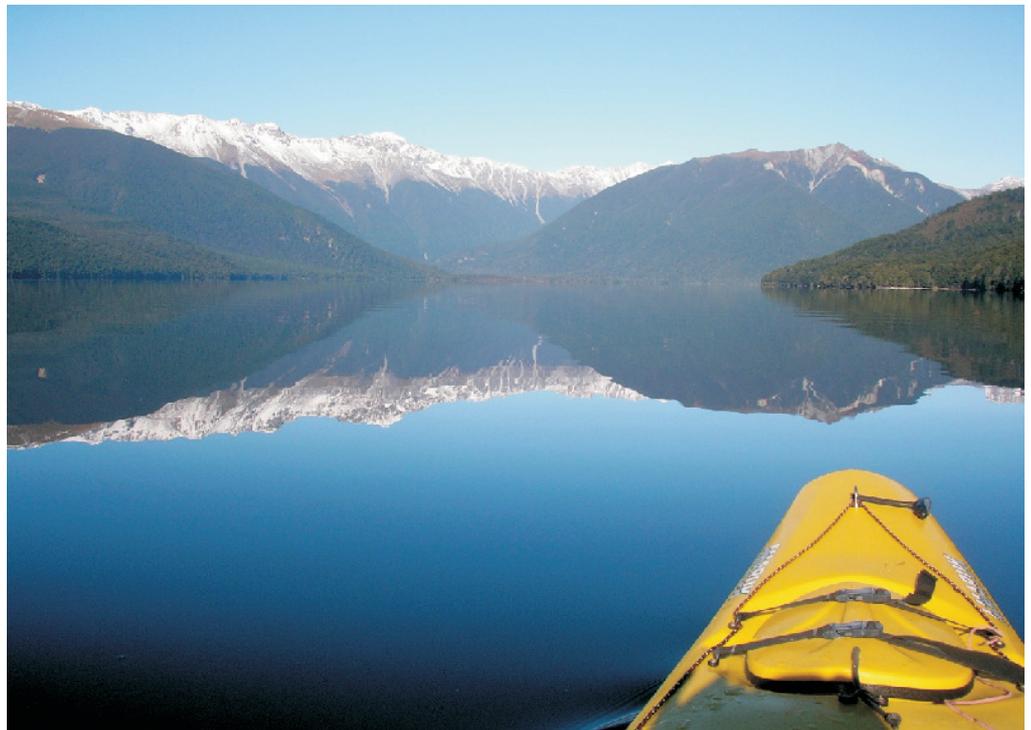
A trip like this makes me think how lucky I am to live in a country like New Zealand, and that I must make the most of what I have. Sharing this trip with my wife and younger son was wonderful, and it will be a trip we remember for years. Work-Life balance is important and often mentioned, but making the most of opportunities we have, even if it takes an effort or puts us outside our comfort zone, is the real challenge. Kayaking turned out to be an activity that didn't need super fitness, and after paddles were put under cover after the first night (so they weren't covered in ice in the morning) we all really enjoyed the trip.

Holiday

We will be away and out of the office from November 29 until December 11. During this time the preferred contact method is email. In emergency, please use 027 505 8888.

Our contact details are:
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Best regards,
Shane Durrant



January 15 2011

2nd instalment 2011
Provisional Tax (March
balance date except those
who pay provisional tax
twice a year)

GST for November 2010

April 7 2011

Terminal Tax for 2010
(March, April, May and June
Balance dates)