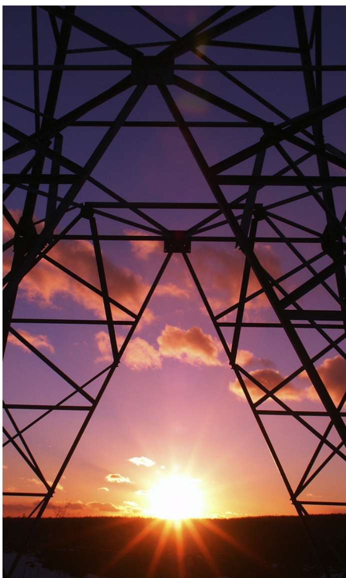
Jun/Jul 11

Tax Time

Special points of interest:

- New Tax Depreciation Rules
- Qualifying Company Changes
- Look-Through Company (LTC) Rules
- Work Related Vehicle Exemption from FBT
- Completing Your Employer Monthly Schedule
- KiwiSaver Contribution Rates to Change
- Quick Bits



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New Tax Depreciation Rules

Budget 2010 removed depreciation deductions for most buildings (those with useful lives of 50 years or more) from the start of the 2011–12 income year. You can still claim:

- depreciation on the fit-out of commercial and industrial buildings;
- 20% depreciation loading on assets in certain circumstances (see below).

Commercial fit-outs

The law has been clarified so that commercial and industrial fit-outs remain depreciable property. Items of fit-out that are shared between commercial and residential purposes e.g. lifts, electrical cabling, fire protection, sewerage and water reticulation, in a mixed-purpose building, will be depreciable if the dominant purpose of the building is commercial. Fit-outs used only for commercial purposes will be depreciable property.

A definition of "dwelling" has been added that excludes a number of types of buildings that provide residential-type accommodation. This ensures that fit-outs associated with these buildings will continue to be depreciable property. The types of buildings that will be specifically excluded from the meaning of dwelling are:

- hospitals;
- hotels, motels, inns, hostels and boarding houses;
- certain serviced apartments;
- camping grounds;
- convalescent homes, nursing homes and hospices;
- rest homes and retirement villages – from hospital care through to residential care facilities.

A new rule will allow commercial building owners, who don't itemise building fit-out separately from the building at the time of acquisition, to amortise up to 15% of the building's adjusted tax book value at 2% straight-line per year until the building is disposed of.

Residential fit-outs

Residential fit-outs are generally non-depreciable.

Depreciation loading

Depreciation loading was removed on a prospective basis as part of Budget 2010. Loading continues to apply for assets purchased or constructed before 20 May 2010 or when there was a commitment to purchase or construct an asset on or before 20 May 2010. Under the new rules, an asset will be eligible for depreciation loading if:

it was acquired on or before 20 May 2010; or

there was a decision to purchase or construct it and its owner either:

entered into a binding contract for its purchase or construction on or before 20 May 2010; or

incurred expenditure in relation to it on or before 20 May 2010.

Evidence of a decision to purchase or construct an asset can be obtained through documents that conclusively show such a decision was made. Alternatively, a statutory declaration sent to the Commissioner of Inland Revenue stating a decision was made is acceptable.

Qualifying Company Changes

On 1 April 2011 changes to rules for qualifying companies (QCs) and loss-attributing qualifying companies (LAQCs) will come into force, effectively ending the LAQC tax entity for income years starting on or after 1 April 2011. This will be the 2011–12 income year for companies with a standard or late balance date, or the 2012–13 income year for companies with an early balance date. These changes will mean:

- companies won't be able to elect to become a QC or LAQC for any income years starting on or after 1 April 2011;
- companies that are QCs or LAQCs for the income year immediately prior to the income years starting on or after 1 April 2011 will be able to remain as a QC, but will not be able to attribute losses to its shareholders;
- existing QCs or LAQCs will be able to continue as a QC and will be taxed in the same way as ordinary QCs, or choose to revoke their QC status;
- existing QCs and LAQCs can transition to another tax entity, such as a look-through company (see below), partnership or sole tradership, without a tax cost during the "transitional year" being either of the first two income years starting on or after 1 April 2011.

Look-Through Company (LTC) Rules

The new LTC rules are available for income years starting on or after 1 April 2011.

An LTC is, generally, transparent for income tax purposes. This means the LTC's income, expenses, tax credits, gains and losses are passed on to the LTC's owners, in proportion to their shares in the company. Losses from the LTC, however, are subject to a loss limitation rule. They can be offset against their other income. Profit from the LTC will also be taxed at the owner's marginal tax rates. The LTC retains its corporate obligations and benefits under general company law, but will generally be ignored for income tax purposes. However, for other tax purposes, such as PAYE, FBT or GST, the LTC will retain its tax obligations.

If a QC or an LAQC wants to transition to an LTC, it may do so by completing a form (IR 862) within 6 months of the start of the transitional year.

Work Related Vehicle Exemption from FBT

As we are nearing the end of the first quarter for Fringe Benefit Tax ("FBT") purposes, it is timely to remind you of the requirements that must be met if an employer intends to rely on the work related vehicle exemption from FBT. For no FBT liability to arise, the employee and the employer must comply with a number of criteria. For the employee, the employee must not use the vehicle for private purposes other than home to work travel provided that is a condition of their employment that they use the vehicle from work to home, or any incidental use associated with the normal use of the vehicle for business purposes.

The requirements for an employer are more numerous. For the work related vehicle exemption to apply. The following tests must be met:

- The vehicle must predominantly and permanently display the employers business name or logo;
- The vehicle cannot be a motor car. A motor car is defined as any vehicle designed exclusively or mainly to carry up to 9 people; and
- The private use of the vehicle by the employee must be prohibited other than to the extent set out above.

A regular passenger vehicle can become a work related vehicle if it is redesigned with the effect that the back seats are permanently bolted down.

When relying on the exemption, the employer should ensure that the employee has signed an acknowledgement that they understand the business's motor vehicle policy with respect to private use. The employer should regularly check that the policy is being adhered to and enforced, otherwise the work related vehicle exemption may not apply.

How it affects you

Employers, at the very least, should review their policies with respect to the provision of vehicles on an annual basis. Now is a perfect opportunity to do that to ensure that an FBT liability does not inadvertently arise from the provision of motor vehicles to employees for business purposes.

Employers should be especially vigilant about private use in the weekends. If private use does occur, FBT should be paid in relation to the days in question.

We recommend that employers adhere to policies and undertake private use checks periodically to ensure compliance.

- From WHK Sharp-As Tax

Completing Your Employer Monthly Schedule

The IRD have identified some common errors occurring when employers complete their manual/paper-based employer monthly schedule (EMS). The IRD wants to process your EMS as quickly and efficiently as possible, so here is a checklist to help you.

Please send your IR348 to the IRD before the due date, it's best not to leave it until the last day!

IRD number checklist

- ☑ IRD numbers will have 8 or 9 numbers. If 9 they will start with 10X-XXX-XXX.
- ☑ Other numbers are not valid, eg 999 or 111.
- ☑ To process KiwiSaver deductions the IRD needs an IRD number.
- ☑ If you can't provide an IRD number you must use the no-notification rate (ND) of 47.04%

KiwiSaver checklist

- ☑ Check you're familiar with automatic enrolment criteria, how to calculate KiwiSaver and when compulsory employer deductions are required.
- ☑ Make sure employees are 18 or over before you automatically enrol them in KiwiSaver. Employees must also be a New Zealand resident and less than 65 years old.
- ☑ KiwiSaver employer contributions must be 2% - this is regularly not calculated correctly on holiday pay and final pay.
- ☑ You'll need to complete a KiwiSaver employee details (KS1) form. The full address of your employee is compulsory. You can send your KS1 to the IRD before your EMS.
- ☑ When completing the New employee opt-out request (KS10) form you must include your IRD number, name and address. Also include your employee's start date.
- ☑ Make sure the total KiwiSaver is the sum of the KiwiSaver deductions you've made for your EMS period.
- ☑ KiwiSaver is calculated on gross salary or wages, which generally means total salary, wages or allowances, including bonuses, commission, extra salary, gratuity, overtime and other remuneration before tax. KiwiSaver isn't de-ducted from:
  - redundancy payments
  - the value of providing board or lodging, or use of a house or part of a house, or the payment of an allowance instead of the provision of this benefit
  - the value of overseas accommodation and cost of living allowances.

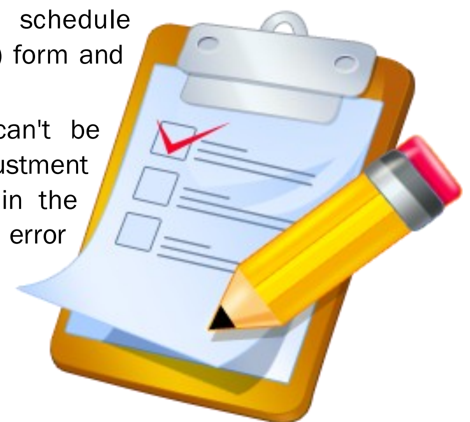
Completing the correct fields

- ☑ Make sure you complete student loan and child support deductions in the correct column (if applicable).
- ☑ If you only have one employee you still need to complete all applicable fields for that employee, including the totals.
- ☑ Only include employee(s) details once, don't repeat them on the other side of the page.
- ☑ WT tax code - make sure the same amount is included in both the "Gross earnings and/or schedular payments" column and "Earnings and/or schedular payments not liable for ACC earners' levy" column.
- ☑ M tax code - make sure you complete only the "Gross earnings and/or schedular payments". You only use the "Earnings and/or schedular payments not liable for ACC earners' levy" column if there's redundancy or the earnings are over the maximum for ACC purposes.
- ☑ Write clearly and inside the boxes, and use a blue or black pen to complete the EMS. Don't use red or green pens or vivid markers.
- ☑ If the amount is 0.00 please leave it blank. Don't write "NIL" as our image machine can read this as $1.11.
- ☑ Only complete "start and finish" dates when your employee commences or ceases employment.

Amendments to your EMS

Sometimes an error is made on an employee's earnings. For changes for one or two employees call the IRD on 0800 377 772 or send a message by secure online services. Alternatively, complete an Employer monthly schedule amendments (IR344) form and return it to the IRD.

Negative amounts can't be accepted as the adjustment needs to be made in the same month the error occurred.



KiwiSaver Contribution Rates to Change

As widely tipped prior to the Budget announcements, KiwiSaver is one of the prime areas where Government savings have been made to allow for increased funding in the health and education sectors.

Key changes to KiwiSaver are a reduction in the member tax credit from $1 to 50c for every $1 contributed by members, with the maximum contribution falling to $521 per year. The minimum employee and employer contribution rates will increase from 2% to 3% from 1 April 2013.

Perhaps the most significant change to KiwiSaver is the removal of the existing exemption from Employer Superannuation Contribution Tax (ESCT) with respect to the compulsory 2% employer contribution. ESCT currently applies to employer contributions above 2%, but from 1 April 2012, will apply to all employer contributions. As such, all contributions made to KiwiSaver after 1 April 2012 will effectively be from tax paid income.

At present, ESCT is calculated at a flat rate of 33% on any contributions made over and above the 2% compulsory employer contribution. From 1 April 2012, ESCT will be calculated based on an employee's prior year earnings, including the employers superannuation contribution, or an estimate of what that amount would be if the person was not employed for the entire previous income year.

The changes to the application of ESCT effectively mean that the employee, via the employer's compulsory contribution, is funding some if not all of the member tax credit that the employee will receive.

The table below sets-out the impact of these changes for someone earning $50,000.

	Now	1 April 2013
Employee	997.36	1,496.04
Employer	997.36	1,233.96
Government	997.36	521.00
	2,992.08	3,251.00

The weekly contribution increases from $19.18 to $28.77 from 1 April 2013. The $1,000 Government kick start remains unchanged.

How it affects you

Other than the change to the member tax credit, which comes into play almost immediately, all of the other changes are either 9 or 21 months away. As such, the decision to join KiwiSaver remains largely unchanged following the Budget announcements as the advantages of joining largely remain.

- From WHK Sharp-As Tax

Quick Bits

- **Company tax rate**

  The company tax rate will reduce from 30% to 28% from the 2011–12 income year. For companies with standard balance date, this will apply from 1 April 2011. Dividends issued after the new rate takes effect can be imputed at the existing 30% rate for up to two years if company tax has been paid at the 30% rate.

- **Changes to Employment Agreements**

  From 1 July 2011, all employers will be required to:

  – Retain a signed copy of the employment agreement or current signed terms and conditions of employment for all of their employees; regardless of when their employees started.

  – Provide a copy of the agreement on request to their employees (including casual and fixed-term employees).

- **Tax Treatment When Cashing Up Annual Leave**

  Changes to the Holidays Act 2003 now allow employees to "cash in" up to one week of their annual leave entitlement. The IRD has been asked to clarify the tax treatment of this payment to employees.

  If an employee and employer agree to cash up a weeks annual leave it should be treated as an extra pay or an unexpected bonus. As it is taxable income, PAYE should be calculated using the rates for extra pays. Your employees may need to check the correct amount of PAYE has been withheld over the tax year.

  Your employee's child support liabilities and Work For Families Tax Credits entitlements may also need to be adjusted if their family income has changed.

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