



Meeting your Taxation Obligations

A recent court case serves as a reminder to us all of the consequences of failing to meet your taxation obligations. The case is an extreme, but the message applies equally to all taxpayers.

A taxi driver, pleaded guilty to charges of providing false or misleading information to the Inland Revenue Department ("IRD"), as well as charges of evading GST.

He had avoided paying almost \$607,000 in taxes. The tax evasion and fraud took place consistently between 2000 and 2007.

The taxi driver could not provide the IRD with any documents to support his expense claims, but financial information provided by third party sources revealed the actual levels of income and expenditure was inconsistent with that reported.

In 2007, he started preparing and filing false tax returns for others, charging a 20 per cent fee for his services and warning clients not to co-operate with the IRD if contacted.

Towards the end of 2007, he also started working as a salesperson for a bedding company, where he issued GST invoices despite being unregistered, and claimed an inflated level of expenditure in GST returns.

The taxi driver was sentenced to two years in prison.

Although this is an extreme set of facts there are two lessons to be learned. First, filing incorrect or false returns has consequences. Secondly, the IRD has wide information gathering powers which make detecting false or fraudulent returns reasonably easy.

The IRD Assurance Group Manager, Patrick Goggin, says this case serves as a reminder that the IRD's information gathering and analysis tools are making it "much harder" to get away with evasion and fraud.

How it affects you

If you are consistently claiming higher expenses than your income, and getting income tax and GST refunds, this is likely to trigger a closer enquiry. If you do not have adequate records to support your expense claims, the amounts can be disallowed for both income tax and GST purposes.

Anyone who files a GST or income tax return that contains incorrect information, or for which they do not hold sufficient records to prove the claims could ultimately be looking at possible criminal prosecution. At the very least you could be looking at shortfall penalties and late payment penalties. Take care when filing any returns with the IRD to make sure you can "back up" your returns. - From WHK's Sharp-As Tax

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Payroll Giving Update

The Payroll Giving Early Adopters' Group, that comprises a mix of small and large employers, has developed a new website which aims to answer questions and provide information for employers considering offering the scheme in their workplaces.

Payroll giving is the scheme that came into effect in January 2010 that allows an employee to donate to their nominated charity through their employer's payroll. It enables employees to receive the tax benefit of their payroll donations each payday in real time. No receipts are required as the tax credits for donations made as part of payroll giving will be immediate in the form of reduced PAYE. Donations that are not made through payroll giving can continue to receive tax relief through the ordinary rebate process at the end of the year.

Payroll giving is currently offered by 1,300 employers and over 100,000 employees have access to a scheme. The statistics on the IRD's website indicate that "since payroll giving was introduced, nearly \$4.8 million has been donated directly from a growing number of peoples' pay to their favourite charity or donee organisation. In December 2011 alone nearly 2,200 employees donated just over \$275,000. Because the donations were made through payroll giving, these employees received immediate tax credits totalling just over \$91,000.

The new website launched by the Payroll Giving Early Adopters Group is designed to provide helpful information for large and small-medium sized employers.

In a media statement regarding the launch of the website, the Hon Peter Dunne stated "One of the most useful things for employers contemplating offering the scheme is to be able to learn from the experiences of other employers just like themselves. The site will provide useful insights and learning from employers who have successfully established payroll giving schemes". www.payrollgivinginfo.org.nz

How it affects you

If you are an employer and are thinking about whether or not to offer payroll giving to your staff, the website may provide you with information and details of experiences that you cannot find anywhere else. There is an administration cost in offering payroll giving, but the benefits to your staff are clear, and these may outweigh any administrative burden to you as an employer. Further, in an economic environment such as this, it may be one way of providing your staff with a "benefit" without paying additional wages or providing fringe benefits that are subject to tax.

- From WHK's Sharp-As Tax

New ACC rates agreed by Cabinet

On 12 October 2011 the Minister for ACC announced the ACC levy rates for 2012-13. These rates were considered and agreed by Cabinet to be passed into legislation during the first quarter of 2012.

The earners' levy is set at \$1.70 (GST inclusive), down from \$2.04 the previous year.

The minimum liable earnings for self-employed workers increases from \$26,520 to \$27,040.

The maximum liable earnings will increase for:

- Self-employed people under the Work and Earners' Account from \$110,018 to \$111,669
- Employees, private domestic workers and earners other than self-employed under the Work and Earners' Account from \$111,669 to \$113,768
- Employees and private domestic workers for calculating the residual portion of the Work Account from \$110,018 to \$111,669.



School Children and deductions of PAYE

The IRD have been asked to clarify whether school children who earn under the \$2,340 threshold and have PAYE deducted from their pay get all their tax back or end up paying ACC earners' levy on their wages.

If you hire a school child and they earn less than \$2,340, they will get back all the tax they've paid. In these cases you can choose whether to add the child to the payroll or not.

If you expect them to earn over \$2,340, they'll need to complete a *Tax code declaration (IR 330)* and be included in your payroll.



Small Block Farms

Small block farms, often referred to as lifestyle blocks, have remained a long standing topical issue in New Zealand. Whether it is purchased with a view to operating a proper business or to simply live on an extensive section while carrying on some business activities, taxpayers seem very keen on claiming whatever expenses they can as taxable deductions to reduce their personal taxable income. However, the Inland Revenue has and will always argue that it is a lifestyle block purchased solely for domestic purposes if the facts of the case are so grey as to indicate that it had nothing to do with any business venture.

This may pose a huge problem where there is a genuine intention to run the small block as a business which has incurred losses in the initial years, as would be normal, and the Inland Revenue questions the very existence of it as a business!

Thus, it is absolutely important to establish that the taxpayer intended to run the small block as a business.

The definition of business is not exhaustive in the Income Tax Act and therefore reliance is placed on case law to support the existence of a business, the leading case being *Grieve v Commissioner of Inland Revenue* (1983) 6 TRNZ 471.

The courts set out a number of conditions, stated below, to determine whether the farming activity constituted a business. These include:

- the nature of the activity;
- the scale of operations and the volume of transactions;
- the commitment of time, money and effort;
- the period of time over which the taxpayer engages in the activity;
- the pattern of activity;
- the statements of intentions made by the taxpayer;
- whether the activity carried on is of the same kind and manner as any other profitable farming operation would be expected to carry on;
- the financial outcome.



In conclusion, it can be said that fundamental to establishing it as a business activity for tax purposes is the taxpayer's decision in the first instance – whether his lifestyle block is going to be a business or a hobby. Once his intention is established, the above guidelines, set out clearly by the courts, should be used to support his business activity.

question time >>

Q: Can I claim a Donation Rebate?

A: You might be able to...

To be able to claim a Donation rebate you need to meet the following criteria:

1. Have made a Donation to Donee Organisation and hold a valid receipt from that organisation
2. Have had taxable income in the year you wish to make the rebate claim

Re the first point the IRD has a list of Donee Organisations on its website for you to check to make sure that you are giving to a Donee Organisation. This is important as not all organisations you may donate money to have the required Donee status.

Re the second point, if you have made a loss or have losses carried forward so that your taxable income for the year is less than zero then you will not be able to claim a third back of donations made to donee organisations.



GST SOLUTIONS

Are you finding it a hassle to do your own GST Returns? We have a solution for you. We can save you time and money and a lot of stress by doing your GST returns for you.

Our services includes sending you a reminder letter when your GST return is due so that you can get your records to us in time and ensure your GST Return is filed on time in order to have you avoid being charged late penalties. Contact us today for more information.



WEB SOLUTIONS

Did you know that you can create your own on-line surveys for free? Go to www.surveymonkey.com and you will find you can create surveys which you can send to your customers to get feed-back from them. Customer feedback is very important for your business as it allows you to find out what your customers may think of your products or services. It also allows you to probe your customers for new ideas on what other types of products they may be looking for. It also gives your customers the opportunity to help you provide them better service by giving them a chance to tell you what they think of your business



PROHUB SOLUTIONS

Do you record all of the phone calls that come into your business? If you don't you should as often potential sales leads are lost due to simple forgetfulness to record an enquiry properly. You need a customer database where you can keep a record of all enquiries made and then make sure that each enquiry is allocated to a team member for further follow-up. Even if an enquiry is made that isn't a sales lead it's good to keep a record of it and so when you are looking back at a customer's contacts history you can see the reasons why they contacted your business. This allows to you tailor your sales approach to this customer based on what has happened in the past. Contact us today for more information on how this program could help your business prosper.

Car Parks for Employees to **Become a Fringe Benefit?**

Under the current fringe benefit tax ("FBT") rules, many benefits provided by an employer to an employee are taxed either as part of the employee's income or under the FBT regime. One exclusion is the provision of car parking on the "employer's premises".

The Inland Revenue Department ("IRD") has concluded that car parks provided by an employer to its employees on owned or leased premises are within the exemption, but the exemption does not extend to car parks where the employer only has license to use the car park. Such car parks are not provided on the "employer's premises".

According to a report prepared by the New Zealand Transport Agency ("NZTA"), the Government is being encouraged to once again investigate changing the FBT rules to include employer-subsidised parking. The reason is because of NZTA concerns that employers are undermining attempts to "encourage more efficient commuting behaviour". Employers who provide free car parking for their staff could therefore, under this proposal, be taxed as part of an NZTA move aimed at getting more people on to public transport.

We understand that more than half the country's workforce is estimated to have access to free car

parks provided by their employer. The NZTA report calculates the value of employer-provided car parking in Auckland, Wellington and Christchurch at around \$2,700 per employee and suggests these untaxed benefits total at least \$675 million annually.

In Australia, employer owned car parks are subject to FBT but with concessions. The NZTA argues that New Zealand should adopt a similar approach, which it claims will reduce the "significant tax revenue loss that this untaxed benefit currently represents".

Asked if the Government was seriously considering the issue, the Hon Peter Dunne said the Government had signalled in last year's Budget an interest at looking at "wider salary sacrifice issues" with a view to issuing a future discussion paper for consultation. That work was ongoing, he said.

How it affects you

Whether you are an employee or an employer, if there is a change to the rules regarding the taxation treatment of car parking provided to employees by employers, you are likely to see a renegotiation in the overall remuneration package being offered, as this will be an additional cost to employers with no additional "benefit" being provided to employees.

- From WHK's Sharp-As Tax

Quick Quote

People are living longer than ever before, a phenomenon undoubtedly made necessary by the 30-year mortgage.
~ Doug Larson



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