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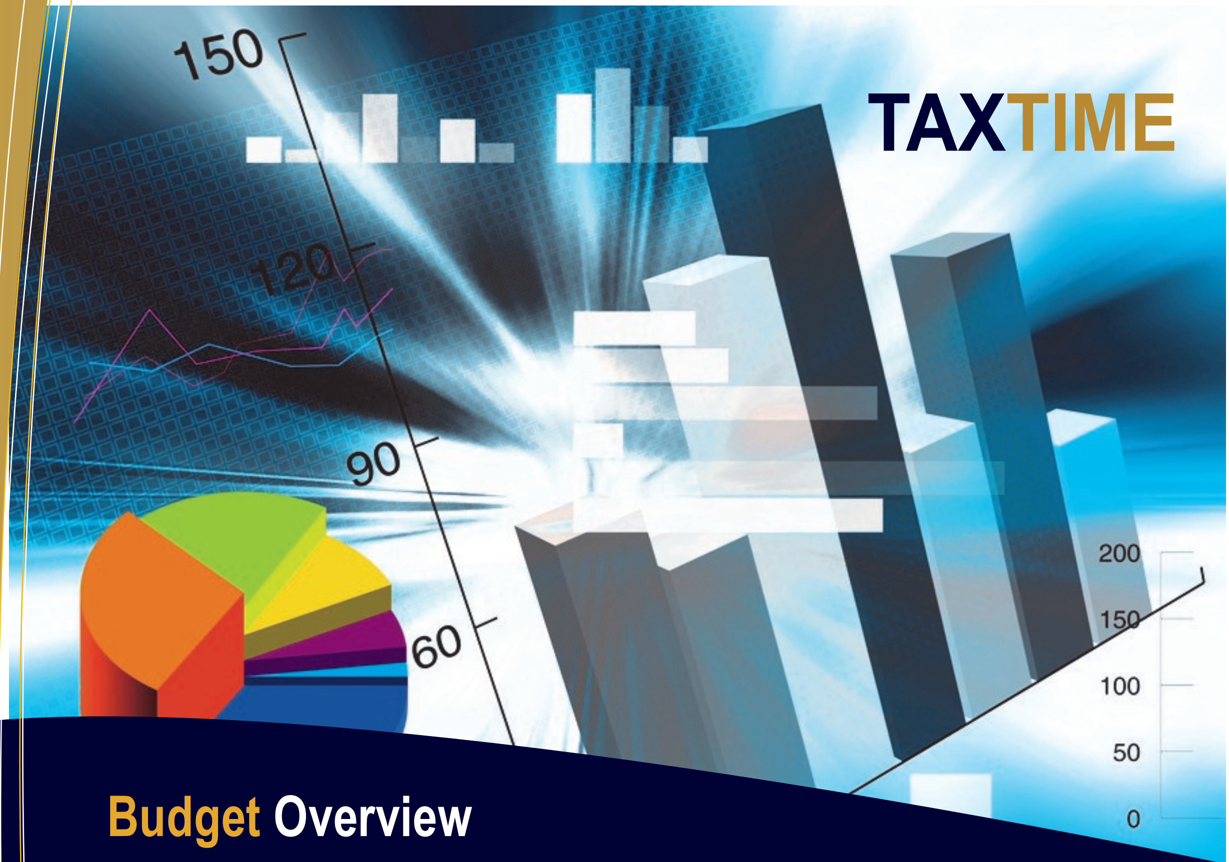
Stephen Larsen and Co
TAX AND BUSINESS ACCOUNTANTS

# TAXTIME




## Budget Overview

The National Government Budget 2012 has been delivered. Although no significant changes were predicted, some of the announcements, although perhaps not significant in dollar terms, will have a significant impact on many families in New Zealand.

We are told the changes are expected to save the country $410 million over the next three years. These savings have then been reallocated to new spending to deliver another zero budget.

As previously signalled, there will be changes to student loans and the livestock valuation rules.

Certain livestock valuation changes are to be implemented in the May Budget legislation, as anticipated. The first changes relate to the inability to revoke livestock valuation methods which will become law almost immediately, as anticipated.

We expect the remaining changes regarding livestock valuations, such as those relating to associated persons, will be introduced through legislation issued later in the year.

The student loan repayment amount is to increase from 10% to 12% of the annual income above the repayment threshold of $367 per week. Once again, this change was anticipated. The definition of income is to be widened to ensure further sources of income are captured when calculating repayment amounts. There are also to be changes to the structure of the student loan scheme which we will discuss in a future issue.

Finally, the change that had been signalled but in very general terms is that relating to mixed use assets. Taxpayers that rent out their holiday homes will no longer be able to claim a deduction of all expenses pertaining to that property if they use the property themselves. Any deductions will be limited to the amount of the income derived from renting out the property. There is no specific detail regarding this change as yet, but we will provide details as they become available.

One final change has been to remove three tax credits that impact on families and low earners. These are the under $9,880 tax credit, the childcare/housekeeper tax credit and the tax credit for children if taxed at source.

### *How it affects you*

The changes discussed above have specific application to certain taxpayers, but perhaps will not impact significantly on the wider population. The last change identified above, although smaller in dollar terms, will have a wider impact.

- From WHK's Sharp-As Tax

*in this issue >>>*

# Intellectual Property (IP)

**What is it?**

Intellectual property is a term used to describe that area of law that recognises the creativity and intellectual output of the human mind. The six main types of rights that are usually protected from unauthorised use are patents, trademarks, designs, copyright, geographical indicators, and plant variety rights.

**Patents** are granted under the Patents Act 1953 for any new invention or manufacturing process. Once a patent is granted the owner has the exclusive right to make, use or sell the invention for 20 years provided the renewal fees are paid. Before applying for a patent it is advisable to check with the Intellectual Property Office as to the originality of the invention or manufacturing process to prevent infringement of rights already patented.

**Trademarks** are signs or symbols that distinguish a set of goods or services from those provided by other traders. Trademarks that describe, praise, offend or mislead about goods or services cannot be registered, but once a trademark is registered the owner has the exclusive use for an unlimited period provided the prescribed renewal fees are paid.

The **Design** Act 1953 affords protection by means of registration to a design that is original and relates to the shape, configuration, pattern, or ornament applied to an article. The registration of a design gives the owner 15 years of exclusive rights provided renewal fees are paid.

**Copyright** is covered by the Copyright Act 1994 which provides protection for any original literary, dramatic, musical and artistic work, sound recording, film broadcast, cable programme or published edition. Copyrights are not registered but automatically come into existence on the completion of the author's original work. It is identifiable by the international copyright symbol ©. Copyright provides protection for the period of the life of the author plus a further 50 years.

Geographical Indicators are registered to designate the origin of goods offered for sale in New Zealand.

Plant Variety Rights protects the breeders of new plant varieties by allowing the owner exclusive rights over the new variety.

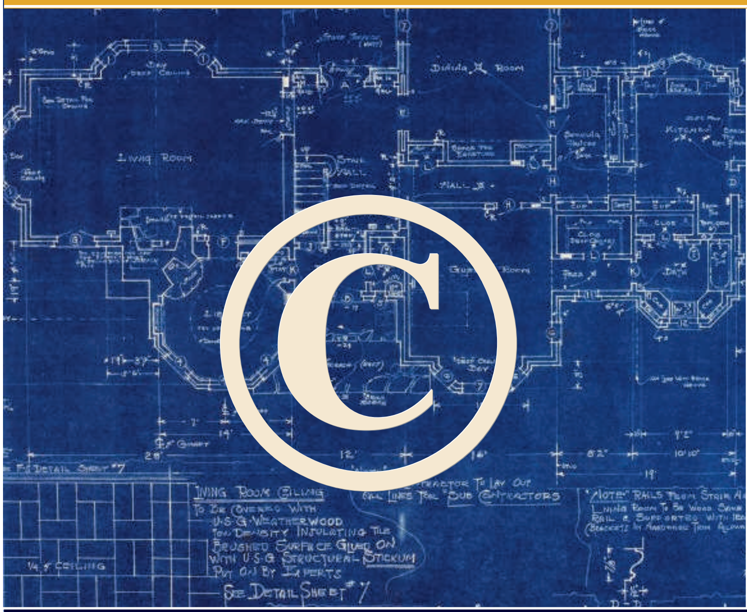
**Pitfalls and Redress**

There is a risk of keeping the intellectual property confidential, other than copyrights that afford automatic protection, between the period of initial conception to the actual application for registration especially if third parties are involved in its development. The risk can be avoided by signing a confidentiality agreement to protect the information from being misused or stolen. The Fair Trading Act is a good watchdog for those persons whose competitors engage in trading activity that is misleading or deceptive. There is also the common law right of passing off that offers some redress where a person disguises his goods or services in order to divert trade or injure another person's trading reputation.

**Tax Implications**

Generally, depreciation is not claimable on an intangible property unless it has a finite useful legal life. Even then, it must not carry a high risk of being used as a tax avoidance scheme. Schedule 14 of the Income Tax Act 2007 lists the types of intangible properties that may be depreciable. Usually, licensees who are granted the right to use the intangible property for a limited period, are able to claim a depreciation deduction. The owners, on the other hand, do not always qualify for a deduction e.g. an owner of a trademark will not qualify for a deduction because it will last perpetually. However, a patent owner is entitled to claim depreciation over the statutory life of the patent.

Please contact your advisor for further information on IP rights.



## QuickBits

- The "standard-cost household service for childcare providers" amounts have been increased to take into account the annual movement of the Consumers Price Index for the 2012 income year. For childcare providers with a standard 31 March balance date, the change applies for the period 1 April 2011 to 31 March 2012. The fixed standard-costs for ownership of domestic dwellings for Educators have also been reduced from the 2012 income year.
- New use of money interest rates are due to come into force on 8 May 2012:
  - The underpayment rate reduces from 8.89% to 8.40%
  - The overpayment rate reduces from 2.18% to 1.75%

# Gifting and Bankruptcy

Since the abolition of gift duty late last year, a number of people have taken the step of forgiving loan balances that had remained owing by trusts. The case of Official Assignee v Mayers and Ors sends us a warning about the boldness with which we gift loan balances.

The case concerns the common practice of forgiveness of a debt owed by a family trust and the consequences of same in the event of the bankruptcy of the lender.

In the years leading up to his bankruptcy, Mr Mayers made gifts to his family trust totalling$81,000 by releasing and forgiving the trustees' three annual gifts of $27,000, with the result that the trustees' indebtedness to Mr Mayers was reduced by the same amount. Mr Mayers was adjudicated bankrupt shortly after making the third gift. The Official Assignee issued notices to set aside the three gifts as irregular transactions.

Section 207 of the Insolvency Act 2006 provides that on the cancellation of an irregular transaction, under which property of the bankrupt was transferred, the Court may make an order for the re-transfer of property or for payment of a sum of money. The trustees opposed the making of an order under s 207 on the basis that a forgiveness of debt is not a transfer of property. The Court agreed. It noted that relinquishment of the right to claim repayment of a debt is not a transfer of the right to the debtor, because a debtor cannot sue him or herself. Therefore the partial releases of debt were not transfers of property from the creditor to the debtor and the Court could not make an order for re-transfer or payment.

Although the Official Assignee was unsuccessful, it is still possible for the Official Assignee to bring ordinary proceedings against the trustees to recover the re-stored debt owed to the bankrupt..

### *How it affects you*

If you have entered into a gifting programme, and/or have made one large gift of property, remember there can be consequences down the track if you do meet your debts as they fall due.

One of the key reasons for gifting to a trust is to protect the assets from creditors for the benefit of future generations. If gifts are made, and these do not result in the protection of those gifts from creditor claims, you would have to wonder what it was all for. When you next speak to your advisor regarding making a gift (for some or all of a loan balance) make sure you discuss with them some of the wider issues, and lay all your cards on the table regarding your current financial position.

## *question time >>*

## Q: Do I have to be registered for GST?

## A: You may have to be...

If your turnover (i.e. sales of products, fees charged etc etc) is greater than $60,000 in a 12 month period you are required to be registered for GST.

If your turnover is less than $60,000 you don't have to be registered for GST and you must not charge GST on the sales you make to your customers. If you are not registered for GST you must make no reference to GST on your invoices to your customers.

There are certain exemptions regarding being registered for GST and one such exemption is Taxi Drivers you must be registered for GST regardless of how much fares they charge per year.

## PAYROLL SOLUTIONS

Are you finding it a hassle to do your own Payroll? We have a solution for you. We can prepare and complete your payroll either weekly or fortnightly using the latest payroll software ensuring you are 100% compliant with the ever changing employment legislation. We send you meaningful reports each pay run and assist you with all enquires you may have. Call us for a quote and more information.

## WEB SOLUTIONS

Did you know that you can use Mail Chimp for free to help you manage your email blasts more successfully? This free service allows you create mailing lists to which you can market and communicate your products and services. Business's that have used this service have noticed considerable improvement in response rates to email blasts over against the traditional way of sending email blasts from your own email. Visit www.mailchimp.com to get yourself set up and utilise the many layouts to improve your email marketing today.

## PROHUB SOLUTIONS

Do your salesmen have comprehensive reports of all a customer's contacts with your business that they can take with them when they go out to visit their customers? If they don't they should and PROHUB can help you with such reports. PROHUB allows you to create reports for your travelling salesmen to print off and take with them which will tell the salesman all of the contacts that there customer has had with your business. This is an invaluable tool for the salesman as it helps him to be able to ask intelligent questions and follow-up enquiries with all the information he needs right at his fingertips. Contact us today for more information on how this program can help your business prosper.

# ACC CoverPlus Extra

### Who qualifies?

When a person starts self-employment, ACC CoverPlus for standard personal injury cover automatically applies. An alternative to the standard cover is ACC CoverPlus Extra, which is ACC's agreed-cover product for self-employed people or shareholder-employees. Instead of the weekly compensation limit being based on 80% of the individual's previous liable earnings under the standard ACC cover, CoverPlus Extra pays 100% of the agreed cover level. There are a number of common business situations where CoverPlus Extra may better suit your ACC entitlement in the event of an accident or injury.

For example:

- When you don't have a history of liable earnings. In this situation you may only get the minimum payment in the event of an injury;
- If your liable earnings fluctuate from year to year;
- Farming partnerships where one partner is responsible for all, or a majority, of the revenue income.

ACC CoverPlus Extra may also be a good option for you if you feel you need a higher level cover than your taxable income. For example in a partnership, where one partner is a passive earner, the other partner's level of cover can be negotiated with ACC so that it takes into account the total partnership liable earnings.

### Premium Deductibility

ACC CoverPlus Extra premiums were not tax deductible either to the company or to shareholder-employees for many years. This was because the shareholder employee is not able to claim expenses relating to his salary and since the ACC levy invoice was not billed to the company, it too could not claim a tax deduction.

However, the Inland Revenue Department now allows the employer company to treat it as a tax deductible expense if it pays the shareholder-employee's ACC CoverPlus Extra levy or reimburses the levy. Note that the Earners' levy portion is excluded.

For more information about ACC CoverPlus Extra or to discuss your own situation please contact this office.

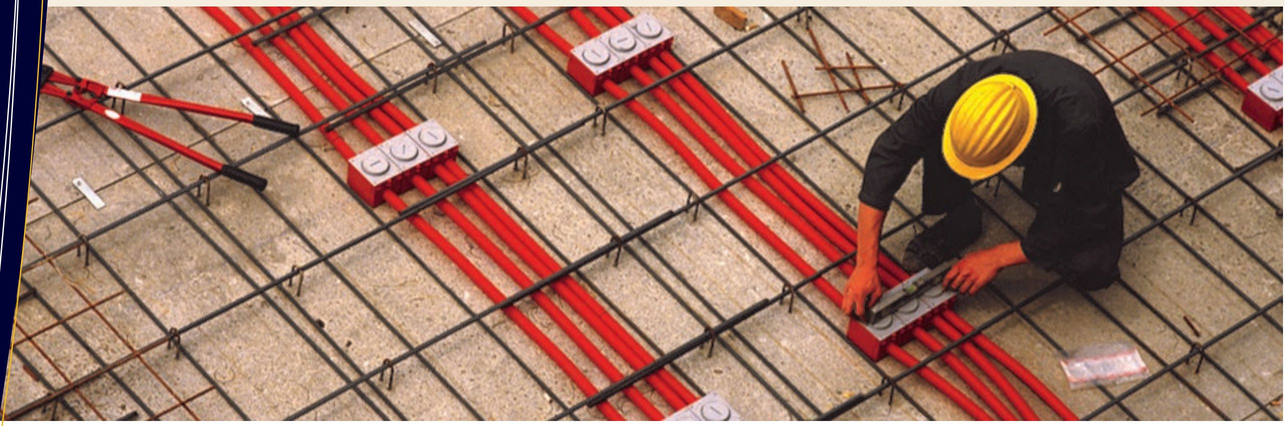
### Earners' Levy Thresholds

The annual maximum earnings for the 2012-2013 income year on which earners' levy is payable has increased from $111,669 to $113,768. However, the levy rate has dropped from $2.04 to $1.70 per $100 of earnings.

The annual minimum amount of earnings on which ACC is payable has also increased to $27,040 for those working 30 hours or more a week if 18 years of age and over.

## Quick Quote

There are plenty of ways to get ahead. The first is so basic I'm almost embarrassed to say it: spend less than you earn.
~ Paul Clitheroe



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