

The festive season is upon us and this year has been very eventful, a change in the GST rate has meant many of us have been busy. Moving into the 2011 year a lot of businesses are already setting their goals and plans for the coming year and prospects for New Zealand's future are positive.

As per every year we are closing over the Christmas period. Our office will be closing at 5pm Wednesday 22 December 2010 and we will reopen Monday 10 January 2011.

Anyone urgently needing assistance during this period please contact Sue on 027 231 6024 or Tony on 021 528 836, or leave a message by calling 528 9211.

We wish everyone a safe and happy summer.

Death of the LAQC as we know it

Inland Revenue's policy division has now prepared draft legislation to implement the far reaching changes to the Qualifying Company regime. Although the legislation is still in a draft form, it is likely to become final within weeks.

A general overview of the changes and implications

1. As of 1 April 2011, LAQCs will not be allowed to attribute losses to shareholders.
2. The legislation creates a new entity, called a 'Look through Company' (LTC).
3. Companies will be allowed to transition across to become an LTC, or alternatively they can change to another business structure (for example a partnership), without any tax cost.
4. An LTC's profits and losses will be passed on to its owners, according to each shareholder's effective interest in the company. This means that losses and profits will be deducted or taxed at the owner's marginal tax rate.
5. Losses in LTCs will only flow through to owners to the extent that those losses reflect their economic loss. (Getting complicated now)

6. Owners must elect to become an LTC. In other words, we as your accountants will need to complete precise IRD forms to ensure an LTC election is valid.

7. The shareholders of an LTC will be treated as holding the assets of that LTC directly. This raises complex issues where those assets are sold.

8. Remember, this is all a tax fiction only – an LTC retains its identity as a registered company and therefore is still governed by The Companies Act.

We must at this point stress the very general nature of the above overview. The legislation is quite complicated and we know you don't appreciate wordy and complex epistles on tax. It's our job to cut through all of that for you.

Your company and the way forward

We have to stress at this very early point that the legislation is still in its draft form. In fact, there are one or two key aspects of the legislation that are yet to be written. By way of example, the Inland Revenue election forms have not yet been designed. As accountants, we need to educate ourselves before we can advise you. And so, over the coming weeks we'll be doing just that. Once final legislation is in place we will talk to you about what you should do for your particular Qualifying Company.

Did you know we can be your ACC online agent?

Being recognised by ACC as your online agent gives us secure online access to your levy information, your cover status and invoices and allows us to work with ACC on your behalf. A simple signed authority from you is all it takes to get this happening. We can also have all your ACC cover and premium invoices come to us for checking before going to you for payment, just as your tax notices do.

Rude Bird

A young man named John received a parrot as a gift. The parrot had a bad attitude and an even worse vocabulary. Every word out of the bird's mouth was rude, obnoxious and laced with profanity. John tried and tried to change the bird's attitude by consistently saying only polite words, playing soft music and anything else he could think of to 'clean up' the bird's vocabulary.

Finally, John was fed up and he yelled at the parrot. The parrot yelled back. John shook the parrot and the parrot got angrier and even ruder. John, in desperation, threw up his hands, grabbed the bird and put him in the freezer. For only a few minutes the parrot squawked and kicked and screamed. Then suddenly there was total quiet. Not a peep was heard for over a minute.

Fearing that he'd hurt the parrot, John quickly opened the door to the freezer. The parrot calmly stepped out onto John's outstretched arms and said "I believe I may have offended you with my rude language and actions. I'm sincerely remorseful for my inappropriate transgressions and I fully intend to do everything I can to correct my rude and unforgivable behaviour."

John was stunned at the change in the bird's attitude. As he was about to ask the parrot what had made such a dramatic change in his behaviour, the bird spoke up, very softly, "May I ask what the turkey did?"



Here, there and everywhere: The Hidden Cash Economy

In the 2010 Budget, the Government announced it will be providing additional funding of \$119 million to the Inland Revenue Department (IRD) to expand its taxpayer audit activity with one third being targeted to investigate the 'hidden cash economy'.

What is the 'hidden cash economy'? Basically, it is not returning sales as taxable income either by pocketing cash for goods and services sold (colloquially called 'cashies') or by swapping goods and services with other businesses without returning their value as income. Both amount to tax evasion in the eyes of the IRD. In biblical times tax collectors were treated with contempt and two thousand years later some attitudes to the nation's tax collectors haven't changed, indeed, some see taking cash as a God-given right in 'God's own'.



How is the Government through the IRD going to tackle this multi-million dollar problem? We believe they will use the tactics of their new trans-Tasman

counterpart, the Australian Tax Office who have accumulated Australia's biggest business benchmarking performance database, providing valuable information to measure whether businesses' profit margins are appropriate for their industry.

Take a painting contracting business for example. From the firm's paint supplier invoices the IRD can add up the quantity of paint purchased in a given tax year.

Their statistics will tell them the average number of litres that can be applied in an hour and the average hourly charge out rate. They can then estimate what the firm's sales should be and compare this with the amount returned for tax purposes. If the firm is doing 'cashies', or undisclosed contra deals with other businesses, the sales figure returned will be deficient and runs the risk of being reassessed for back tax over several years with interest, late payment charges and shortfall penalties adding to the debt.

The government through IRD is very serious about plugging up the holes in the country's tax base and any tax payer participating in the 'hidden cash economy' can expect serious consequences if caught with their hand in the till.

Shattered buildings, businesses and dreams Business Lessons from the Christchurch Earthquake

A disaster like the Christchurch earthquake can happen at any time, day or night. Our nation sits precariously on islands that straddle fault lines and volcanic vents and eruptions from Mount Ruapehu have at times disrupted businesses, roads and airports. These 'acts of God' send a very real warning to both businesses and private citizens to check that insurance cover is both comprehensive in type and of sufficient value to indemnify losses. Some Christchurch businesses are facing serious financial hardship because their risk cover was inadequate or, even worse, non-existent.

An Insurance broker has provided us with the following list of business risks that need to be covered:

1. **Commercial Building Insurance:** Full replacement value including loss of rental income for 12-24 months minimum and landlord liability.
2. **Stock:** Insured for full value and allowing for seasonal fluctuations and multiple locations.
3. **Plant & Equipment:** Again, for full replacement value at today's costs.
4. **Business Interruption:** The sum insured should be for the full Gross Profit figure allowing for trends over the next year or two. An adequate indemnity period is vital, 12-24 months minimum.
5. **Marine/Transit Insurance:** For stock being transported within the country and overseas
6. **Public Liability Insurance:** Including Statutory Liability and Employers' Liability.

The above list is certainly not exhaustive and you should seek advice from an insurance broker or company to ensure your business assets are protected with comprehensive cover of all risks and losses. The unthinkable can and does happen. Just remember Christchurch barely two months ago.

Gift Duty



On 1 November the Government announced that it will abolish gift duty with effect from 1 October next year. This decision seems quite a sensible one. Gift duty raises a paltry \$2.2M each year for the Government, when in fact it collectively costs trusts around \$70M per annum to file gift duty statements, most of which are for no gift duty to be paid. At last some simplification!

It's natural to be concerned that the removal of gift duty creates an 'open slather' environment, encouraging people to hide assets in trusts to avoid creditors. Not so, say the Government, who suggest that there is plenty of protection in the Insolvency Act to safeguard creditors. For those of you with trust and gifting programmes in place, we suggest you discuss with us or your lawyer on how best to continue.

Onerous new obligations under Immigration Act

Employers will need to take "reasonable precautions and exercise due diligence" in checking whether a person is entitled to work in New Zealand, under the new Immigration Act 2009 effective at the end of November 2010.

An employer will be committing an offence where it:

- Allows or continues to allow any person to work (in that employer's service), knowing that the person is not entitled to do that work and will be liable to a fine of up to \$50,000; or
- Allows a person who is not entitled to work (in that employer's service) to do that work and will be liable to a fine of up to \$10,000.

It will not be enough for an employer to show it did not know the person was not entitled to do the work.

Further, holding an IR330 tax declaration form will no longer be a reasonable excuse for employing a person who is not entitled to work in New Zealand or for that employer.

The Department of Labour has recommended that employers have a robust system in place for checking a potential employee's immigration status and retaining copies of the documentation that was checked. Immigration New Zealand has launched an online system called VisaView to help employers check whether a person is entitled to work in New Zealand. VisaView is free to use and aims to provide an immediate response to queries about the immigration status of existing or prospective employees.

Grandpa the Gambler

The taxman was not surprised when Grandpa showed up with his accountant. The taxman said 'Well, sir, you have an extravagant lifestyle and no full-time employment which you explain by saying you win money gambling. I'm not sure the tax office finds that believable.'

'I'm a great gambler, and I can prove it.' says Grandpa. The taxman thinks for a moment and said, 'Okay, go ahead.'

Grandpa says, 'I'll bet you a thousand pounds that I can bite my own eye.' The taxman says, 'It's a bet.' Grandpa removes his glass eye and bites it. The taxman's jaw drops. Grandpa says, 'Now, I'll bet you two thousand pounds that I can bite my other eye.' Now the taxman can tell Grandpa isn't blind, so he takes the bet. Grandpa removes his false teeth and bites his good eye. The stunned taxman now realises he has wagered and lost three grand, with Grandpa's accountant as a witness. He starts to get nervous. 'Want to go double or nothing?' Grandpa asks 'I'll bet you six thousand pounds that I can stand on one side of your desk, and pee into that wastebasket on the other side and never get a drop anywhere in between.'

The taxman is cautious now, but he looks carefully and decides there's no way this old man could possibly manage that, so he agrees again.

Grandpa stands beside the desk and unzips his pants, but although he strains, he can't make the stream reach the wastebasket on the other side, so he pees all over the taxman's desk. The taxman leaps with joy. But Grandpa's own accountant moans and puts his head in his hands. 'Are you okay?' the taxman asks. 'Not really,' says the accountant. 'This morning, when Grandpa told me he'd been summoned for an audit, he bet me twenty-five thousand pounds that he could come in here and pee all over your desk and that you'd be happy about it!'



Public Holidays Over Christmas

Under the Holidays Act 2003, if an employee works on a public holiday, the minimum payment they should receive is time and half for the hours worked on the public holiday.



For example, if an employee normally works 8 hours a day, but on a public holiday they only work 2 hours, the minimum payment they would receive for the day would be 2 hours at time and a half. This applies to all employees – wage and salary earners alike. Therefore, if the employer asks the employee to work on a public holiday, they should act in good faith and explain how this entitlement works to the employee so that they are aware of what they are agreeing to.

If the public holiday the employee worked on fell on a day that the employee would otherwise have worked even if it was not a public holiday, they would be entitled to an alternative holiday (a day off on pay at another time) regardless of how many hours they worked on the public holiday.

If the employee would normally have worked on the Saturday/Sunday the public holiday is observed on the Saturday/Sunday.

If the employee would **not** normally have worked on the Saturday/Sunday, the public holiday is observed on the following Monday

The Public Holidays for the 2010/2011 Christmas Period are:

Christmas Day
Boxing Day
New Years Day
Day after New Years Day

Saturday 25 December 2010 or Monday 27 December 2010
Sunday 26 December 2010 or Tuesday 28 December 2010
Saturday 1 January 2011 or Monday 3 January 2011
Sunday 2 January 2011 or Tuesday 4 January 2011

Regardless of what days an employee works they are only entitled to 2 Statutory days at Christmas and 2 at New Year. If this is all too confusing and you need help, give us a call

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