NEWSLETTER
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Urlich Lander Chartered Accountants

In this issue:

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WHO WE ARE and WHAT WE DO

In case you don't already know, we are a newly merged unique firm having a range of expertise and abilities to assist you in your business with tax compliance, developing your business and helping you to achieve your goals. We are Certified Consultants for Xero and an Approved Partner for MYOB products. As such we can assist with product selection and set-up to meet your needs. We also do Audits and Business Reviews.

Xero is a web based system giving small and medium businesses instant access to bank transactions, invoices, monthly reporting and GST reports anytime and anywhere.

We may be able to offer you reduced monthly fees on your Xero Subscription if you transfer your subscription to us at Urlich Lander. Please contact Phillipa, Denis or your Client Manager for further information.

MYOB has a range of packages which will make a big difference to how you manage your business accounts. With MYOB Essentials Live and MYOB AccountRight Live you can do your accounts anytime, from anywhere with all transactions automatically transferred – saving you time in data entry.

Banklink, which now comes under the MYOB umbrella is another option to utilise automated bank transactions to simplify your processing requirements. GST compliance can be done with ease.

If you are not on Xero, MYOB or BankLink already and would like to discuss options and see online demonstrations please contact your Client Manager. We can then set you up and train you to use these products.

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Our firm is able to offer its clients this insurance policy aimed at protecting you against unforeseen expert tax advice and accounting costs that you could be subjected to if Inland Revenue springs you with an IRD risk assessment or tax audit.

USE OF MONEY INTEREST

On 8 May 2015 the Inland Revenue Department changed the interest rate that it imposes on underpaid tax. The rate has increased from 8.40% to 9.21%.

At the same time, it increased the rate paid on overpaid tax from 1.75% to 2.63%.

Use of Money Interest Rates are set using the Reserve Bank of New Zealand's 90-day bank bill rate plus 450 basis points (4.5%) for underpayments, and minus 100 basis points (1%) for overpayments.

FBT RATE FOR LOW INTEREST LOANS

The last notified prescribed rate of interest used to calculate fringe benefit tax on low-interest employment-related loans was 6.7% for the period 1 October 2014 onwards. This was up from the previous rate of 6.13%.

BNZ CASH BACK

BNZ ceased to offer air points from 1 April this year. Instead the bank is offering to pay rewards as cash onto credit cards or qualifying loans monthly. Is this taxable income?
For a business, it is pretty clear cut that it is.
A person using their card privately is merely getting a discount on purchases and is therefore probably not taxable.
What about mixed use? The answer would seem to be to apportion the cash back.

TO FIX OR FLOAT? THE UPS AND DOWNS OF THE OCR

The Reserve Bank have just dropped the Official Cash Rate to 2.75%, with most economists and commentators predicting at least one further reduction in the coming months. What does this mean for you, your debt and your savings?

The Official Cash Rate, or OCR is one of the main benchmarks impacting local interest rates in New Zealand. It is set by the Reserve Bank to try to keep inflation between 1-3% annually.

When the OCR drops, interest rates advertised by banks typically follow. If you have debt this is usually a good thing, but if you have savings it definitely is not! Unfortunately for savers, there is no indication the OCR will go up any time soon.

We have been asked by a number of clients what they should do in terms of refixing mortgages or other debts, whether they should 'float' for a while, and what the dreaded 'break fee' from the bank is all about.

As with so many financial questions the answer is usually 'it depends', so do give us a call to discuss your particular situation. However, at a broad level it is clear that there is very little pressure on interest rates to go up in the short term, meaning shorter term fixed rates are proving popular. Given there is some expectation for a further OCR reduction, a lot of people are fixing their mortgages for 6 months, with a view to fixing for longer (at hopefully lower rates) then.

If you are currently on a fixed mortgage with a couple of years to run and want to get in on the lower rate action you are likely to be faced with a 'break fee'. The actual formula for calculating the break fee is long and complex, however the aim of it is to recover (for the bank) some of the profit it was going to make with your loan at the higher rate. Usually the break fee will be less than the benefit of changing, so it is still worth it, but always run your numbers first. Everything is negotiable, with banks wanting to retain existing customers, so make sure to ask the right questions.

For those with savings in the bank this is a pretty miserly time. If you normally simply roll over your term deposits, it is worth looking at the terms and rates being offered (with different banks too!) to see if you can get a better deal. Depending on your total savings, and risk appetite it is also worth looking at other investments such as shares and bonds, as these can provide a higher return (with associated risk of course). Bonds are often overlooked investments that provide stable income through regular coupon (interest) payments, but often at higher rates than the banks as they are offered by commercial businesses. We would advise talking to an investment expert about this – we can put you in touch with some we know and trust.

At the end of the day the trick is to set your mortage term and repayment at a level that works for you, while bearing in mind that at some stage, rates will go up again!

HEALTH AND SAFETY REFORM

Each year on average, 75 people die on the job and 1 in 10 people are injured at work. New Zealand workers are twice as likely to be killed or suffer serious harm compared to Australia, and six times as likely as those in the UK. With statistics this high, it's not surprising the Government is reforming New Zealand's health and safety landscape.

A new Health and Safety Reform Bill (the Bill) is currently before Parliament and is expected to pass shortly. The Bill will create the new Health and Safety at Work Act, replacing the Health and Safety in Employment Act 1992 and aims to reduce workplace injury and death tolls by 25 per cent by 2020.

Under the current legislation, there is a primary focus on the employer and employee roles and duties are carefully placed on defined participants (such as employers, principals, the self-employed etc).

The new Bill is introducing the expectation that everyone in the workplace is responsible for workplace health and safety, and that workers are empowered to intervene when they see an unsafe situation.

Who do we mean by everyone?

1. **The business itself** – a new legal concept will be a Person Conducting a Business or Undertaking (PCBU). It will usually be a business entity, such as a company, rather than an individual. The PCBU will have the primary duty under the new law to ensure the health and safety of its workers and others affected by the work it carries out.
2. **Officers** – includes directors and other people who make governance decisions that significantly affect a business. Officers have a duty of due diligence to ensure their PCBU complies with its H&S obligations.
3. **Workers** – must take reasonable care to ensure the H&S of themselves and others, and to comply with the PCBU's reasonable instructions and policies.
4. **Other people** who come to the workplace, such as visitors or customers, also have some H&S duties. It's all about taking your share of the responsibility for what you can control.

Health and Safety representatives and/or committees

It will not be mandatory to have health and safety representatives or committees, but when a worker requests an elected health and safety representative or committee, a PCBU must initiate the election of one or more health and safety representatives or form a committee. This does not apply to small businesses with fewer than 20 workers in low-risk sectors although smaller low risk businesses can voluntarily decide to have representatives or committees.

The Bill provides a wider range of enforcement tools for inspectors and for increased penalties for infringements. There will be three types of offences for a breach of a health and safety duty and a breach will be graded based on the conduct of the duty holders and the outcome of the breach. For example, a person may be jailed for up to five years if they have a health and safety duty and, without reasonable excuse, are reckless and engage in conduct that exposes a person to a risk of death or serious injury or illness. A body corporate in a similar position may be fined up to $3 million.

There will be several months between when the Bill is passed and when it comes into force to give people time to prepare for the new regime. As such we suggest you take the following steps:

- Identify H&S hazards and risks, and take steps to prevent these from happening
- Make sure your H&S policies are led by management, understood by staff and reviewed regularly
- Hold regular training on H&S matters
- Engage workers in H&S matters that affect them
- Support all officers to get up to date with H&S issues and key risk factors
- Report and monitor H&S goals
- Regularly review any incidents
- Carry out frequent H&S audits.

LAND – THEME OF CHANGE

There is currently significant public interest in the New Zealand housing market, whether it be issues relating to the Auckland 'bubble', property speculation, non-resident buyers, banking restrictions or a combination of these. In response, the Government is introducing a number of changes designed to either directly influence the market, or assist with decision making when deciding whether further changes are required. The key changes are summarised below.

RESIDENTIAL PROPERTY – BRIGHT LINE TEST

In the 2015 Budget the Government announced a new bright-line test that will apply to residential property acquired from 1 October 2015. The test will require income tax to be paid on any gains from the sale of residential property bought and sold within two years, with the exception of the 'family home', inherited property and property transferred in a relationship property settlement.

Inland Revenue has now released an issues paper setting out how the test might work and to ask for feedback on the finer details.

It is proposed that the two-year period will run from the date a purchase is registered on Landonline (Land Information New Zealand's online centre), and end on the date the person enters into a sale and purchase agreement.

Because of the risk (from the Government's perspective) that the new rules could apply at the height of Auckland's property bubble, the issues paper recommends that losses incurred on the sale of land should be ring-fenced and only able to be offset against profits from other land sales.

IRD numbers for purchase and sale of property

Buyers and sellers of residential property will be required to provide their IRD numbers at the time a property is transferred. Their IRD numbers will be included with the information submitted to Land Information New Zealand as part of the transaction process. There is an exclusion for New Zealand individuals purchasing or selling their main home (only one main home is allowed). But the exclusion doesn't apply to:

- someone selling their third main home in two years,
- trusts, or
- non-residents.

Where a person is currently a tax resident of another jurisdiction, they will also be required to provide their country of residence and their overseas equivalent of an IRD number.

This initiative is designed to provide the Government with better information regarding the volume of overseas buyers purchasing in New Zealand and improve Inland Revenue's ability to enforce income tax obligations and prevent tax evasion. Whilst the need for the change has merit, it will mean a large number of private Trusts that don't derive income will have to register with Inland Revenue and face annual compliance costs going forward.

Reserve Bank of NZ (RBNZ) Deposit changes

The RBNZ's deposit rules will change from 1 October 2015. Banks will be required to limit lending for residential property investment in Auckland at LVRs greater than 70% (i.e. a 30% deposit) to 2% of new lending. This initiative aims to promote financial stability by slowing down investor activity in the Auckland region.

For those outside Auckland, the minimum deposit requirement will remain at 20%, but instead of lending below this threshold being capped at 10%, it will be relaxed to allow 15% of new lending to have a deposit below 20%.

TRUSTS AND SHAREHOLDER CONTINUITY

New Zealand has one of the highest number of Trusts per capita in the world. One of their common uses is to act as shareholder of family operated companies. Despite this wide use of Trusts in corporate structures, it is surprising how often the tax consequences of changes to the Trust are not properly considered, such as a result of a divorce.

In order for a company to carry forward tax losses and imputation credits, certain levels of shareholder continuity must be maintained. The risk for a company with a Trust as its shareholder is that changes to the terms of a Trust Deed can result in a 'resettlement' of the Trust (akin to the termination of the old Trust and formation of a new Trust). The change could give rise to the transfer of shares to a new shareholder leading to the forfeiture of a company's losses and/or imputation credits.

There are no formal guidelines in New Zealand and a lack of commentary for determining whether a variation to a Trust Deed will lead to a resettlement, however guidance can be derived from Australian law.

Please contact us if you wish to have more information or guidance on Trusts.