Robertson Fulton
CHARTERED ACCOUNTANTS

# NEWSLETTER

August 2017

## INSIDE THIS EDITION



Welcome to our new format of the Robertson Fulton newsletter. We will be producing our newsletter quarterly so expect to see these in your inbox more regularly than in the past.

Our March taxpayers would have received their first instalment of 2018 Provisional Tax notices in the last few days. If there are any circumstances affecting current year's earnings that we are unaware of please contact us and we can review options available.

***STAFF NEWS:***
*Cindy Wang joined our team in May this year as a Junior Accountant. We are fortunate to add to our diverse team, with Cindy fluent in English, Mandarin and Japanese. In her free time Cindy loves baking & cooking, and spending time with her friends and family.*

*At the end of June we farewelled Sue Robertson. Sue has been an integral part of the firm for many years and will not only be missed by us but also the clients she looked after. We wish Sue the very best as she moves on to pursue her new endeavours in her busy lifestyle.*

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## Proof of Intention

The sale and purchase of residential property is an area of focus for IRD Investigators as a result of the ongoing investment in the Property Compliance Programme. A Taxation Review Authority ('TRA') case heard in May 2017, serves as a timely reminder for all property owners to remain aware of the tax implications that can arise from residential property sales. The case involved the purchase and eventual sale of a family home by a son who had previously been involved with other property investments.

A key criterion for determining the tax status of a property transaction rests on whether the property was purchased with the purpose or intention of resale. The intention of the taxpayer is determined subjectively at the date the property is acquired.

There are instances where taxpayers have tried to satisfy this subjective test by embellishing their future intentions to support a more desirable tax outcome. Hence, it is common to place some weight on any documentation that might also refer to a taxpayer's future plans for a property.

In this particular case, a substantial amount of weight was placed on a diary note recorded by the taxpayer's bank officer, accompanying the loan approval request for the property. The note recorded that the taxpayer had committed to the purchase of the property because his parents were no longer financially able to complete renovations themselves, and that he would sell the property once the renovations were completed, in order to release funds needed for his other property developments.

Due to the diary note and the taxpayer's history of buying and selling property, the IRD sought to tax the sale of the property. But the taxpayer argued that the file note was not a true account of his intentions. He told the TRA that the bank officer was a close friend of his, a friendship that had been built over years of loan applications and property investments. This had resulted in the bank officer recording a note not of a conversation but of a mistaken assumption about the taxpayer's intention to resell his parent's home.

The taxpayer asserted his true intention was to assist his parents while they were experiencing a period of financial difficulty, safeguarding the family home for the long term. This alternate set of facts was further aided by the form of the bank officer's note – it did not refer to a specific conversation, but was written as part of the loan approval request, containing information determined relevant by the bank officer.

The process for a case to reach the TRA is lengthy and involves a significant number of steps for both IRD and the taxpayer, so IRD often only reach this point if they consider themselves to have a high chance of success.

With this in mind, it must have come with considerable relief to the taxpayer when the TRA ruled in his favour, concluding that the evidence showed he did not purchase the property with the intention of resale.

The case is interesting because the taxpayer went through what would have been a difficult and stressful Investigation and then 'Disputes Process', due to a statement that he didn't make and likely didn't know existed. The lesson here is that if a property is not being purchased with a purpose or intention of resale, it could be a good idea to state that on the record through the acquisition process, rather than simply relying on that being implicit.

## Budget 2017

Budget 2017 presented a broad range of small yet smart changes that target working families and low income earners. From a tax perspective, the key changes are predominantly to the income tax thresholds, working for families' package and the independent earner tax credit.


**Income tax thresholds**

The income tax thresholds are set to change from April 2018 for the first time since 2010, with the lowest 10.5% bracket increasing from $14,000 to $22,000, and the next bracket of 17.5% moving from $48,000 to $52,000.

Over time inflation has pushed wages and salaries into higher tax brackets, resulting in the Government benefiting from a higher proportion of income being taxed. These new income tax thresholds seek to rectify this bracket creep and in that sense, simply reverses effective increases in the tax rates arising as a result of inflation.

Taxpayers can expect savings of $11 a week on income earned over $22,000 a year, and up to $20 a week for anyone earning more than $52,000 a year.

**Independent Earners Tax Credit**

The Independent Earner Tax Credit (IETC) is to be cancelled at the end of the 2017 income year. However, the loss of the IETC for those earning $24,000 to $44,000 is being incorporated into the increase to the income tax thresholds. With only a third of IETC eligible individuals actually claiming the credit, it is an overall positive change for those in that income range.

**Working for Families**

There has been a multitude of small changes to Working for Families. The Family Tax Credit rates will change, such that families with a first child under 16 will receive an additional $9 a week, and there will be an increase of between $18 and $27 per week for each subsequent child under 16.

The maximum amounts payable to households entitled to the Accommodation Supplement are also set to rise, as are the weekly payments for the Accommodation Benefit for eligible Student Allowance recipients.

## PAYE changes and tax simplification

Inland Revenue (IRD) have recently released a new Taxation Bill and published the eighth discussion document in the Making Tax Simpler series, both of which aim to reduce the cost of tax compliance and administration for NZ businesses and individuals.

Under the current PAYE system, it can be difficult for IRD to collect the correct amount of tax from individuals over the course of a tax year. The nature of the system means that mistakes can be made when selecting PAYE codes, or if a person's income changes unexpectedly the amount of tax withheld over the course of a year is not likely to be accurate, leading to tax refunds or liabilities at the end of the year.

IRD propose increasing the frequency that employers provide information to IRD from monthly to every payday, which could be weekly or bi-monthly for some employees. This will be facilitated by the integration of accounting software with the IRD system, so that employee income and deduction information can be sent to IRD with a simple 'push of a button'.

PAYE information will be sent as pay checks are processed, so payroll reporting will become an integral part of the tax process rather than a separate and additional function for employers. This will reduce the tax administration involved with employing staff and ease the compliance burden for businesses.

The draft Bill also proposes that more detailed information will be collected more regularly on individuals' investment income, such as interest, dividends, portfolio investment entity (PIE) income, taxable Māori authority distributions and royalties.

It is therefore important that you ensure investments are in the correct name (eg. if owned by your Trust, then have all Trustees' names) and that the investment company have the correct IRD number. The new rules will require the payer to submit information about individuals to IRD on a monthly basis, or whenever payments are made if the payment frequency is less than a month. Taxpayers will still be responsible for providing any additional information to IRD, such as rental or self- employed income, however it will be possible for this to be provided via the online 'MyIR' system.

The IRD estimate that an additional **$21 – $27 million of income tax** revenue will be collected per annum under the new rules, and an additional 185,000 individuals will have their investment income included when determining their Working for Families entitlements, allowing more accurate calculations.

In summary, the proposals aim to use digital solutions to simplify the tax administration process. Both the PAYE changes and introduction of detailed reporting for investment income will give IRD more real-time information and ultimately give the Government greater insight into a taxpayer's financial position. This will open up opportunities to redesign social policies and improve the future administration of other systems such as child support, KiwiSaver, Working for Families and student loans.

## Beware of Paying Excessive Salaries

It is very common for family owned companies to employ members of the family in the business on a permanent or casual basis. There is no problem with this per se, however income tax rules seek to prevent 'excessive salaries' being paid to family members.

Inland Revenue has recently been focusing on this issue and has been scrutinising the type of work completed, the amount paid, the way in which it was calculated, and what a third party might be paid for the same work.

There is no precise measurement as to what constitutes 'excessive', as each case is different. What is most important is that business owners determine the value of a relatives remuneration based on the service provided to the business. The relative should be paid the same amount as an unrelated employee performing similar duties.

IRD has the ability to intervene and reallocate remuneration, income or losses if it considers the amount is not reflective of the value contributed. If an amount is deemed to be excessive, the excess may be recharacterised as a dividend and therefore non-deductible to the payer. Where salaries to family members are paid it is important to ensure the employment and the amount paid is calculated and documented on an arms-length basis.

## New Safe Harbour Threshold for IRD (UOMI) Interest

IRD charges interest when provisional tax paid during the year is not enough to cover the final tax bill, once the accounts are completed and tax return filed. This interest is known as Use of Money Interest (UOMI), and tends to be at a rate higher than banks generally charge. Generally, individuals haven't been charged UOMI until their final income tax bill exceeds $50,000. Companies and Trusts are charged when income tax is over $2,500 for the year. These are known as safe harbour concessions. Individuals have had the benefit of concession where UOMI is not charged by IRD until the terminal tax date, which is typically April 7 the following year. From the 2017/2018 income year, that concession is being increased from $50,000 to $60,000 and being extended to all types of taxpayers, such as companies. There are requirements that need to be met in order for the concession to apply, such as having already paid the minimum obligation under the standard uplift method for provisional tax. Inland Revenue expects the changes to the safe harbour threshold will eliminate UOMI charges for approximately 67,000 tax payers, at least 63,000 of these being non-individuals who previously do not qualify for the safe harbour concession.

# Snippets

## YouTube receipts

With over 400 hours of content uploaded every minute, YouTube comprises a massive entertainment platform. The site has over 1 billion monthly users, with a continual demand for quality online content across a diverse range of subjects.

Armies of users produce and upload videos, aiming to earn the most views, leading to opportunities to make money. Income can be generated from various sources, such as:

- Advertising revenue (e.g. Google's AdSense campaigns);
- Affiliate and sponsorship income (paid for promotion of products or companies); and
- Paid content (where a fee is required in order to see the content).

The IRD has recently provided guidance regarding the taxable nature of such income, which is based on ordinary tax concepts.

The key considerations are whether the individual is intending to make a profit, or is engaged in a 'scheme or undertaking to make a profit'.

So, if you receive YouTube income you may need to include this in your income tax return, even if you did not intend to profit. If you are receiving amounts regularly or are relying on the amounts as a form of income, the income is likely to be taxable.

Think ahead to IRD requesting a list of NZ members that have received payments from YouTube over $XXXX

## FBT Changes

Currently, companies that provide a motor vehicle for the private use of their employees must register for and pay FBT. Legislation has been introduced which will enable some small businesses to avoid having to pay FBT.

The recently introduced changes will allow close companies (where 5 or fewer natural persons own 50% or more of the shares) that only provide one or two vehicles to shareholder employees (and no other benefits) to apply the rules currently available to sole traders and partnerships. Using these rules, the company will claim a deduction for the use of a vehicle to the extent it is used in the business and not pay FBT in respect of the private use.

In order to apply the treatment to a particular vehicle, it needs to be adopted from the time a vehicle is acquired, or first used in the business. Hence the method wont be available for company vehicles currently held. Once a particular vehicle is subject to the new treatment, it must continue to be applied until the vehicle is either sold or is no longer used in the business.

These changes apply for the 2017/2018 year. With the new rules coming into play, it may be the right time to think about whether your current business vehicle usage and whether or not it is a good excuse to splash out on a new vehicle.

## Tax innovation

With the persistent need for additional Government revenue it could be time to look to history for answers.

In 1535, King Henry VIII of England introduced the first 'Beard Tax' on males growing facial hair.

The effectiveness of the tax in England was questionable, with records at the time being somewhat 'short' on detail.

The second iteration of the beard tax was implemented by the Russians in 1698. Their policy was a little more extensive and enabled the police to forcibly shave anyone refusing to pay the tax. Men were required to pay between 60-100 rubles (a small fortune at the time) depending on their position in society, with 'wealthy merchants' charged the full 100 rubles upon entering a city. They were then issued a 'beard token' to evidence payment.

A few hundred years later in 1944 the Russians had another great initiative - Tax on Trees. The tax imposed on fruit trees alone became so expensive for farmers that it led to a mass felling of fruit trees, causing a fruit shortage throughout the country. The tax was eventually repealed 10 years later.