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DON'T LET THE IRD NAIL YOU

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ACC Earner Premium

Be sure to adjust for the non tax deductible earner premium in the shareholder employee ACC levy. The earner premium is usually more than half the total, so it is material. We suggest a request for the ACC tax invoices in your annual accounts questionnaire.
The earner premium is a personal cost and should be charged to drawings. It is not a non deductible company expense. Compare it with the earner premium included in PAYE deductions.
There is currently a proposal to make the earner premium tax deductible to save the cost of separating it out.

Giving tax advice

The IRD can demand the names of your clients to whom you have given any particular type of tax advice. The information is not privileged. Only the advice document is.

Payment by credit in the books of account

A client transferred a car from one related company to another. The transfer was a book entry.
Inland Revenue does not accept a credit in the books of the purchasing company as payment, where that company is on a payments basis. Although payment by credit in the books can be acceptable for income tax purposes, it is always safer, to make an actual transfer of cash.

Gifts of food or drink

Gifts to customers, involving food or drink, are entertainment expenses and limited to 50%. However, a bottle of wine given to a member of staff is a fringe benefit and not an entertainment cost. If your firm qualifies for the general exemption of $200 per individual per quarter and $15,000 over the last four quarters, no fringe benefit tax or entertainment adjustment is required, provided the thresholds are not exceeded.

Prescribed investor rate - reminder

You are entitled to select income for either the 2007 or the 2008 financial year when determining the prescribed investor rate for the 2009 year.
The prescribed investor rate for a PIE is a final tax, provided it is correct. Therefore, if it is advantageous to choose the 2007 income for your PIR because 2008 pushes your client into a higher tax rate, you are entitled to choose 2007.
For 2008 you have to consider the effect PIE income if the total will take you over $60,000.

Donations from start of 2009 year

The rebate of $33^{1}/3$% will be available in respect of the total of all qualifying donations and qualifying housekeeper payments made in a tax year. This is limited to the total of the taxpayer's taxable income for that year. This is only partly true. You must then read section 41A of the Tax Administration Act 1994. It says refunds of donations and housekeeper rebates are limited to the tax paid. Thus you may have a wealthy client whose income arises mostly in a family trust. She decides to give away her personal income of $38,000 for the year ending 31 March 2009. Her donations rebate is $12665. Her tax on her income is $7410. Her rebate is limited to $7410.
Also watch out for companies. If the donations generate a loss, the loss has to be reduced to nil. Beware, particularly of LAQCs.

GST Ratio

You have until your client's balance date to register for the GST ratio. Some clients could be disappointed if you fail to suggest the scheme to them. The GST ratio is going to present a problem with provisional tax reminders. You won't need them for the GST ratio clients. Keep records to save embarrassment. But, make sure you are right or you might not send out a reminder when you should have done.

Minutes approving a shareholder salary

For those who have an extension of time, the deadline for determining shareholder/employee salaries for the 2007 tax year is 31 March 2008. Be sure to get a minute signed by this date for all clients for whom you are struggling to get accounts completed.
The minute can be worded in a general way. For example, it is permissible to say the shareholder/employee is to receive all the taxable profit.
If your client does not have an extension of time and is late with the return, we think you still have until 31 March 2008. Our reference is S 37 of the Tax Administration Act 1994.

Redundancy

Watch out for a client who receives a redundancy payment. If part of it attracts 39% tax, apply for the 6 cents relief up to a maximum of $3600. Make sure your questionnaire covers this point. This new law is effective from 1 December 2006.

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Foreign investment fund

What is an attributing interest in a foreign investment fund? It is any investment in an overseas enterprise where you do not own the assets of the operation but a share in the entity. It therefore includes, shares, superannuation schemes, life insurance policies, unit trusts and so on.

Life insurance policies are included because many of them gain in value each year. Life insurance policies entered into in NZ are excluded because the life insurance company, having a base in NZ, will be subject to NZ tax law. You may have the occasional client who is sending money overseas to maintain a life insurance policy and you may have to account for income tax on the profits.

A similar rationale applies to superannuation schemes. But in this case you will find a special exemption for certain schemes taken out in Australia. See Section EX 33E. There are other exemptions for foreign super schemes. You will need to check if you get one.

Unit trusts present a problem. You need to know something about the background of the scheme. Assuming the exemption for certain Australian unit trusts (See EX 33D) does not apply, then as a general rule, you will expect tax will be determined using fair dividend rate. However, some unit trusts can be fixed interest only and FDR does not apply to them. The government could lose a lot of revenue if a unit trust was earning 8% but the taxpayer was applying FDR at only 5%. Other unit trusts will be marginal. The Commissioner of IRD makes determinations to tell you how each of these marginal ones are to be treated. See TIB Vol 20 No 2 March 2008 p31-33 as examples

Conclusion

Interest bearing foreign investments would usually be taxed on the interest. Equity type foreign investments are taxed in half a dozen different ways. However, if your client's interest is less than 10% in the FIF, expect FDR to apply subject to the exclusion of most shares listed on the Australian Stock Exchange.

It is all very complicated. You need to make sure you gather the right information and once having collected it, get specialist advice if you are not sure what to do.

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