



DON'T LET THE IRD NAIL YOU

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Clearing ICA credits when changing shareholding

If you are paying dividends to clear imputation credits, prior to a share transfer, the dividends have to be declared and paid before **the date** of the share transfer.

In Case Z 4 the Commissioner argued, unsuccessfully, a dividend and a share transfer performed on the same day did not amount to a dividend declared after the share transfer took place. The Court accepted the dividend was declared in the morning and the share transfer was done in the afternoon.

The tax payer has to be able to show the two were performed in the right order. Remove all doubt and separate the two transactions by a day. Why take risks?

Crediting dividends is OK

In Case Z4 the Commissioner tried to argue crediting dividends to shareholder accounts is not payment. The company did not have the cash to pay the dividends. The High Court ruled against the Commissioner. As stated previously, the solvency test needs to be reapplied at the time of payment.

Redundancy

The redundancy rebate is available only for a true redundancy payment. This needs to be separated from all other components of the final pay cheque.

Cheap rental for family member

Losses cannot be claimed when a client supplies cheap rental for a family member occupying a rental property. The tenant must pay the going rate. Sometimes the family member may earn the cheaper rental by agreeing to maintain the property, mow the lawns etc., in which case a loss can be claimed so long as the net effect is for the owner to still achieve a market rental.

Buildings

On 30 July 2009 the IRD put out an exposure draft on buildings.

Some buildings, like parking buildings, will become buildings for tax purposes. Others, like portable buildings, will cease to be buildings for tax purposes.

This means you will be able to claim a higher rate of depreciation and the 20% loading on the latter.

The Government has announced, if the changed interpretation occurs in its present form, it will pass a law so that the old rules will apply to all buildings owned prior to 30 July 2009. The new rules will only apply to these buildings when the ownership changes.

1 cent makes a big difference

You will know a minor beneficiary is a person under 16 at balance date of a trust. The maximum amount of income which can be applied to a minor beneficiary of any one trust is \$999.99 not \$1000. The 2007 Act has changed this threshold. It was \$1000 in the 2004 Act. If you allocate a dividend, it is \$699.99, based on 30/70 Imputation credit ratio. You must use the grossed up dividend for threshold purposes.

Segmenting FIF income

If, when using the CV method to calculate FIF income, you get positive taxable income, which is lower than income calculated using FDR, you then need to consider any foreign tax credits you may be able to claim.

Look at each segment of income. Determine whether you have a gain or loss. If a loss, there is no claim for tax paid overseas. If a gain, the usual rule applies about the tax claim being limited to the New Zealand tax equivalent on that income.

What is a segment? A segment is income derived from a particular country, and that either comes from a particular source or is of a particular nature.

Credit card fees

When suppliers start charging credit fees to purchasers, these fees will not be financial services. They will therefore be subject to GST.

Changing a wrong PIR

If a client corrects their PIR before a PIE's final tax calculation for the year, it is treated as the correct PIR for the whole year.

Travel overseas for education

More clients are going to courses overseas to enhance their professional knowledge and skill. Some of these courses may be quite long – say a year. They need to know the costs they can claim. Each situation is case specific, so the following is only a guide of what you could consider.

The training should be aimed at enhancing the income of the existing business from a commercial perspective.

Travel and tuition costs would usually be considered tax deductible. What about accommodation and food? To the extent these two costs would be more than the client would be paying at home, case law indicates you may be able to claim them

Check the case law and see if you would be comfortable with your clients claiming these costs.