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Corner Highlights

Staff News

This month we welcome back **Anne Rothnie, Chartered Accountant** at our Dannevirke Office. Anne has been on parental leave since September following the birth of her second child.

Congratulations to **Rahina Bi Rahiman** on becoming an **Accounting Technician** with Chartered Accountants Australia & New Zealand (CAANZ).

In March we welcome two new staff members to our administration team. **Sally Williams** is joining our Dannevirke team and **Emarina Eruera** is joining our Pahiataua team. Sally and Ema will be doing client GST returns and client wages.

We are still looking for experienced accounting staff to join our team. If you have experience working in public practice, can prepare tax returns and financial statements and would like to work for us, please contact Rachel Dalglish, our Practice Manager on 06 3747059 or email rachel@mcia.co.nz

When is a Gift not a Donation?

If an individual pays "...a monetary gift of \$5 or more..." to a charity they can claim 1/3rd of it back from Inland Revenue (IRD).

For the average New Zealander, limiting donation claims to the amount of a person's taxable income is of no consequence. However, some high net worth individuals make donations that exceed the amount of their taxable income, thereby entitling them to large refunds. For example, a large donation could be made to help fund an important capital project of a charity, such as the construction of a new building for the homeless. The question then becomes how to structure a large donation, to ensure a donation rebate can be claimed. The donation claim is restricted to monetary gifts made in an income year, whilst assets, such as "food" donated to the homeless, does not qualify for the tax credit.

The High Court decision in *Roberts v Commissioner of IR* examined a donation rebate that was in the form of a loan forgiveness. Mrs. Roberts had made a cash loan to a charity of \$1.7m. The loan was subsequently being forgiven across multiple years and claimed as a donation rebate. IRD considered that a 'debt forgiveness' was not a charitable gift within the meaning of the current legislation because it was not a 'cash' gift. Judge Coleman decided in favour of Mrs. Roberts and confirmed that a monetary gift did not require cash payment, provided that it was a gift of a specific sum and was not a chattel or property item. Judgement was upheld for Mrs. Roberts.

The forgiveness approach is no different, for example, to Mrs. Roberts making the loan and then making cash donations in future years that are used by the charity to repay her loan. In substance, cash has been paid by a private individual to a charity – being the purpose of the regime.

In a surprise move, when the Taxation (Annual rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill was reported back from the Finance and Expenditure committee (FEC) on 18 January, IRD had included a recommendation that the current legislation be amended to prescribe that donations need to comprise a "gift of money", thereby legislating against the decision in *Roberts*. By recommending the change at such a late stage of the enactment process, it skips the public consultation phase. IRD have justified the change by asserting that the 2007 re-write of the Income Tax Act changed the meaning, and they are merely changing it back.

Rather than accepting IRD's view, it would be nice if the FEC had looked at the issue more 'charitably'.

IRD Refunds

From 1 February 2019 the IRD are no longer issuing refunds by cheque. If you have paid too much tax during the year and are due a refund, the IRD will pay the refund directly into your bank account. They will pay the refund into the bank account that they have the details for.

To ensure that you get refunds quickly and simply, make sure your bank account details are up-to-date. If you aren't sure what details the IRD hold for you please contact us for assistance.

GST & Land Sales

In 2011 the GST Act was amended to prescribe that a supply of land between two GST registered parties was subject to a rate of 0% if the land was to be used by the purchaser to make taxable supplies and not as a principal place of residence.

Given the change reduced the GST rate to 0% it is fair to assume it should have simplified how GST applies, i.e. there wouldn't be any. However, in practice the change continues to cause problems both from a contractual and technical perspective. This led to Inland Revenue issuing additional guidance in 2017. However, problems persist.

Under the GST Act, a purchaser is required to notify the vendor of their circumstances so that the vendor can establish whether or not to zero-rate the sale. In practice, this occurs by completing Schedule 1 of the Auckland District Law Society (ADLS) Sale and Purchase (S&P) agreement. However, there are instances where the schedule is not completed at all, in which case there is no 'agreement' between the parties regarding how GST applies.

If the purchaser does not complete Schedule 1 or completes it incorrectly this may result in the vendor incorrectly charging GST on the sale, or incorrectly zero rating the sale. Either party may then attempt to recover the GST paid from the other.

It is extremely important to ensure the S&P is complete and correct. Costly mistakes can be avoided simply by following due process. If you are unsure, please ask your advisor.

Sugar Taxes

With obesity becoming an ever-increasing problem in New Zealand, there is regular debate regarding the effectiveness of a sugar tax to curb the problem. There's a lack of consensus on whether such a tax may be beneficial, yet sugar taxes are nothing new.

100 years ago, in 1919, with the First World War nearing conclusion, politicians in the United States decided that taxing ice-cream sodas, sundaes, juices, lemonades and other sugary drinks would offset the tax revenue lost from alcohol sales once the nationwide prohibition came into effect.

However, one year after introduction of the sugar tax, following the conclusion of the war, the tax was scrapped. The USA still faced record levels of war debt, yet the soda tax was so unpopular with the American people that it wasn't a viable option.

Although the 1919 soda tax did not have health objectives in mind, it is reasonable to conclude that soda was not something the American people wanted their politicians messing with.

After 100 years, the situation is only getting worse with 32% of adults in New Zealand considered obese, what are our options? During the First World War, rationing was a way to ensure people got what they "needed"...



GST on Low Value Imported Goods

GST is intended to be a broad-based tax applying to goods and services consumed in NZ, however under the current system not all goods and services are captured.

GST is not currently collected on imported goods worth \$400 or less. However, the import market has grown giving rise to increasing concern NZ suppliers are disadvantaged in comparison to offshore suppliers.

A Bill was introduced into Parliament in December 2018, that seeks to level the playing field.

The Bill, intended to be effective from 1 October 2019, proposes to apply GST to goods valued at \$1,000 or less (excluding tobacco and alcohol) that are delivered to a NZ address from overseas. Offshore suppliers will be required to return NZ GST if their total supplies to NZ exceed \$60,000 in a 12-month period.

So, what does this mean for NZ consumers? They will likely have to pay GST on low-value goods imported from overseas, while NZ businesses are now on a more level playing field with their overseas competitors.

get in touch

You might like to visit our Website at www.mcia.co.nz.

This provides information about our firm and a number of links to other websites that may be helpful to you.

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