ON *balance*

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Remuneration of shareholder employees

The *Penny and Hooper* decision is a landmark tax avoidance case that has implications for small businesses operating through a company or trust. Essentially, the Supreme Court decided in favour of Inland Revenue, concluding that setting artificially low salaries amounted to tax avoidance.

Penny and Hooper were two orthopaedic surgeons, each earning taxable income of between $600k and $850k a year. They restructured their businesses into companies with a family trust owning most of the shares. They provided their services to the companies in return for salaries of $100k - $120k each year. The balance of the company's income was declared as dividends to the family trust which the surgeons drew from regularly.

Each year tax of between $20k and $30k was saved by having the profits after salaries taxed at the trustee rate rather than at the surgeons' individual top personal tax rates. The court found these savings a 'more than merely incidental' reason for their low salaries.

The IRD has put businesses on alert and is actively reviewing those operating through a company or trust where the income is generated from services provided by an individual, and the individual's salary is unreasonably low. Although there may be good reasons for setting the salary low in a particular year, e.g. adverse business conditions, or a planned expansion of the business, in some cases the sole reason for the salary level is to take advantage of the lower tax rate that applies to companies.

The IRD is entitled to go back four years into a business' records, but have publicly confirmed that where a 'voluntary disclosure' is made, only the last two income tax returns will be reassessed. A voluntary disclosure might significantly reduce IRD penalties or avoid them entirely.

Whenever we're discussing your business we'll look at this for you. In the meantime, if you are concerned and would like to discuss this with us, please do contact us.

ACC changes self-employed invoicing

ACC has recently changed the way it invoices self-employed clients with regard to their full or part-time status, dependent on whether you work 30 hours or more a week.

Information on your full or part-time status no longer flows through to ACC's database on the IRD IR3 form. If you held part-time status last year and this year your earnings crossed the threshold you will receive a letter from ACC automatically confirming your change to full-time status. In all other scenarios it is up to you to formally confirm a change of status with ACC.

It would pay to check your invoice this year and call us if there's any confusion. Clients could get stung, for instance, if they have been paying levies on the basis of part-time status, have an accident, and then declare full-time status. In such a case ACC may query it and can backdate levies up to four years.

We provide an ongoing ACC administration and advisory service to our clients on an agreed annual fee basis. Being recognised by ACC as your online agent gives us secure online access to your levy information, your cover status and invoices, allowing us to work directly with ACC. A simple signed authority from you and we'd be happy to review your cover structure and premiums, to ensure your cover is appropriate and levies are minimised.

Tax Talk

Working For Families

From April 1 2012 many of the small changes to Working For Families signalled last year come into effect:

The family tax credit amount for children under 16 will rise for inflation:

Qualifying Child	Current amount	New amount
First child under 16	$4,578	**$4,822**
Second child if under 13	$3,182	**$3,351**
Second child if 13 - 15	$3,629	**$3,822**

- The net income level guaranteed by the minimum family tax credit will rise from $22,204 to $22,568
- The abatement rate will increase from 20 to 21.25 cents in the dollar
- The abatement threshold will decrease from $36,827 to $36,350

Minimum wage

As of 1 April 2012 the minimum wage will increase from $13.00 per hour to $13.50 per hour.

Training and new entrants' minimum wages will increase from $10.40 to $10.80 - 80 percent of the adult minimum wage.

KiwiSaver

As of 1 April 2012 employer contributions will no longer be tax free. Employer Superannuation Contribution Tax will apply at the employee's marginal tax rate.

New GST rules for multi-use assets

New rules came into effect 1 April last year replacing the old change-in-use rules by apportioning input tax deductions in line with the actual use of the goods and services. As the 2012 financial year closes, the new rules will be applied for goods and services acquired on or after 1 April 2011. In subsequent periods, when a change to the actual taxable use occurs, from what was first intended, a GST adjustment within an adjustment period must be made (a number of exemptions may apply).

There is a maximum number of adjustment periods according to the asset's value or estimated useful life and special 'wash-up' rules apply when goods and services that have been subject to the apportionment rules are sold or the person deregisters.

Substantial depreciation allowances still available

While depreciation allowances on most building structures ended on 1 April 2011, depreciation can still be claimed on a wide range of commercial and industrial building fit-out assets.

Legislation has been passed confirming that depreciation will continue to be allowed on building services assets such as lifts, air conditioning systems, plumbing and electrical reticulation in commercial buildings. The legislation recognises the practical reality that fit-outs in commercial, retail and industrial buildings suffer significantly higher wear and tear when compared to residential property.

Those clients who have never separately itemised the building fit-out assets acquired at the same time as the building can now take 15% of the building's adjusted tax value (that's the original cost price of the building less any depreciation claimed so far) less the adjusted tax value of any separately itemised fit-out assets acquired subsequent to acquisition of the building, call it fit-out and depreciate it at the rate of 2% for the 2011-12 year onwards.

For all new property purchases, building and fit-out assets should be properly segregated at acquisition date.

Financial New Year Checklist!

Business Perspective

Take the time to consider ways to minimise tax and maximise cash surpluses for the coming year.

- [ ] **Will the company make a loss?**

File loss offset elections and make subvention payments for the 2011 income year by 31 March 2012.

- [ ] **Can you pre-pay expenses?**

Many items can be prepaid and claimed as a tax deduction in the year to 31 March 2012.

- [ ] **Are you committed to employee expenses?**

Amounts owing for holiday pay, bonuses, redundancy payments, long service leave etc. can be claimed, if the employer is committed to them at year end and they're paid within 63 days.

- [ ] **Have you scheduled a stock take?**

Dispose of obsolete trading stock by 31 March or alternatively write it down to its net realisable value, the lesser of cost or market value.

- [ ] **Have you reviewed fixed assets?**

If you have assets no longer in use, the book value can be written off - provided the cost of disposal is expected to outweigh the proceeds from its sale, e.g. the keyboard you spilt coffee on.

- [ ] **Are repairs and maintenance due?**

Consider undertaking repairs and maintenance to key assets before 31 March to ensure a full tax deduction.

- [ ] **Do you discount for prompt payment?**

You may claim deductions for a discount reserve. In the first year a deduction for the actual discount percentage is allowed. Subsequently the amount is calculated at a percentage level. Different rules apply if credit extended to customers exceeds 93 days.

- [ ] **Have you talked to us about the ICA and dividends?**

The imputation credit account must balance so there is no debit balance at year end. If you have imputation debit balance, we'll contact you to discuss further.

- [ ] **Have your reviewed your debtors' ledger?**

To claim a deduction you need to physically write off bad debts in your debtors' ledger before 31 March. You must have taken reasonable steps to recover the debt first.

- [ ] **Have you reviewed all contracts?**

Have you invoiced retentions that are not due and payable for another year? If they are payable in the current year they need to be declared as income but if not, the income will be deferred to a subsequent year.

- [ ] **Have you reviewed all credit notes?**

Review credit notes issued to customers after 31 March which might be applied to the previous year, potentially reducing the current year's taxable income.

Get your docs in a row...

We aim to prepare your financial statements and tax returns in good time. To do this we need your completed annual questionnaires with full supporting documentation. Minimise costly delays by keeping in mind likely supporting documents for:

- [x] **New Bank Loans,** balance outstanding at year end, security, interest rate, loan term
- [x] **Fresh Hire Purchases Items,** interest rate, term and repayment plan
- [x] **Vehicle/Plant & equipment purchases,** agreements. Was finance obtained?
- [x] **Closing Stock and WIP (Work in Progress).** Stock on hand at year end? Any un-billed work in progress?
- [x] **Income,** include details of Wage or Employer Subsidies, additional income as defined for Working for Families
- [x] **Bank Statements.** If you use MYOB or a similar system, copies of final bank and credit card statements let us check the reconciled balance
- [x] **Property/Business Sales/Purchases,** agreements and settlement statements
- [x] **Debtors and Creditors.** What is owed **by** or **to** your business, including whether amounts are GST inclusive or exclusive?
- [x] **Donations/school fees?** Receipts needed please
- [x] **Interest, dividends and rebates?** Provide details

The Back Paddock

Russell Turner
Chartered Accountants

A FOND FAREWELL

Audrey Hollier — who has been with the firm since May 1981 — is retiring at the end of March.

There have been “a terrific lot of changes” over the past 30 years, she says, especially as computers were just coming in when she started.

Audrey is our tax lady, our pay lady, stationery purchaser and helps look after investments and trust account transactions.

She is looking forward to doing more charitable work and spending time with her family.

NAIT: National Animal Identification and Tracing

If you are in charge of cattle or deer, you will have obligations under the NAIT scheme.

The requirements for cattle will be mandatory from 1 July 2012, and for deer from 1 March 2013.

Your NAIT obligations will be to:

- tag your cattle and deer with NAIT-approved radio frequency identification device (RFID) ear tags — you can do this now
- get your NAIT number by registering yourself and your farm or property with NAIT - you can do this now online, by phoning 0800 624 843 or by using a NAIT-accredited information provider (once they are approved). Ask your local livestock company, meat processor or rural services provider if they can help.
- register your cattle and deer with NAIT — you can do this from mid-2012
- record all movements of cattle or deer, off or onto your farm or property, with NAIT — you can do this from July 2012.
- record all deaths, losses or exports of live cattle or deer with NAIT — you can start doing this from July 2012.

You can already tag your cattle and deer with NAIT-approved RFID ear tags. NAIT will advise when you can start carrying out your other responsibilities.

“Lifestylers” have the same obligations!

(from www.nait.co.nz)

Tax calendar

April 7, 2012

- 2011 terminal tax (March balance date)

May 7, 2012

- 3rd installment 2012 provisional tax (March balance date)

May 28, 2012

- 1st installment 2012 provisional tax (December balance date)

Farm comparisons

Ever wanted to jump the fence to have a nosy at the neighbours’ accounts? Here’s the next best thing.

Check out the financial ins and outs of the MAF model farm at www.maf.govt.nz. It includes up-to-date information along with a prediction for the coming season (which usually goes live in July). Click on the “News & Resources” tab then type “Northland sheep and beef” into the search box to find the 2011 Farm Monitoring Report.

See www.beeflambnz.com for their “Sheep & beef farm survey”, as well as the “Benchmarking” section of www.dairybase.co.nz.

Contact us for more information, or phone Gareth Baynham at AgFirst on (09) 430 2410.

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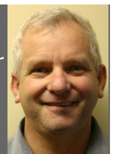

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