Newsletter

December 2016

DB CHARTERED ACCOUNTANTS LTD

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"It is not the mountain we conquer but ourselves"

Welcome to the end of another year. In this newsletter we confirm what happens on de-registration from GST, residential property tax issues and a reminder on annual leave. Business risk is also covered along with upcoming tax dates.

CHRISTMAS CLOSE DOWN REMINDER

Our office will be closed for the Christmas break from midday Wednesday 21 December 2016 and will re-open on Monday 16 January 2017.

GST RETURNS AND TAX PAYMENTS

The October/November 2016 GST Returns are required to be paid and filed with the IRD by 16 January 2017. If we complete your GST Returns on your behalf please ensure that you have your information to us so we can complete the return before the Christmas break.

If you wish to post or deliver your tax payment cheques to us (for delivery to IRD on 16 January), please ensure we have them by Tuesday 20 December.

GST DE-REGISTRATION

In August this year the Inland Revenue started a campaign to review GST registrations. As part of this a number of letters were sent to registered tax payers who had been filing nil or low GST returns. This letter stated that they will automatically cancel GST registration as you do not appear to be carrying out a taxable activity and that you will need to file one more GST return and make an adjustment for any assets kept.

To make an adjustment, you need to obtain a market valuation for the value of any assets you intend to keep. You need to return the GST on the market value of what the asset is worth, not what you paid for it or the asset value in your books. The adjustment is based on what the asset would be worth if you sold it on the open market.

This is especially crucial if you are registered for GST and have land, buildings or a lifestyle block that is part of the taxable activity - GST would need to be returned on the market value.

Please pick up the phone and talk to us before contacting the IRD, a phone call will cost you nothing, the IRD auditor will cost you greatly.

RESIDENTIAL PROPERTY TAX

Tax Implications on the Sale of Your Home

When selling a residential property there may be a need to consider possible tax implications in regards to the sale. Normally the sale of the family home is excluded from tax, however in certain circumstances a tax liability can arise.

The **intention at the time of purchase** can influence the taxability of the sale. If at the time of purchase the intention was to resell for a profit, tax will be payable on any profit received regardless of how many years the property was in ownership.

If a property is purchased by a **land developer, dealer or builder** then there are additional things to consider. Purchasing a residential property with the intention to develop or make improvements, whether as part of your business or not, will generate a tax liability. Additionally if the property is sold or improvements are made and completed, within 10 years of the purchase, and while you were in the business of developing, dealing or building you will pay tax on the profit on the sale.

The anti avoidance rule of **associated persons** (related parties) may also trigger a tax liability. If you are associated with those in the property industry; i.e. land dealer/developer or the builder who conducted significant improvements to the property, then the proceeds from the sale of a residential home may be caught in the tax net. This is also true in situations where the family home is given to you by an associated person who otherwise would have paid tax on the sale of that property if they had retained ownership themselves.

The IRD will also consider whether there is a **history of buying and selling**, building and selling or renovating and selling. In this case they will look for regular patterns in order to determine a history. This also applies to family homes or those occupied by yourself. A regular pattern is determined by the amount of similar occurrences or likeness of transactions as well as the timing of each. While the IRD guidelines state that three similar events would establish a regular pattern this is not the only test they would look at. If a regular pattern has been established then the main home exemption under the bright line test becomes irrelevant and cannot be used.

The **bright line test** is designed to tax the profits on the sale of a residential property if the purchase and sale dates are within 2 years of each other, (learn more about the bright line test in our October 2015 newsletter). Generally there is an exemption for the family home however this cannot be used more than twice in two years.

It is understandable that circumstances change over time, therefore if you wish to discuss any queries you may have feel free to contact us.

ANNUAL LEAVE

As the holiday season draws closer it is a good time to evaluate staff annual leave. It is important that staff take their annual leave to relax and rejuvenate for the year ahead. It is also essential to note the requirements expected of an employer.

Employees are entitled to four weeks annual leave every 12 months. Annual leave is calculated on **the greater of** employee's average weekly gross earnings over the year (including overtime and bonuses) or their ordinary weekly pay (excluding overtime or bonuses). Payment of annual leave must be paid to the employee prior to leave taken unless agreed otherwise.

Casual staff, however, are not entitled to annual leave. Instead they receive 8% over and above their gross earnings (this can be paid on a pay as you go basis on each pay day or on termination or business close down). It is important to keep track of hours worked by casual staff. If there is a consistent pattern then they may become identified as a part-time or full-time employee.

Where a public holiday would fall on a day the employee is to work, the employee is allowed an additional day off at a later stage (day in lieu) and must be paid **at least** time and a half for the hours worked. Employers may offer double or triple time pay but are still legally bound to a day in lieu. An employee who works only on public holidays, however is denied a day in lieu, likewise to those who are on call but do not work.

Where the public holiday would fall on the weekend an observed day or Mondayisation occurs on the next available weekday, treating the weekday as if it were the public holiday. For employees who would normally work on the weekend (and it is a public holiday e.g. Christmas day is a Sunday), the public holiday rules apply and the employee is entitled to time and a half and a day in lieu for the day worked.

Employees have the right to request a cash payment in exchange for up to one week's annual leave. The request must be considered unless there is a policy in place that prevents the exchange. If no policy exists then the employee is to be notified of a decision, the employer does not have to give a reason if the request is declined.

JOKE #1

There were two blondes who went deep into the frozen woods searching for a Christmas tree. After hours of subzero temperatures and a few close calls with hungry wolves, one blonde turned to the other and said,
"I'm chopping down the next tree I see. I don't care whether it's decorated or not!"

HOW DO YOU MANAGE BUSINESS RISK?

Being in business means taking a risk. As a business owner or director there is a responsibility to ensure that risk in the business is adequately managed. Generally risk cannot be entirely avoided but by identifying and managing risk an owner or director can be comfortable with the level of risk within the business.

Risk can generally be broken down into the following categories:

- Regulatory – including Health and Safety and legal requirements of the business or industry
- Economic – including customer demand, significant cost increases and supplier issues
- Competitive – failure to innovate or becoming irrelevant
- Environmental – including natural disasters
- Technology – System and IT security and material damage
- People – including ability to get staff or losing key staff
- Reputation – including social media

Key steps in a risk managed process can include:

Understand
Identify what would seriously harm the existing business, being either big events or slow burning trends.

Prioritise
What is the likelihood, impact and scale of a event? What are the top 10 risks to address?

Respond
Establish mitigation processes. What is currently done? What needs to be done? What are some early warning measures we can track?

Assure
How can directors be assured that once identified the risk mitigation measures are in place? This is especially the case when directors are not directly working in all areas of the business. This may include management reporting, direct enquiry and testing or external audit.

A risk management system does not have to be comprehensive, it is often just a matter of turning your mind to the risks and putting in place actions to manage.

JOKE #2

Christmas is just plain weird. What other time of the year do you sit in front of a dead tree in your living room eating candy and snacks out of your socks?

MERRY CHRISTMAS

Thank you for your support over the past year. From all of our team, we wish you a Merry Christmas and a safe and Happy New Year.

David, Dianne, Emma, Gaylene, Jo, Maree, Pam and Raywin.

If you would like to discuss anything mentioned in our newsletter please contact us at:
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IMPORTANT TAX DATES

15 January	2017 Provisional Tax Due (2nd instalment)
	October/November GST Return Due
7 February	2016 Terminal Tax due (if no extension of time with IRD)
28 February	Provisional Tax due for GST Ratio option tax payers
31 March	Final date for Ratio Option Provisional Tax applications
7 April	Final date for 2016 Terminal Tax due