

# GST Changes

The new GST zero rating rules on land came into force on 1 April 2011. The application of this legislation in a practical sense can be complicated. A number of "zero-rating" criteria must be met, including confirmation of the purchaser's intention to use the land for taxable purposes. In some cases, a GST adjustment may be required depending on the stated position at settlement versus the expected time of supply. Given this complexity, we strongly recommend talking to our tax team on the tax implications of any transactions involving land. Below is a brief summary of some factors to consider depending on whether you are the vendor or purchaser:

STAGES	VENDOR	PURCHASER
PRICING	Ensure GST is factored into pricing and we recommend including the GST exclusive clause for prudence.	Confirm whether the sale is zero rated and that the vendor is GST registered.
SALE & PURCHASE	Confirm in writing that the purchaser is GST registered and the purchaser's intention for the use of the land.	Confirm in writing your GST registration details and intention for the use of the land for making taxable supplies.
SETTLEMENT	Consider the implications if a deposit is made pre 1 April 2011 and whether the zero rating criteria is still met.	Consider the implications if a deposit is made pre 1 April 2011 and whether the time of supply is after 1 April 2011.
GST RETURN	The supply is shown as being zero rated in the GST return and you must retain records.	If the land is zero rated then no further action is required (unless applied partly or wholly for an exempt use).

## GST Adjustments

There have also been changes to the GST apportionment rules for taxable versus non taxable use of goods with application from 1st April. The key point to note is that the rule focuses on the "intended" use of the assets at the time of acquisition, rather than its "principal" purpose. Again, it can be complex in practice to apply as the "actual" use may be different to the "intended" use, resulting in an apportionment being required. The Inland Revenue have been asked to clarify the uncertainty of how these new rules are to be applied.

## Holiday home owner, beware of your property being dragged into the GST net!

From 1st April 2011, new legislation came into force with respect to the definition of a dwelling. In brief, the GST Act has a narrow definition of a dwelling and an expanded definition applying to a commercial dwelling. Unfortunately, there remains some ambiguity between the two.

The narrower dwelling definition only includes for an individual, premises occupied as their principle place of residence. Holiday homes are unlikely to satisfy this narrower definition. If a property does not qualify as a dwelling, then any supplies of accommodation in the property will no longer be a GST exempt supply. For GST to apply in the first instance there must be a taxable activity. For a taxable activity to be in existence there must be an intention to make supplies to a person for consideration. For example, if a holiday home owner were to charge for short stays in the property, prima facie, a taxable activity could exist. All is not lost however, as the requirement to register for GST would only be an issue if the value of the supplies exceeds \$60,000 in any 12 month period.

If there is no intention to make supplies for a consideration, then GST shouldn't be an issue, but care is required where the holiday homes are periodically rented to ensure the property is not inadvertently subject to GST.

**If you have any concerns, please contact us to discuss.**



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## Doing business in the USA

### Doing business in the USA

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### Are you considering expanding your business into the USA? If so, we would like to hear from you

Our USA international associates, John Gosch and Dennis Burbridge of Bridge LLP Certified Public Accountants, will be in New Zealand between 24th August and 5th September and may facilitate workshops in Auckland and Wellington for any businesses interested in learning about how to conduct business in the US.

Topics to be covered by John and Dennis will include entity formation; visa and liability issues; taxation of individuals and entities; and a general overview of the US. If you are interested in attending any such seminars, please contact us.

## Snapshots

Accident Compensation (Earnings' Levy) Regulations 2011 came into force on 1 April 2011. The main changes from the 2010 Regulations are:

- The maximum amount of earnings in a tax year of a self-employed person on which the earners' levy is payable has increased from \$106,473 to \$110,018
- The maximum amount of earnings in a tax year of other earners on which the earners' levy is payable has increased from \$110,018 to \$111,669
- The minimum earnings on which an earners' levy is payable by a self employed person who works, on average, for more than 30 hours per week (whether as an employee or not) has increased from \$26,000 to \$26,520.

# Budget 2011

## Winners and Losers



It has been a difficult year for New Zealand with several natural disasters having a significant impact on the economic recovery of the country. It is anticipated by many commentators that the economic outlook is weak and expected growth will be minimal for the rest of the year. On 19th May, the Government announced the Budget for the following year with the primary focus on rebuilding Christchurch, savings and investment and managing the fiscal debt.

### Savings & Investment

- There have been substantive changes to Kiwisaver including the tax free employer contributions, the Government subsidy and the level of compulsory contributions.
- The 3 "P"s "Public Private Partnerships" – a major theme is a partial privatisation of certain State Owned Enterprises ("SOEs") as a home for those investment dollars.
- Two new saving products have been introduced: an Inflation Indexed Bond and an Earthquake Kiwi Bond.
- A new Local Government funding agency was established to provide cheaper funding for local body projects and more liquid assets for its investors.

### Infrastructure

- The mixed ownership model (or PPP) will be reviewed by Treasury with the intention of extending this model to Mighty River Power, Meridian, Genesis and Solid Energy. Shares would be offered via initial public offerings.
- The Government's majority stake in Air New Zealand will be reduced.
- The divestments will be undertaken as part of a three to five year programme starting in 2012 – assuming the Government is re-elected in November.
- Given that dependency, no decisions have been made on precisely how much of each company will be sold or when. The Government will however, retain a majority stake.
- These changes, if implemented, are expected to release up to \$5 to \$7 billion of capital.
- Broadband, rail and schools are top priorities for approximately \$1.6 billion of further infrastructure spending, including \$500 million reprioritised from other areas.

It is unlikely that anyone would dispute that NZ is well behind the play in its infrastructure development and needs to make up lost ground. Whilst the above developments are encouraging, the Government has not done more than send a few ripples in the water. We will be treading slowly but at least we will be moving.

### Earthquake Recovery

A new Canterbury Earthquake Recovery Fund was established with the Government pledging \$5.5 billion over six years. In addition, a further \$25.5 million has been provided to establish the new Canterbury Earthquake Recovery Authority. Further financial assistance of \$10 million has been provided to Cantabrians to assist in rebuilding their lives.

### Changes to the Loss Attributing Qualifying Company regime

We discussed the changes to the Loss Attributing Qualifying Company (LAQC) regime in our last newsletter and many of you have been contacted directly so that a review of your structure can be undertaken.

The key change is that LAQCs no longer attribute any loss to the shareholders. LAQCs effectively became Qualifying Companies (QC) from 1st April 2011. The new Look Through Company (LTC) has been introduced which has similar attributes to the LAQC, although there are restrictions on losses that flow through to shareholders and a sale of an LTC will trigger income.

Elections into the new regime or other entity type by existing QCs and LAQCs can be made without tax consequences arising until 30 September 2011 (or 30 September 2012) under special transition rules.

- The member tax credit has been halved for the year ended 30 June 2012.
- Employer contributions will no longer be tax free from 1 April 2012.
- From 1 April 2013, the minimum employee and employer contributions will rise from 2% to 3%. Since the introduction of Kiwisaver in 2006, there are now five different versions of Kiwisaver which we have illustrated below:

## Kiwisaver

YEAR	GOVERNMENT KICKSTART	GOVERNMENT CREDIT	TAX EMPLOYEE CONTRIBUTION	EMPLOYER CONTRIBUTION
2006	\$1,000	\$0	4% or 8%	Voluntary
2007	\$1,000	\$20 p/w maximum	4% or 8%	1% moving to 4% over 4 years (compulsory)
2008	\$1,000	\$20 p/w maximum	2%, 4% or 8%	2% compulsory (exempt from tax)
2012*	\$1,000	\$10 p/w maximum	2%, 4% or 8%	2% compulsory (less tax)
2013	\$1,000	\$10 p/w maximum	3%, 4% or 8%	2% compulsory (less tax)

While not unexpected, the changes announced will add yet another layer of compliance and cost for small to medium businesses, not to mention run the risk of being even less attractive to those entering the workforce or those who may have been considering signing up for Kiwisaver. Unfortunately there is no magic bullet or a secret cache of minerals to fund this scheme in the way it started for any significant length of time.

# Top ten tips for managing cash flow

Because cash is king in business, good planning and management is vital to ensure that there is enough cash on hand when it is needed and there are good reserves in place to get through slower times. Have you reviewed your practice recently? Some of the tips listed below may be helpful for taking a step towards improving business cash flow:

- Send invoices and statements promptly and clearly specify terms and conditions of payment. Be careful to ensure that your customers agree to these terms from the onset and encourage payment on invoice rather than on monthly statement.
- Offer alternatives to credit, namely Eftpos, credit cards, automatic payments and direct debits.
- Actively review your debtors listing to identify slow payers and manage the collection of debtors by following up overdue invoices with a reminder call or letter. Reducing your debtors days should have a positive impact on your cash flow.
- Discounts and penalty interest may provide an incentive for customers to pay on time; however these need to be accepted as part of your terms of trade and it's important to weigh up the impact of a discount on your profit.
- Perform checks on the financial health of customers before extending credit and ensure that you have all their contact details so that you can contact them.
- Train staff to deal with all queries promptly so that settlements are not delayed on grounds of outstanding queries.
- Review prices regularly to determine if they are in line with competitors and whether they can be increased.
- Review and manage overheads.
- Review on a regular basis all miscellaneous accounts receivable, staff loans and advances to ensure that repayments are made promptly.
- Manage your payables by obtaining the best possible terms and conditions from suppliers and review sources of supply to determine whether more favourable terms are on offer elsewhere.



## April Fool's Day? | No, it's a new tax year for most...and a timely reminder of the raft of tax changes that took effect from 1st April 2011, that will have implications for the businesses in the year ahead.

### Company tax rate reduces

The company tax rate drops to 28% which will provide some welcome relief for businesses. However, it is important to consider the practical implications arising from the tax rate reduction. Some issues that should be considered are:

- Dividends paid by companies can still be imputed at the old 30% rate for up to two years (i.e. to 31 March 2013) if the company tax has been paid at that rate. There is a period for which those imputation credits can be utilised by the shareholders. Care is required to correctly calculate the use of these credits as it is unlikely that the Government will pass legislation providing for errors made, as it did in the previous tax rate change.
- RWT must still be deducted at up to 33%, on dividends paid. This will mean a 5% RWT top-up for 28% imputed dividends. Unfortunately, this is one compliance cost that remains.
- For clients with a late balance date (i.e. between April – September) there is a limited opportunity to maximise deductions

at the old corporate rate. For example, tax depreciation and whether this has been claimed at the correct rate for the 2010 income year, especially in respect to buildings. A fixed asset register review could identify significant tax savings.

It is really important that imputation credits accounts are carefully tracked to ensure tax credits at the higher rate are not inadvertently applied to a dividend especially where refunds may be expected.

If you have been using an excel or other templates to calculate the amount of imputation credits to be attached to dividends, don't forget to review the methodology to ensure the calculations are in line with the new rates.

### Depreciation & buildings

Business owners and property investors can no longer claim depreciation on buildings. It may be prudent to factor in additional tax cash flows into your budgeting as the current use of money interest rate is 8.89%.

One positive is that there is no "clawback" of depreciation already claimed until the building is disposed of and building "fit-out" continues to be depreciable for commercial

and industrial use buildings.

A special concession has also been introduced for those building owners who have not previously split out their building "fit-out", whereby 15% of the tax book value of the building is deemed to be fit-out and depreciated at the default rate. It may be timely to review the breakdowns between building and fit-out to ensure all fit-out has been claimed.

### Thin capitalisation and safe harbour ratios reduced – impact on interest deductions

For companies and trusts owned or controlled by non residents the safe harbour ratio for inbound thin capitalisation has reduced from 75% to 60%. Foreign owned businesses should review their financing structure to take into account the ratio reduction. The measure is made at the end of the income year so there is time to review and make any appropriate changes.

A new outbound thin capitalisation regime was introduced for NZ businesses supporting off-shore operations. That ratio is 75%.