

Year end Tax planning

Reminders 2010 - 2011



With the year end quickly approaching for most taxpayers, there are a number of steps that you can take prior to balance date that can maximise your tax position. It is therefore a good opportunity to consider the following and to tidy up your accounts in anticipation of year-end.

Action	Area
Bad debts	<p>Have you written off all debts you consider to be bad?</p> <p>Individual debts must be reviewed and actually written off in your system prior to year end for them to be allowed as a deduction. A debt is considered bad if a reasonable and prudent business person would be of the view that the debt will not be paid. Factors to consider are the length of time the debt is outstanding, the efforts that you have taken to collect the debt and information on the debtor. A debtor does not need to be insolvent for the debt to be bad so you can still pursue payment.</p>
Deductible items & prepaid expenses	<p>Have you considered prepaying items of expenditure?</p> <p>Various items of expenditure can be deducted in the year they are incurred regardless of the fact that payment will be made in the future, so long as the expenditure has been expensed for financial reporting purposes. Some of these items have limits on the amount that is deductible and the number of months covered by the prepayment. Under current tax rules certain prepaid expenses can be claimed in the current year:</p> <ul style="list-style-type: none"> • Advertising to a maximum of 6 months after balance date and not exceeding \$14,000 in total. • Insurance up to a maximum of 12 months after balance date so long as the premium for the policy does not exceed \$12,000. • Rates to the extent the amount invoiced on or before balance date. • Rent for up to 6 months after balance date, not exceeding \$26,000. There is no monetary limit for rent that is prepaid no more than 1 month in advance. • Subscriptions or fees for trade and professional associations (annual fee not more than \$6,000) that expire within 12 months. • Travel & accommodation – advance travel booking where the travel is to be taken within 6 months after balance date and not exceeding \$14,000. • Service or maintenance contracts for plant, equipment or machinery for periods not exceeding 3 months after balance date provided annual contract does not exceed \$23,000. • Use or maintenance of telephones and other communication equipment for up to 2 months (amount unlimited). • Consumable aids (e.g. oil, grinding wheels, chemicals, wrapping & packaging) not exceeding \$58,000. • Audit fees and mandatory accounting fees (amount unlimited) • Stationery, subscriptions for newspapers, journals or periodicals and postal and courier services (unlimited). • Vehicle registrations, driver license fees and road user charges (unlimited) • Other services limited to \$14,000 and expiry within 12 months of balance date
Donations	<p>Certain companies are allowed a deduction for gift of money to approved charitable organizations. There is no longer a threshold so all qualifying donations are allowed, to the extent that the donations do not exceed the company's taxable income for that year.</p>
Employee wages	<p>Have you considered encouraging staff to take leave within 63 days following balance date?</p> <p>An employer may obtain a deduction for employees monetary remuneration provided payment is made within 63 days of balance date. Monetary remuneration includes accrued bonuses and holiday pay, long service leave and gratuities. Therefore if making bonus payments they should be paid by 2 June 2011 for a 31 March balance date and advised to us when completing the year end questionnaire.</p>
Higher Income	<p>Is your income significantly higher than previous years?</p> <p>If so, you should consider where an additional voluntary provisional tax payment may be appropriate or alternatively it may be beneficial in aligning your tax payments with turnover. Please discuss with us before balance date.</p>

Interest Payment

Have you paid more than \$5,000 in interest to someone other than a bank?

If you have, you may be required to withhold resident withholding tax. Please discuss with us urgently.

Landsales

Have you sold any land in the current year? Are you intending to sell any land? Are you planning a subdivision or any improvements to your land? Are you associated with a person in the business of land dealing, developing and / or subdividing land, or in the business of erecting buildings?

If so please contact us so we can inform you of any possible tax consequences.

Payment to non residents

Have you made payments to a non resident for services performed in NZ?

The non resident withholding payment rules may apply to such payments made. There are certain exclusions available but care is required as penalties and interest will apply if the rules are not complied with.

Repairs & Maintenance

Have you considered incurring repairs and maintenance expenses on business fixed assets before year end?

If it will be necessary to incur these expenses in the near future anyway, consider incurring them before year end to obtain an earlier tax deduction. Some expenses may be subject to the prepayment rules.

Legal fees

Businesses can generally claim a full tax deduction for legal expenses up to \$10,000 in the year the expenses are incurred without consideration to capital v revenue distinction. If the total is in excess of \$10,000, a full review will be required to determine deductibility.

Overseas investments

Do you have any investments or interests overseas?

The tax treatment of overseas investments is quite specific so it is important that we are aware of the types and amounts of overseas investments and any changes to these investments.

Shareholding

Are you considering making shareholding changes?

Remember to take into account the effect of the shareholding changes on losses carried forward, imputation credit accounts, and maintaining Qualifying Company status. Shareholder current accounts should also be reviewed to avoid any possible liability for fringe benefit tax or deemed dividend issues. Please contact us urgently if this applies to you.

Trading stock

Trading stock on hand at year end must be valued using either cost, discounted selling price, replacement price or market selling value if lower than cost (subject to other criteria). Provisions for obsolete stock are not allowed for tax deductions. Certain other concessions are available. Please contact us to discuss further.

Vehicle Expenses

If you are a partnership or sole trader, have you kept a vehicle log book for a representative 3 month period during the last three years?

The logbook is necessary to establish the business use percentage. If there has been a change in vehicle or business activities the current test period may no longer be valid.

Fixed Assets

Fixed asset registers should be reviewed for accuracy. Assets can be written off if they meet the following criteria:

- the asset is no longer used in the business
- the business does not intend to use the asset in the future
- the cost of disposing the asset is more than its disposable value.

Details of any fixed asset purchases or sales that have occurred should also be recorded in the fixed asset register. When large assets are acquired, there is sometimes scope to show each component separately as some components have a higher depreciation rate that would otherwise apply. Fixed assets costing less than \$500 (excl GST) can be fully written off when purchased unless it is part of another asset or was purchased with other assets from the same supplier on the same day.

Dividends

Please let us know before 31 March if you are to declare or pay a dividend as this can impact on the closing balance of your imputation credit account and withholding tax of 3% of the gross dividend will be payable by 20th April 2011.

Depreciation Changes

As you will be aware as from 1 April 2011, the depreciation rate on buildings has been reduced to 0%. The following questions address some of the main issues that may be encountered.

Claiming depreciation on commercial fit-out for buildings.

Q. I purchased a commercial building some years ago and have separately depreciated fit-out since acquisition using the Inland Revenue's table of depreciation rates for building fit-out category. Do I need to change this?

A. Broadly no. Whilst tax depreciation on the "building" itself cannot be claimed anymore, the fit-out component for commercial purposes you have been claiming on can continue.

Q. I own several residential apartments within a complex which are rented. Can I use these commercial fit-out rules to identify whether items are fit-out or part of the building?

A. No. The building is not commercial but residential as it contains "dwellings". If you are unsure whether a particular item is part of, or separate from the building, contact us.

Q. I own the fit-out within a café in the ground floor of an apartment complex. Can I treat this as commercial fit-out?

A. Yes. The kitchen cabinetry within a café in the ground floor of an apartment complex would qualify as commercial fit-out. Kitchen cabinetry within the residential apartments themselves however, would not be deemed as commercial fit out.

Q. We have owned a building since 2003 and decided to claim depreciation on the building and fit-out as a single asset using the building depreciation rate of 2% straight line. Now that the rules are changing in 2012 can we undertake an exercise to separate fit-out from the building and claim depreciation.

A. No. If previous tax returns have not split out fit-out from building, Inland Revenue has stated tax payers are unable to componentise this now. However, to deal with this situation, a new transitional rule has been introduced which allows taxpayers to claim a limited annual deduction from 2012. That said, if there has been a genuine error in classifying an asset in the depreciation register (rather than making

an overt choice to not compensate the fit-out), then the indication is that it could be possible to correct the rate or asset classification. For example, if a cool-store has been depreciated as a "regular" building rather than as a cool-store.

Q. With respect to the above question then, can we claim this transitional allowance for commercial fit-out instead.

A. Provided certain conditions are met, yes. A "pool" of building fit-out can be created by taking 15% of the adjusted tax value of the building as at the end of the 2011 income year, less the adjusted tax value of any separately depreciated fit-out acquired subsequently. The amount of the deduction is the lesser of 2% of the starting pool value or the residual value of the pool.

Employment Relations Act: Key Amendments: 90 day Trial Period

From 1 April 2011, the 90 day trial period introduced in 2008 for employers with fewer than 20 staff now becomes available to all employers.

Provided employers have followed the requirements of the legislation precisely, a new employee may be dismissed within the first 90 days without a right to a grievance. Notification of the trial period must be supplied in writing at the commencement of employment, the employee must not have worked for the employer before and the employer is still obliged to be constructive and communicate throughout the employment relationship.

Employment Agreements

A significant change which comes into effect on July 1st is that an employer is now required to keep a copy of every signed employment agreement or, if the agreement is not signed, a draft agreement and failure to do so may result in a fine for the employer.

Proposed income splitting bill labeled discriminatory

The New Zealand Human Rights Commission has advised the Finance and Expenditure Committee that the proposed legislation would discriminate against sole parents. The proposed Bill would provide an annual tax credit to couples who are married, or are partners in a de facto relationship or civil union with a dependent child under 18 and is intended to give couples more freedom to work fewer or more flexible hours in order to care for children. The Human Rights Commission stated that the proposed Bill discriminated sole parents on the grounds of marital status, family status and sex under s21 (1) of the Human Rights Act 1993 and has recommended the Bill be withdrawn. The Bill is currently making its way through the legislative process and we will keep you informed as it progresses.

BVO welcomes Mark Ross to the team

Mark Ross joined Athol's team in March this year after spending four years working for a large accounting firm in Wellington and one year working for a large accounting firm in Auckland.

Mark began his career assisting clients in a Business Advisory role and for the last three years has specialised in providing specialist tax advice to a wide range of clients. Mark also has experience in solvent liquidations.

Mark is a keen athlete and has entered the 2012 Ironman in Taupo.

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A new financial year...

Welcome to our first newsletter of the year. We hope you had a good summer and things are looking positive for 2011. To those who have friends and family in Christchurch or Japan our thoughts are with you at this difficult time. As the 2010-2011 financial year comes to a close for most of you, we have included our helpful "year end tax planner" to help you tidy up your accounts. This issue also deals with further changes to building depreciation rate and brief updates on a few other legal amendments.

CIR v Penny & Hooper

Following on from our article in the December 2010 newsletter, whilst the Court of Appeal agreed with the IRD that there was tax avoidance in this case, leave to appeal has been granted and the case is to be heard by the Supreme Court on 28 and 29 June 2011. For those professionals who trade through similar structures, care needs to be taken in determining what a market value or commercially realistic salary might be.

In attempting to clarify the Commissioner's position, the IRD have stated that "where a service business relies mainly on an individual's personal skills to generate income, their contribution to the business should be properly reflected in the income returned by that individual".

That said, consideration will be given in situations whereby there are genuine commercial reasons why profits may be kept in a company. This might include where there is little or no profit generated because of start up costs or difficult trading conditions or where there is an impending major expenditure or provisioning. In situations such as these it would not be expected that distributions of profit from the business to the taxpayer and his or her family would occur.

With year-end arriving soon, this is yet another matter to be considered before completion of annual accounts and tax returns. If you have any specific concerns please do contact us.

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