

Wilco Special Alert Tax and Business

More on paying yourself from your business

In our last issue of Wilco, we discussed the implications of cash drawings from your business. From the queries we received, we realised many people find this complex and we thought there was room to clarify further.

Drawings are not a deductible expense regardless of whether you operate as a sole trader, partnership or through a company. As drawings are not a deductible expense, they are not separately disclosed in the tax calculation but they will form part of the accounts disclosure which accompanies the tax return to IRD.

Salaries paid by companies or partnerships on the other hand will be a deductible expense against business income but then will be taxable in the recipient's hands at their marginal tax rates.

Circumstances will be different for everyone, and it's important that you get this right. Please contact us if you want to discuss this further with us.

Have your say on tax changes

You will have heard ads on the radio from Inland Revenue raising awareness on their initiatives to change the administration of the tax system.

Inland Revenue have been working on this for a while, taking into consideration many submissions from different sources. Their website Changing for You (<https://www.changingforyou.ird.govt.nz/>) provides an overview of some of the things Inland Revenue are proposing to change, mainly focused on automating the gathering and filing of information. They invite New Zealanders to comment on the proposed changes and make it easy for people to say whether they agree or disagree with the changes. Bear in mind when viewing these proposals that automating processes will provide more efficiency, however these processes will need to ensure the correct amount of taxes are paid according to tax legislation. Having incorrect information submitted without being properly reviewed may result in additional tax and penalties.

There is a lot going on and the changes may or may not have a significant impact on your business. If you would like to find out how these changes could affect you please feel free to call us.



Disclaimer

This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation.

Further moves to tackle anti-money laundering

The Ministry of Justice is looking to extend the application of anti-money laundering compliance obligations to more businesses and professions.

In a nutshell, since 2013 only financial institutions and casinos as well as the government agencies tasked with overseeing and enforcing the rules had to comply with the anti-money laundering legislation. The Government is now proposing to extend these rules to lawyers, accountants, real estate agents, conveyancers, some additional gambling service providers and some high-value goods dealers.

What does this mean for you? Well, with legislation looking to be introduced by July 2017 more businesses will be required to introduce processes which help deter and detect money laundering and the financing of terrorism. These include developing a risk assessment and compliance programme, undertaking customer due diligence (verifying customers' identification), vetting and training staff, monitoring accounts and compliance and reporting suspicious transactions of customers to the Police Financial Intelligence Unit.

Even if you are not in one of the named businesses, the new proposed requirements may require further requests for information from us to ensure we comply with the new legislation. We will keep you informed on any new details as they emerge.

GST adjustments on private use

Another area that we notice often confounds clients is how to calculate GST deductions on assets that are partly for business use and partly for private use. You can claim GST but only in proportion to the extent the asset is available for producing income. This is called GST apportionment.

Most commonly, this involves a vehicle used for work but also used privately. Lifestyle blocks where there is some commercial use of the land would be another example.

There are a number of factors which affect the GST apportionment and the resulting claim for GST deductions including:

- proportion of time the asset is available to produce income
- market value of the asset
- costs directly associated with the asset being available to produce income
- overall costs which must be apportioned between business and private use

The calculation changes with factors such as:

- Was the asset acquired before or after 1 April 2011?
- Did it cost more or less than \$5,000?

This can be tricky to work out but it becomes trickier when the proportion of business to private use changes. Obviously the amount claimable will change too. In these situations we may need to make an adjustment. Questions to be asked in these situations are:

- Did the asset cost less than \$5,000?
- Is the changed proportion of business to private use less than 10%?
- Is the value of the adjustment worth more than \$1,000?

There are limits on the number of adjustment periods for which you need to make this adjustment. These are determined by the acquisition value of the asset. Once the limit is reached, no further adjustments are made. For land assets such as lifestyle blocks, there's no fixed limit for the number of times the adjustment needs to be made.

Adjustments are also required for 'mixed-use assets' which include holiday homes, boats and aircraft with a cost or market value of \$50,000 or more. An example of this is the family bach or crib which the family use for breaks but also rent out during the year. These particular assets are earmarked as special from an income tax standpoint, and the GST treatment reflects that. The GST deductions will be subject to a proportional limitation based on the income-earning days and days used for private use.

In all of these situations, it's vital to keep good records of when the asset was available to produce income and of any associated costs.

We see a lot of cases where people have landed themselves in a mess trying to work the deductions out themselves. We'd like to make this easier for you – please let us know if you have assets split across business or personal use and certainly let us know if the proportion of business to private use changes. We can also provide you with some tools to help you keep track of your usage.

Do you own rental properties?

If you gain income from rentals, be aware you need to comply with new rules. On 1 October 2016 changes to the Residential Tenancies Regulations came into force to reflect new standards on insulation. Standards New Zealand's 'Energy efficiency – Installing bulk thermal insulation in residential buildings' provide extended guidelines for insulation installers and building owners.

This follows up on changes which took effect on 1 July 2016 requiring all rental properties to have ceiling and underfloor insulation by 1 July 2019. Landlords must now provide a statement in the tenancy agreement for any new tenancy commencing on or after 1 July 2016 about the location, type and condition of insulation in the rental home.

Smoke alarms

Landlords must now have working smoke alarms installed in all their residential rental homes. Replacement alarms that are subsequently installed need to have long life batteries and a photoelectric sensor. Hardwired smoke alarms are also permitted.

Expedited abandonment process

There is a new process for landlords to regain possession of their rental property if the tenant has abandoned the property. This enables a Tenancy Adjudicator to decide the case based on evidence landlords provide in their application. The process doesn't allow for landlords to claim the bond, or costs such as rent arrears and damages. This would need to be done by further application.

Retaliatory notices

It is now unlawful for a landlord to end a tenancy in retaliation where a tenant exercises a right under the tenancy agreement, relevant law, or by making a complaint relating to the tenancy. Tenants who take direct action against landlords will now be able to challenge an alleged retaliatory notice up to 28 working days after it has been issued.

