



Running With The Bulls

July 2010

The Budget 2010 - Issues for Your Business

Bill English's 2010 budget has been and gone with most business commentators giving at least a pass mark. So how will the budget and tax changes impact on you and your business?

Income Tax Rates

The company tax rate will fall from 30% to 28% for the 2012 tax year. The exact timing of this tax reduction will depend on your annual year end balance date. For most with a 31 March balance date the new rate is effective 1 April 2011. For those with a balance date of 30 September or later you'll get an advantage sooner. Opportunities to change your balance date to get a tax advantage are generally limited; however it may be possible for certain industries (e.g. aquaculture where IRD recognises that September is the standard year end for the industry) to change balance date and gain a tax advantage.

Regardless it's more important than ever to ensure in the current tax year that you get the maximum deductions allowable against taxable income. This year each dollar of deduction could save you 30c tax. Next year it's only 28c. Similarly if you can move income from March 2011 to April 2011 you'll save tax.

From 1 October 2010 the top personal tax rate will no longer be higher than the trust tax rate. That removes incentives to earn taxable income through trusts. However there are substantial other benefits available with trusts with respect to splitting income and asset protection that suggest using trusts for ownership of growth assets is the prudent option. In addition, as Phil Goff has indicated that Labour would increase personal tax rates again, it is prudent to be prepared for this possible outcome.

You may wish to delay bonuses to employees until October 2010 so that PAYE is deducted from their earnings at a lower rate.

Goods & Services Tax

On 1 October 2010 GST will increase from 12.5% to 15%. How you structure your affairs could affect your GST liability. Actions you can take: -

- If possible bring forward sales to September 2010 instead of October 2010 to save GST.
- It may also be a good time to use this opportunity to enhance cashflow for some businesses, by having clients pay for supplies prior to 1 October, for work to be completed after that date. This would especially apply if the purchaser is unable to claim GST back.
- If you have a non active entity that no longer trades but still owns business assets it's likely to be cheaper to exit the GST regime before 1 October 2010 than afterwards.
- Bring forward 'change of use adjustments' from GST liable activities to being outside the GST net before 1 October not afterwards. For example if you developed or purchased residential property for sale and now rent it out due to changes in market conditions, taking a one off GST adjustment in September will be significantly cheaper than in October.

- Consider paying for supplies like insurance in one lump sum before 1 October 2010 rather than monthly so as to save GST charged on these supplies (particularly if it's an expense you can't get a GST claim on).
- Consider purchasing non business assets before 1 October. Prices are likely to rise for many goods by 2.5% (15% less 12.5%) on 1 October. If you're not GST registered, or they are goods for private use, you won't be able to claim this extra GST back.
- Consumers are likely to increase spending on larger ticket items before the GST hike on 1st October 2010. How will you get your share of this increased activity if you're in the consumer retail / wholesale sector?
- Consider whether you still need to be registered for GST. If your income in any twelve month period won't exceed \$60,000 you should be able to 'deregister' for GST. Please contact us first as there may be significant one off costs in deregistering.

If you have issues in changing the GST you charge on supplies from 12.5% to 15% please contact us. The government has set up 'The GST Advisory Panel' to deal with change-over issues.

Depreciation

From the 2012 year there will be no depreciation claimable on buildings with an expected life of more than 50 years. No retrospective changes have been made so deductions claimed in previous years won't be reassessed as income but they will no longer be available in future, however the depreciation recovery rules will still apply on any subsequent sale of buildings where depreciation has been claimed. More than ever if purchasing real estate it's important to have a 'chattel valuation' to maximise future depreciation claims. We can refer you to experienced property valuers to undertake these valuations.

New assets purchased from 20 May 2010 onwards will be depreciable at the same rate as second hand assets (previously new assets could be depreciated at a 20% higher rate). There is no longer any depreciation tax advantage in buying new instead of second hand.

Working for Families

Investment losses will no longer be able to be offset against personal income for Working for Families. Additionally it has been signalled that income from sources such as trusts; "PIE"s; super funds; and fringe benefits may be taken into account in assessing eligibility. More should be known from early 2012.

Loss Attributing Qualifying Companies (LAQCs)

The future tax treatment of LAQCs remains uncertain but it's fair to say their present tax advantages are likely to be diminished and these companies' administration will become more onerous and complicated. A discussion paper is due out in July 2010.

Tax deductions flowing from LAQC losses may be limited to the extent of capital at risk.

Tax Audits

Commentary in the budget and increases in government funding of IRD in some areas suggest Inland Revenue will be more aggressive in pursuing both under returned and under paid tax. It's time to be careful in the income you return for tax and the expenses you claim.

How Much Salary Does Your Company Pay You? – Tax Avoidance?

The Court of Appeal recently reversed an earlier High Court decision to be in favour of Inland Revenue. In that case (CIR v Penny & Hooper) two surgeons restructured their affairs paying themselves below market value salaries and avoiding personal income tax. This decision is of concern to those who trade through a trust or company providing largely personal services and skills and receive less than market value remuneration from that company or trust.

IRD have since indicated they will focus on the ‘most serious and artificial cases’. It’s very much a case of watching and awaiting further developments. In the meantime some salary payments at year end to shareholders and associated employees for work done should be considered on a case by case basis.

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Business valuations

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