UPCOMING TAX AND LEGISLATION CHANGES

FEBRUARY 2021

Written by Gerrie Jacobs

"The Taxman giveth and the Taxman taketh away" - An adage that has always rung true.

We are entering a new financial year which brings with it changes to legislation which will be favourable for some taxpayers but not so much for others.

1. A **new top tax rate of 39%** will apply to all employment income over $180,000.

Whilst a new tax rate and threshold may seem quite simple to enact, in reality quite the opposite is true and a number additional legislative changes are also required. The additional changes are required to ensure that all types of personal income tax are taxed at the same rate.

Other tax types that will be changed to align with the 39% tax rate are as follows:

- Secondary Tax Codes – a new tax code (SA) for secondary employment earnings of an employee whose total PAYE income payments are more than $180,000.
- A new top FBT rate of 63.93% will apply to all-inclusive remuneration exceeding $129,681.
- Employer Superannuation Contribution Tax (ESCT) and Retirement Savings Contribution Tax (RSCT) will rise to 39%
- Resident Withholding Tax on Interest– a new 39% rate being introduced which mirrors the new top personal tax rate.
- A new 39% rate will be used where a taxable Maori authority distribution of more that $200 is made where the Maori authority does not have a record of the IRD number of the member to whom the distribution is made.

These changes come into effect on **1 April 2021** with the exception of the change in the Resident Withholding Tax rate which will only apply from **1 October 2021**.

The 39% tax rate creates complications in the tax system as it creates a larger variance between the various tax rates, for example a company is 28%, a trust 33% and now the highest personal tax rate is 39%.

Provisional Tax for individuals who are affected by the rate change will need to be reviewed and adjusted throughout 2021 to account for the additional tax payable.

The following are examples of what items need to be addressed prior to the rate change:

- Distribution of retained earnings in companies, especially where the shareholding is held at a personal level and the shareholder has income of close to or over $180k per annum.
- Review investments to ensure that they are in the correct entity from an tax efficiency perspective.

Lastly, though it may be possible to change business structures under our current laws in relation to tax for companies and trusts to mitigate the rate change, Inland Revenue has issued a warning that it will be monitoring any structure changes carefully to ensure there are no changes to structures that constitute tax avoidance.

2. Trusts will have **Increased Disclosure Requirements** with Inland Revenue for their annual returns from the 2021 year going forward.

Information to be disclosed will include:

- Distributions to beneficiaries both taxable and non-taxable, beneficiary names and IRD numbers and any other information the IRD consider relevant to distributions made.
- Settlement information which will include the names, date of births and IRD numbers of settlors and trustees will also need to provide the names of settlors from prior years if the information is not already known to the IRD.
- Information in relation to whom holds the power per the trust deed to dismiss or appoint trustees, add/remove beneficiaries or make changes to the trust deed.
- Profit and loss statements.
- Balance sheets.

The information as disclosed to Inland Revenue will be used to gain a clear picture of how a trust is being used whether there was any change in the usage of the trust due to the 39% tax rate change for individuals. Inland Revenue holds the power to request the prior 7 years' worth of information should they deem it necessary.

The new disclosure requirements will not apply to non-active or charitable trusts.

3. Minimum **Family Tax Credit** threshold will increase from $27,768 to $29,432 per annum for the 2020 – 2021 and subsequent years which equates to an increase of $32 per week.

4. As part of the new legislation it has also been clarified that the Commissioner of the **Inland Revenue can request information** from tax payers to assist with the development of tax policies, however the IRD has advised that a request for additional information will be approached on a case-by-case basis.

5. As part of the government's **Covid-19** response the threshold of **low value asset write offs** was increased from $500 to $5,000 and took effect on 17 March 2020. This allows for immediate depreciation of assets purchased that cost less than $5,000.

We would like to remind tax payers that this concession expires on **16 March 2021,** you therefore have limited time to utilise the threshold if any capital expenditure is required. For assets purchased on or after 17 March 2021, the threshold will be permanently increased from $500 to $1,000.

6. The **depreciation rates** for commercial and industrial buildings which was previously set at 0% has been changed to 2% which is in essence reverting back to a depreciation rate that was available pre-2011. Residential buildings however are not part of the depreciation rate changes, and remain non-depreciable for tax purposes.

The reintroduction of depreciation on commercial buildings will help building owners with cash flow in the short term as well as to encourage tax payers to invest in new and existing commercial buildings.

7. The **Small Business Cashflow Scheme (SBCS)** has been extended to 31 December 2023 and a number of changes have also been made to the scheme (changes took affect 28 January 2021) which are as follows:

- The loan will be interest free if the loan is repaid within two years, previously it was one year.
- Limitations on how the loan can be used have eased, the loan can be used for core operating costs and businesses will be able to choose to use the loan to invest in their business to aid the business in adapting to the impact of Covid-19.
- Businesses or organisations that repay their loans before 31 December 2023 can apply and re-borrow the loan provided they meet the eligibility criteria at the time they apply to re-borrow.
- The business should be in operation for at least 6 months before applying for the loan.
- The decline in Revenue test will change which businesses are eligible for the scheme as it will no longer include the April 2020 lock down.

We aim to continuously review taxation legislation changes to enable us to provide our clients with the appropriate and sound advice to ensure the best possible tax position can be taken.

Please contact our office with any questions you may have.

Gerrie Jacobs, Associate

E: gerrie@cooperaitken.co.nz

P: (07) 889 7153

cooperaitken accountants limited

creating freedom in your business