Tax-e-mail

DON'T LET THE IRD NAIL YOU

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Deductibility of costs incurred due to Covid

On 16 February 2022 Inland Revenue issued PUB00432, which considers the deductibility of costs incurred due to Covid 19.
The interpretation statement takes the existing rules, refer IS 21/04, and shows how they relate to costs resulting from Covid 19. For example, an employer had to obtain staff from Australia and pay relocation costs including M IQ. The statement concludes the costs would usually be fully tax deductible.
Recommendation: if you have a borderline issue, refer to the paper and also have a look at the worked examples provided.

Product ruling for Kiwibank Limited

The bank has a product which accepts an **offset** of credit balances held **in other bank accounts** against loans it is making to customers. The other bank accounts **may include** not only the person borrowing but **other eligible people**. The interest is then charged on the net figure. Inland Revenue has released product ruling BR Prd 22/01 approving the arrangement. The new product will be available to individuals, business customers including companies and trusts.
For tax purposes **this is much simpler than a revolving credit** where it is difficult to establish what interest might be deductible as opposed to what is private and non deductible.

FDR 2021/04: FIF Determination – Dimensional Trusts – Global Bond

Sustainability Trust NZD Class - refer to TIB volume 34 page 6

The income derived by a New Zealand resident is more in the nature of debt investment and therefore FDR does not apply.

Residential Rental property – interest deduction reminder

You will need to adjust your questionnaire for the reduced amounts of interest, which are permitted to be deducted.
From 1 October 2021 to 31 March 2023 the maximum interest claimable is 75%.
From 1 April 2023 to 31 March 2024 it is 50%.
From 1 April 2024 to 31 March 2025 it is 25% and there after the claim is nil.

Covid 19 support payment scheme and other issues

On 21 February 2022, Inland Revenue issued an Important message for Tax Agents #3. This is a summary of the main points:

- Applications open 8 AM on 28 February 2022.
- There will be three fortnightly payments of $4000 per business plus an additional $400 per full-time employee. Maximum claim for employees is $24,000 – 50 people.
- Nominate any seven-day consecutive period after 16 February 2022 over which you have experienced a minimum of 40% decline in revenue due to Covid 19.
- The seven-day comparative period has to be between 5 January 2022 and 15 February 2022 to qualify for a claim for the first payment.
- On 25 February 2022 it was announced the date range for the comparative period can be, alternatively, 5 January **2021** to 15 February **2021**.
- The dates for the affected revenue period to qualify for the second and third payments have yet to be announced, as at 25 February 2022.
- Condition: Business must have been operating for at least one month before 16 February 2022.
- Condition: Must have taken every reasonable practical step to minimise revenue losses.
- Must comply with CVC rules or non—CVC rules. These are Health Department rules for preventing spread of Covid like regular cleaning of surfaces.
- Anyone who has received the Cultural Sector Emergency Relief Funds support will only be entitled to this payment in special circumstances to be determined by Inland Revenue.
- Businesses with low revenue will have their payments capped at eight times their actual decline in revenue.
- Businesses or organisations with highly seasonal revenue may still qualify. Further details will be provided soon (as at 25 February 2022).
- If a business has changed ownership it might still qualify so long as the activity is largely the same as before the change of ownership and the business must have been operating for at least one month before 16 February 2022.
- The business which has not yet started could qualify if it has experienced a minimum of 40% drop in its ability to raise capital over a seven-day affected period as a consequence of one or more Covid 19 circumstances and they meet the others CSP eligibility criteria.

Small business cash flows scheme

- Base loan will be increased to $20,000 from $10,000
- The first **two** years of existing loans will be interest free
- The loan repayment period will be five years
- Those who originally borrowed $10,000 can claim a top up to $20,000
- In addition to the base loan, $1800 can be borrowed for each full-time equivalent employee up to a maximum of 50 employees
- Scheme ends on 31 December 2023
- Those who have already paid back their loans in full before 31 December 2023 can re-borrow up to the $20,000 maximum plus the $1800 per employee
- Applications for the loan are to be made through myIR

Leave Support scheme and Short-Term Absence Payment scheme are still operating

If you have an employee who is required to self isolate, you can get a payment under this scheme.

IRD penalties and interest

- Penalties and interest can be remitted for tax payments due from 14 February 2020 until 24 March 2022 (including provisional tax). This will soon be extended to 7 April 2024.
- "The best way for customers to take advantage of this is to set up an instalment arrangement in their myIR account." This informs IRD, as soon as reasonably possible, the taxpayer is unable to pay the tax.
- If the schedule of instalment payments proposed by the taxpayer "is reasonable" it will automatically be accepted by Inland Revenue.
- "To reduce interest charges" the original amount must be paid in full by 7 April 2024.

If a reasonable payment plan cannot be offered or the taxpayer is not going to be able to keep to their proposal, they must contact Inland Revenue for possible renegotiation. **It may be possible to get part of the tax written off.**

Finance leases and GST

Inland Revenue has issued exposure draft PUB00357. Finance leases are classified into:

- Agreement to hire – This applies to the usual situation where the person using the goods pays regular instalments for their hire and the agreement does not provide for ownership of the goods to pass to the lessees or contain an option to purchase the goods, for example an Eftpos machine. GST is 3/23 of each lease payment.
- Hire purchase agreement – This applies where a business buys goods at retail – see definition below – and pays for them in instalments and it is contemplated the lessee will own the goods at the end of the contract or have an option to purchase the goods. A deposit is often paid either upfront or at the end of the contract. GST is claimed by the lessee (and accounted for by the lessor) upfront on the cost excluding finance charges. If at the end of the contract the lessor offers to sell the assets to the lessee , but there was nothing in the original agreement giving a right to the lessee to buy the goods, you do not have a hire purchase contract. A residual value clause does not convert an agreement to hire into a hire purchase agreement. If the clause also included an option to purchase, you would then have a hire purchase agreement, the full GST being claimable up front.
- A third category agreement – This is the situation where the agreement is not a hire purchase arrangement or where ownership of the goods passes or the agreement contemplates the goods will pass from the supplier to the purchaser. Ordinary GST rules apply. Where the purchaser is registered on an invoice basis GST is claimed by the purchaser in full at the earlier of invoice or payment. Similarly, the supplier accounts for GST at the earlier of invoice or payment. For example, the business buys equipment and arranges a loan from a bank, which is paid off in instalments. A third category agreement also exists where the lessee is not the end user, in other words, the contract is not "at retail".

An agreement may use all words like hire, lease or rental payments but this does not necessarily mean you are looking at a hirer purchase agreement. Often the term like "conditional sale agreement" is used.

The publication has a very helpful flowchart on page 3.

"At retail" means the buyer is going to be the end user of the goods ie not a wholesaler or other intermediary.

Some agreements are recorded in more than one document. For example, there could be a lease agreement for five years for a motor vehicle. There could be another agreement allowing the hirer to purchase the vehicle at the end of the five years for a nominal amount.. In these circumstances, you should read the two agreements as being part of one overall agreement.

The paper also looks at a variety of other types of agreement and analyses them together with a number of worked examples.

Generally, Finance leases will be credit contracts because the amount payable will exceed the cash price of the leased goods. If a finance lease is not a credit contract, GST is 3/23 of the amount contracted.

The paper also considers agency issues on selling goods – where the lessee sells the hired goods on behalf of the lessor.

 127 Queens Drive, Lower Hutt, Phone 04-9394156, e-mail: mail@smallbusinessinst.co.nz