NEWSLETTER

WATERS & PAULING
CHARTERED ACCOUNTANTS

DECEMBER 2021

CHANGES IN OUR OFFICE

After 25 years of working for us Gail Nicholl will be taking a well earned break to focus on her next project – retirement

We wish to thank Gail for her exceptional service and all the best

CHRISTMAS/NEW YEAR HOLDINGS

We wish you and your family the best for the break and hope you enjoy some family time and recharge you batteries ready to tackle the new year.

Our office will close for the Christmas/New year vacation at lunchtime on Thursday 23 December 2021 reopening on Wednesday 12 January 2022.

If you need to get hold of us over the Summer holidays contact Maree on 021 2797440 or Ian on 021 2629308.

TAX CHANGES

Despite Covid-19 and the lengthy lockdowns, the Government has pushed ahead with tax changes.

- **New Purchase Price Allocation**

These new rules came into law on 1 July 2021. They affect mostly buyers and sellers of commercial property and businesses. The intention is to encourage buyers and sellers to agree on values for individual components that make up the total price. This then means that both buyers and sellers will use the same figures when splitting up the total price, unlike the current practice where either side can use different values for the same components

The new rules will apply to residential sales only if the value exceeds $7.5million. However we suggest it is good practice to avoid issues arising, to agree values on all Sale & Purchase Agreements.

If values are not agreed in the Sale & Purchase Agreement before it is signed there are rules whereby the parties can agree values within certain timeframes after settlement.

Where the parties cannot agree on values the seller has the first option to determine those values within 3 months from settlement. If this des not happen then the purchaser has the right to determine values within 6 months of settlement.

Failing all this, IRD get to determine the values and may override the value set by the parties if the split does not resemble market values.

- **A New Brightline Test**

The Brightline Test rules have changed again. From 27 March 2021 the existing 5 year period extends to 10 years with some modifications.

The 5 year test period will still apply to “new builds”. There are special rules based around when Code of Compliance Certificate is received for the property. The main home exclusion still applies.

You cannot claim a main home exemption if you have used it already twice in the two years prior to sale.

If the property has been used as a main home for less than 12 months an apportionment is required. For example – if you owned property for 8 years but it was rented out for 2 of those years, then 2/8 of the gain on sale of the property is taxable under Brightline Test Rules. This is different from the rules under the five year Brightline Test Rules.

It is intended that transfers of property to or from family trusts, look through companies or partnerships would not trigger a restart of the Brightline Test period. This will be welcome news for clients looking to transfer investment properties to or from other family owned entities. This will be particularly useful for those winding up Trusts and transferring investments back into individual ownership.

INTEREST LIMITATION

For residential rental properties acquired after 27 March 2021 the Government proposes that from 1 October 2021 interest will not be tax deductible.

For residential rental properties acquired before 27 March 2021 the ability to deduct interest going forward will be phased out between 1 October 2021 and 31 March 2025.

Date Interest Incurred	Percentage of the interest that can be claimed
1 April 2020 to 31 March 2021	100%
1 April 2021 to 30 September 2021	100%
1 October 2021 to 31 March 2022	75%
1 April 2022 to 31 March 2023	75%
1 April 2023 to 31 March 2024	50%
1 April 2024 to 31 March 2025	25%

Exemptions:

- To minimize any impact on house supply, property development and new builds will be exempt from the proposed rules.
- There are also exemptions for the main home if it is used to earn income from flat mates or boarders, properties used as business premises, hospitals, hospices, nursing homes and similar, retirement villages, hotels, motels, hostels, houses on farmland, Bed & Breakfast, employee accommodation, student accommodation and land outside of New Zealand.

As the Government has been busy dealing with Covid issues the proposed changes have not been passed in to law yet. However apart from some minor adjustments we believe the proposed changes above will soon become law .

CHARTERED ACCOUNTANTS

Trading name of:
Ian Waters Accounting Limited
Pauling Limited

PO Box 76-270 Manukau City, Auckland 2241
611 Great South Road, Manukau City, New Zealand
www.wptax.co.nz

T 09 262 0874
F 09 262 0852
E wptax@wptax.co.nz

WP TAX

NEW PERSONAL TAX RATE – 39%

This applies from 1 October 2021 and affects individuals only who earn over $180,000 per year of taxable income. The tax rate on income over $180,000 will increase from 33% to 39%.

This is likely to impact those paying provisional tax for the 2022 year that is based on the 2021 tax payable with the tax capped at 33%. This will mean those earning over $180,000 will have an end of year tax bill for the additional 6% due in April 2023. Therefore tax saving plans need to be adjusted. It will also impact those who have to pay interest on the short paid tax from May 2022 until the tax is paid.

To minimize the exposure of having to pay even more on top of the extra tax we suggest that your 2022 tax returns be completed as soon after 31 March 2022 as possible so that you are aware of the interest charges.

NEW TRUSTS ACT 2019

This new Act came into law on 30 January 2021. As a result of the new Act we have seen a number of Trusts wound up.

The new Act presumes that Trustees have advised all beneficiaries of the basic Trust information. That includes:

- The fact that the person is a beneficiariy
- The name and contact details of all Trustees
- Details of Trustee appointments, removals and retirements.
- A beneficiaries right to ask for more information.

It is important that the Trustees record who they have provided basic information to. In the case of minor beneficiaries their guardians should be advised and when the beneficary turns 18 years old they should be notified directly.

We have noted from the Trusts that we prepare financial statements and maintain the Trust Minute Book that a number have done nothing regarding this. This could potentially come back on Trustees and if your Trust has an independent Trustee it is important to protect this Trustee as much as possible.

All too hard, need help, then ask Maree or Ian. It is not a big job and is just part of running the Trust properly.

NEW REPORTING REQUIREMENTS FOR TRUSTS

IRD will be collecting more information on Trusts in the tax return for the year ended 31 March 2022 and future years.

They will require:

- A Statement of Profit or Loss and a Balance Sheet
- Settlor and settlement details
- Beneficiary and distribution details
- Persons with powers of appointment Trustees
- Trustee details

There are exemptions for Trusts that don't earn any taxable income, they are not required to file an annual income tax return provided they file a Non-active Trust declaration. This election is valid until the Trust receives taxable income.

When deciding whether a Trust is non-active the following shouldn't be considered:

- reasonable fees paid to professional Trustees to administer the Trust, or
- Bank charges or minimal administration costs totaling not more than $200 in the tax year, or
- Interest earned on Trust assets in any bank account during the tax year where the interest is less than $200, or
- Insurance, rates and other expenses related to the occupation of a dwelling owned by the Trust are incurred by the beneficiaries.

For example Trusts that only own properties occupied by the beneficiaries this exemption will apply:

i.e.: Jane Smith Trust owns a residential property occupied by Jane (beneficiary). Jane pays the property expenses such as rates, insurance. The Trust earns interest at the bank of $180 that is taxed at 33%.
This Trust meets the requirement as non-active and can advise IRD accordingly. It does not need to file an income tax return and does not need to provide additional information to IRD.

It is important that a non-active declaration is filed with IRD. You cannot take advantage of the exemption unless this has been done.

Further exemptions:
For small Trusts they do not need to prepare financial statements under accrual accounting but can use cash basis accounting to make it easier for them. However to qualify they must:

- Earn less than $30,000 of income, and
- Have less than $30,000 of expenses, and
- Have assets under $2million at all times during the year.

Up until now the Government and IRD have no record of how many Trusts exist in New Zealand and by collecting more information about Trust activities they can tailor future tax regulations and see what extent Trusts are being used to spread income and wealth.