BC'S BUSINESS BRIEFS

TAX PAYMENTS

Many of you that have previously made tax payments of one type or other using the Westpac Bank branch network will be aware that Westpac no longer accept payments to IRD. There are now only two readily accessible means of making payments to IRD – either the sending of a cheque to IRD by mail or making a payment using Internet Banking services.

If you are making payments by cheque, IRD ceased dating these payments on the due date if they were post marked the due date. Now all payments have to be received by IRD by the due date for payment (or the first business day after due date if it falls on the weekend or a statutory holiday) to avoid interest charges and late payment penalties being added.

Given the lack of speed with which the mail service currently seems to operate (1 week from our office to the IRD's Wellington Mail Centre address now seems to be the norm!) it may be advisable to start consider changing your payment methods to Internet Banking if you have paid by cheque in the past to avoid late payment charges.

RESTRUCTURING COMPANY LOANS

IRD recently clarified their position where companies restructure their external debt position by borrowing funds from an arm's length lender at commercial interest rates to replace funding previously provided by shareholders at no or low interest rates.

In particular IRD quote an example of shareholder lending being replaced by an external bank loan with the resulting funds repaying the shareholder loan who uses the repaid funds to purchase a private asset such as a Beach property.

Our view has always been that in general so long as the funds have been used by the company to repay shareholder debt that was borrowed for business purposes by the company, the refinanced debt and therefore interest paid would be deductible to the company. It is certainly a normal commercial arrangement for a company in business to restructure its financing as and when it wishes to do so.

IRD have confirmed that in their view Section BG 1 of the Income Tax Act 2007 (Tax avoidance section) would not apply to these types of rearrangements and therefore in general, any interest and other costs of the refinancing would be deductible to the company. This is a practical and common sense conclusion in our view and agrees with our own view.

LOOK THROUGH COMPANIES ('LTC')

There have recently been asked some interesting questions regarding the transition of a company from a standalone tax entity to a LTC. In a standard company the current rate of income tax on profits is 28%. The only way of extracting those profits is by way of dividend and it is a requirement that upon payment of a Dividend a further 'top up' of 5% is made by way of RWT to effectively increase the rate of tax on those company profits to 33%.

When a company transitions to becoming a LTC, there is no further requirement to 'top up' the tax on any Retained Earnings to 33%, as there is on the payment of a Dividend. On the face of this transition, there appears to therefore be a permanent tax saving of 5% of any retained Earnings at the point of the change.

IRD have clarified their position on this transfer. They accept that should a company move to become a LTC under normal circumstances as part of a decision to change its tax structure, but continue to trade as normal, Section BG 1 (Tax avoidance section) is unlikely to apply. If however this transition to a LTC is part of a company winding up arrangement, then Section BG 1 would apply and the arrangement would be seen as Tax Avoidance and would therefore be ineffective. The arrangement would also attract all the extra penalties that go with Tax Avoidance arrangements.

LTC's are not for everyone. In many cases they are not suitable. However in certain situations electing to become a LTC may produce some significant tax savings of a permanent nature.

INTERESTING TIMES

Recent articles by some of the leading NZ Economists seem to be suggesting that the world economic outlook has deteriorated to the extent that our rising interest rate structure may have been put on hold for a significantly longer time than had been previously anticipated as inflation concerns melt away. We are seeing this in the prices being achieved for our dairy exports over the last 6 months along with the declining price of fuel at the pumps. It is also most likely to translate into further strengthening of the NZ $ against our trans Tasman neighbours who are being even harder hit than us by the declining Iron Ore prices. A flow on effect of the underperforming Australian economy is the current migration boom we are experiencing. This is contributing to the rapidly rising house prices, particularly here in Auckland. The rest of the country (with perhaps the exception of Christchurch) doesn't appear to being driven upwards at the same rate.

What does this mean for us as small to medium businesses?

While the answer to that question will inevitably be long debated, here are a few thoughts from this author.

1. We have heard over the last couple of years how the NZ economy is booming. I have no doubt that very few of you think your business has boomed. Perhaps it has done slightly better than the previous few years but the fact that you are still in business means you survived the worst recession to hit this country since the Great depression of the 1930's;
2. It is unlikely that we will see huge growth in our businesses in the next couple of years either. There will however be stronger competition as businesses refocus on costs and increasing market share in what overall will be a similar sized pool;
3. There will be ongoing stories in the media of redundancies. Many people made redundant will be looking to buy/establish small businesses as they are unable to obtain new paid employment leading to further competition in the small business market;
4. The NZ economy will continue to be a 'two paced" economy with very different outcomes. Auckland will continue to grow, underpinned by Immigration, while many of the regions will stagnate and some will inevitably go backwards. Eventually the Dairy prices will rebound as the current oversupply of products in China goes back to normal stocking levels;
5. The continuing cultural diversification of the Auckland population will offer both challenges and opportunities for business. How to ensure that your business positions itself to take advantage of the many different races and cultures living in our community will drive the marketing and employment practices of Auckland business'.

One final thought – the successful conclusion of another year in business is success in itself. In these challenging times where the only constant is change, if we don't regularly think about where our business may be in 2-5 years time will inevitably ensure we don't achieve our potential.

CHRISTMAS TIME AGAIN

Finally from the team at Baigent Consulting (Ross, John, Rodica, Cherry, Vanessa & Nicole) may we take this opportunity to wish everyone a Merry Xmas & Happy New Year. This has been our first year as a combination of the Baigent Consulting & Hewitt Accounting business' and from our perspective it has been a very satisfying and fulfilling year. The combination of the two business' went as smoothly as we could have hoped for and we trust that we have provided you with the service you are looking for. It has been our pleasure to work for you and we look forward to seeing you in the new year.

OFFICE OPENING HOURS

The office will be closed from the 23rd of December, re-opening Monday the 12th January. If you require urgent assistance during the break Ross (027 4905560) and John will be contactable by cell phone. (021 0707234)

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