

Newsletter December 2009

The Emissions Trading Scheme (ETS) Forestry

Forestry came under the ETS with effect from 1 January 2008. This is despite the fact some of the forms required to make the required elections are still not yet available.

The whole topic is extremely complicated.

However if any of the following situations apply to you, you should see a forestry consultant **ASAP**, if you have not already done so:

- a) You have or expect to deforest more than 2 hectares of land in any 5 year period commencing on 1 January 2008.

(NB - Deforest effectively means change the land use from forestry to something else)

- b) You had less than 50ha of forestry planted before 1990 and you want to remain exempt from the ETS.
- c) You have planted forest on land after 1 January 1990 (and that land was not in forest at 1 January 1990) and you want to join the ETS.
- d) You owned more than 50ha of forestry planted before 1990 - in this case you have to join the ETS even though you are not eligible to receive carbon credits except for a one off allocation.

The income tax rules are even more complicated (and still being changed).

If you have any questions about the tax treatment of carbon credits please contact Peter Forrest.

The only thing which is not complicated is GST. The sale and purchase of carbon credits is zero rated in all cases for GST purposes.

Landlords - Funding for Insulation & Clean Efficient Heating

Nothing to do with tax, but we note that Landlords who have tenants holding a Community Services card can get a 60% subsidy on the cost of insulation and \$500 on clean heating costs.

IRD Approved Mileage Rates

The rate is now 70 cents per km, irrespective of the size of the vehicle.

You can also use the AA rate which is generally higher.

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New REINZ Sale & Purchase Agreements - Watch the GST Clause

The Sale and Purchase Agreement issued by Real Estate Institute of NZ (REINZ) contains a number of differences with regard to GST from the old Auckland District Law Society form. The main differences are:

- a) the due date for payment of GST depends on whether the Vendor is registered on an Invoice or Payments basis;
- b) the parties now have to nominate whether the deposit is inclusive or exclusive of GST.

The above can have a significant impact on cash flow so purchasers in particular, need to pay careful attention to the GST clause in any REINZ agreement.

While on the question of GST and property sales we remind you that if:

- a) **the total sale price (inclusive of GST) exceeds \$225,000; and**
- b) **there is any way settlement can happen more than 12 months after a deposit is paid (in general); then**

the Vendor has to account for GST on an Invoice basis even if registered on a Payments basis.

This particularly applies where the agreement is subject to issue of title. In this case the Vendor will always have to account for GST on an Invoice basis.

Tax Exempt Status for Charities

If you are involved with any charity please note the IRD will no longer confirm whether or not the charity qualifies for an exemption from income tax.

If a charity is registered with the Charities Commission it will generally meet the rules for tax exempt status. If you have any concerns as to the tax exempt status of any charity you are involved in running, seek professional advice.

You should also check if the charity's Deed or Constitution requires IRD approval of any changes. If it does, you need to amend the Deed/Constitution as IRD approval will no longer be given.

Legal Fees

Just a reminder that legal fees, relating to business matters, are now fully deductible provided they do not exceed \$10,000 in the financial year.

If fees exceed \$10,000 the old rules apply. Therefore if total fees slightly exceed \$10,000 it is worth talking to your lawyer about spreading the invoice over two financial years.

The one exception to being able to claim legal fees relating to business assets is that fees relating to the sale of a property appear to be still not deductible.

Payroll Giving

A new scheme is due to start 7 January 2010.

If you are an Employer you need to decide whether you will make the scheme available to your employees. The scheme is, at this stage, voluntary for both employers and employees.

In brief:

- the scheme enables employees to obtain a 33 % tax credit for donations made, each pay day (instead of waiting until the end of the year);
- the employee receives the credit by a reduction in their PAYE liability;
- it is up to the employee to ensure the donation is to an approved organisation.

What's in it for you as an Employer? - Nothing, except for the feel good factor, other than more work, record keeping, costs, and not forgetting the joy of more contact with the IRD.

Student Loan Repayments

The law providing for a 10% discount on student loan repayments of \$500 or more in excess of the minimum required repayment each year has now been passed.

Students who are paying interest on their loan or are nearing the end of their loan repayments may well find it worthwhile to take advantage of the discount.

It does not matter when in the year the extra payment is made. The best month to make the payment in most cases will be March.

Associated Persons - Land Ownership

The dreaded new Associated Persons rules for land are now law.

- If you are associated to any person who is a land dealer, developer, subdivider or builder then any land owned by you may be taxable when sold.
- As if that's not bad enough, if you are associated with a taxpayer (B) who in turn is associated with another taxpayer (C) who is a land dealer, developer, subdivider or builder then in some cases you are also deemed to be associated to C.
- The same rules can also catch you if you are involved in any business with a taxpayer who is a land dealer, developer, subdivider or builder.
- The rules are very complex and we, like all accountants, are trying to figure out what they mean and who is caught. In the meantime if you are contemplating selling any land owned for less than 10 years, or less than 10 years after completing any improvements to the land, seek advice.
- The test of association now catches most family business structures. If you apply the rule that "if you feel associated you probably are" you will generally get the right answer.
- In general, any property used as a residence for yourself will be exempt from tax. But if you acquired the land the house is on from an associated person and that associated person would have been taxable on any profit had it still owned the land, any profit on sale of the property by, you will be taxable (including profit on any house on the land).

e.g. if you and/or your spouse and/or your family trust own 25% or more of the shares in a property development company and you buy a section from that company and build your private residence on that section. Then the profit on the ultimate sale of your house and section will be taxable, no matter when it is sold.

- In general, family homes owned by a Trust will also be exempt, however the exemption is not as wide as that applying to individual ownership.

N.B. The new associated persons rules only apply to land purchased from 6 October 2009 on (or in the case of builders to improvements commenced after that date).

GST Change of Use Adjustments - Holiday Houses

A number of taxpayers claimed GST on holiday homes when they were first purchased/built on the basis the house was to be used for short term rental.

If the house is now being used mainly for personal use it is possible to do a change of use adjustment based on the lower of cost or market value. We are aware the IRD are looking at removing the cost option. Therefore, if you have claimed GST on a holiday house which has subsequently increased substantially in value, you should review whether you might be better off in the long run by doing a change of use adjustment based on cost while that option is still available.

N.B. In order to do the change of use adjustment you must continue with some form of taxable activity for a period, say 1 year at least, after the change. Otherwise the cessation rules will apply, which means GST has to be repaid based on current market value. Please see us before you do anything.

Shares in Overseas Companies

Most taxpayers are now aware of the new rules relating to the taxation of shares in non NZ or Australian listed companies.

One other point to watch out for is that there are yet different rules for any overseas company (other than Australia) where 50% or more of the shares are controlled by 5 or fewer NZ tax residents. If this situation applies to you please let us know.

Checking If You Are Owed a Tax Refund

If you are on our Agency list we do this for you.

If you go on-line and do it yourself, or use one of the firms offering this service, you will be removed from our Agency list and thus, have to file your tax return within 2-3 months of balance date to avoid penalties and have to pay any tax owing earlier.

Helping Us Keep Fees Down

1. *Queries*

Answer queries promptly as it is easier to complete your job while it's fresh in our minds.

2. *Keep your personal information separate*

When personal expenditure is mixed up with business expenditure in the business bank account, it adds headaches and cost. Keep personal and business expenditure separate and keep your personal information separate. For example, don't put your donation receipts among your business invoices; put them in a separate envelope to hand to us at the end of the year.

3. *Make sure all the information is there*

One of the things you may need to send in, as an example, are your bank statements. If you do, make sure that each statement is there, with all the pages. A lot of time is lost through really simple mistakes like this and it costs you money every time we pick up your file and then put it down because we don't have the right or complete information. The better your information, the more cost effective the job.

Go through the Questionnaire we send you and make sure all relevant information is included.

4. *Too much information is just as bad as not enough*

Don't baffle us with too much information - which may seem like a contradiction to the previous tip. Write a short synopsis of what has happened during the year and make sure you've got all the important bits our Questionnaire ask you for. Don't then send us every

single invoice or piece of paper. It's a fine balance between sending too little information and sending too much.

5. *Accounting packages - a double edged sword*

The use of an accounting package has both pros and cons. It can save you money because then it means we don't have to process the raw data, but it can also cost you money if we can't use the information because it's incorrect. The old saying of "garbage in, garbage out" is as true for accounting as it is for anything else. If we can't use your data because it's incorrect, it's a triple cost - your time to put in the data (which is now wasted) our time to see why it doesn't work and our time to put in the information properly. It's worth investing in training on setting up the system and inputting data correctly so the job is done right the first time.

6. *Regular contact*

Keep in regular contact with us and use us a resource to help you in your business. A five-minute phone call during the year to check how you should deal with something could save us hours trying to sort out a problem at the end of the year.

7. *Plan for it*

Now is a good time to start thinking about the 2010 financial year and putting in place systems that will help you collect the information you will need during the year as it comes across your desk, rather than trying to do it all at the end. We send you a Questionnaire of the information we need in order to do your accounts. It generally doesn't change from year to year, so getting the information ready during the year, based on the 2009 Questionnaire, will mean 80-90 per cent of the job is done at year end.

Christmas Wishes

Winstanley Kerridge Ltd thank you for the opportunity to provide your accounting requirements throughout 2009. The Directors and Staff wish you a Merry Christmas and all the best for 2010.

The office will be closed from 3.00 p.m. Tuesday 22 December and re-open 8.00 am Wednesday 6 January 2010.

Confidential

The information contained in the Newsletter is issued in summary form exclusively for the information of clients and staff of Winstanley Kerridge Ltd and should not be used or relied upon as a substitute for detailed advice or as a basis of formulating business decisions.
