FINMAN

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Tax Talk

Finman Services Paraparaumu Limited
44 Ihakara Street, PO Box 130, Paraparaumu
Phone 04 298 2551   Fax 04 298 2552
admin@finman.net.nz   www.finman.net.nz

Changes to the tax treatment of commercial lease payments

If you're considering entering or exiting a commercial lease arrangement in the coming months we advise you to contact us to discuss the potential tax implications arising from proposed changes effective 1 April 2013.

Lease inducement payments are a lump sum paid by a commercial landlord to a tenant providing incentive to enter a lease arrangement in times of high lease vacancy. Currently such payments are treated as deductible for the landlord and as capital or non-taxable receipts for the tenant.

The proposed changes will make lease inducement payments taxable income for the tenant with the income spread evenly over the lease term. Landlords will now also have to spread the deduction over the lease term.

Lease surrender payments are a lump sum paid by the tenant to a landlord to exit a long term lease. Generally lease surrender payments are treated as taxable to the landlord, but non-deductible to the tenant. In future these payments will be made tax deductible to the tenant.

Both proposed changes will only apply to leases entered on or after 1 April 2013. Effectively landlords and tenants will in future receive symmetrical tax treatment for receipts and payments.

Changes to rates and thresholds as of 1 April 2013:

Working for Families

The net income level guaranteed by the minimum family tax credit will rise from $22,568 to $22,724.

ACC

The government announced that the 2013/2014 levy rates will remain at their current levels. However they have introduced three new initiatives:

- Extended Workplace Safety Discounts
- Vehicle Classification System
- Fleet Safety Incentive Programme

We will be following up on these changes in future issues of Wilco, but in the meantime, visit the following website for more information: www.acc.co.nz/news/WPC116639

KiwiSaver

The minimum contribution rate for employers and employees will rise to 3% from April.

Primary and Secondary School Children

From 1 April 2013 PAYE must be deducted from payments of salary/wages or schedular payments to school children.

Student loan changes

The repayment rate for student loan deductions increases from 10 to 12 cents per dollar earned over the current threshold of $19,084 per annum.

Are you ready for 2013 payroll changes?

For more information on 2013 payroll changes effective April 1, visit the IRD website and use their helpful checklist. Visit the website and follow the simple step by step guide from the homepage: www.ird.govt.nz

KiwiSaver Employer Contributions and Minimum Wage

A recent case must have given some employers pause for thought. The Employment Court has ruled that employers must pay KiwiSaver contributions in addition to the minimum wage, not inclusive in the minimum wage. In a 'total remuneration' package, the gross wage must amount to at least the minimum wage plus compulsory employer contributions. Anything less is a breach of the Minimum Wage Act 1983.

Case Study: Employees were being paid the minimum wage, with their employment agreements stating remuneration was 'inclusive of KiwiSaver compulsory employer contributions'. The KiwiSaver Act 2006 allows total remuneration packages, provided that mandatory employer contributions are accounted for.

The Court found that employees have an inalienable right to receive the minimum rate irrespective of anything in any other statute or agreement. A payment of a compulsory employer contribution was not 'payment for work' performed by an employee for the purposes of the Minimum Wage Act. Here, the Court said, the employer was effectively expecting its employees to pay for the employer contributions.

In themselves, the caregivers' agreements did not infringe the requirement to account for the contributions. The Court said there did not need to be a numerical figure for the deduction; simply a statement as to how that figure is arrived at.

New rules for mixed-use assets

In the 2012 budget the government announced proposed changes to the rules surrounding the deductibility of expenditure incurred for mixed-use assets. The main purpose of the change is to reduce the ability for people to offset the holding costs of their assets by renting the asset occasionally. Mixed-use assets include such things as bachs, boats and aircraft. Owners still need to apportion the use of their assets into taxable and non taxable deductions, but the apportioning rules have changed.

An asset will fall into the apportioning rules if:

- It is used privately by owner or relative
- It is used to generate income
- There are more than 62 days when the asset is unused
- It costs more than $50,000

The rate changes are still in the process of becoming law but once in place, they are likely to apply for the next financial year. The proposed changes to the apportioning of mixed-use assets are likely to extend to the deductibility of interest where you have more than one entity. If you have mixed-use assets, the impact of these changes may be significant and we will let you know as soon as we have an update. In the meantime, if you're concerned about how these changes may affect you, talk to us today to find out more.

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