KPMG

TaxMail

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Regular commentary from our experts on topical tax issues

Issue 3

Year-end wrap and 2018 year planning

Snapshot

As the 2017 tax year draws to a close and 2018 awaits, taxmail highlights some year-end issues that should be addressed, and also focuses on new changes that will apply from 1 April 2017 (or your 2017-18 income year).

In advance of year-end, it is important to consider whether you have made all the required adjustments, elections, disclosures and notifications for the 2017 year.

A number of new tax rules will also shortly take effect, including:

- New disclosure rules for employers who provide share benefits to employees, and the option to deduct PAYE on these benefits.
- New use of money interest “safe harbour” rules.
- Changes to withholding tax rules for related-party funding from offshore.
- New withholding tax rate election rules for contractors.

As one tax year ends and another begins it is important to focus on:

- **What needs to be done to wrap-up the 2016-17 year (and file any outstanding 2015-16 tax returns)**
- **Looking ahead to how some of the key 2017-18 tax changes will impact your business**

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2017 year end wrap

March can be a busy time, however, there are a number of important year-end issues you need to think about, including:

- ***Loss-offsets*** – an election to use other group companies' losses needs to be filed by no later than the last date for filing your tax return (e.g. up to 31 March 2017 under an extension of time for filing the 2016 tax return) and are irrevocable. Payments for loss offsets must also be made by that date.
- ***Bad debts*** – must be physically written-off by balance date for the 2017 year.
- ***Employee provisions*** – amounts owning at year-end, such as holiday pay, long service leave and bonuses are deductible if they are paid within 63 days of your balance date. (Note: under a recent change, 63-day adjustments will be optional from the 2017-18 year).
- ***Cleaning up your fixed-asset register*** – this should be reviewed for accuracy, with business assets which are no longer used (and not intended to be used in future) written-off before year-end. A tax deduction will generally be available if the cost of disposal exceeds the asset's tax book value.
- ***Have you made the appropriate disclosures with your 2016 tax returns*** – e.g. for interests in Controlled Foreign Companies and Foreign Investment Funds? These filings are required to ensure the 4 year time bar for IRD opening your 2016 tax return applies.

2018 year planning

A number of tax changes take effect from 1 April (or your 2017-18 income year). These include:

PAYE and reporting of Employee Share Scheme ("ESS") benefits

From 1 April 2017, all ESS benefits relating to your New Zealand employees must be disclosed as part of the Employer Monthly Schedule ("EMS"). Employers will also have the option to withhold PAYE on ESS benefits on behalf of their employees.

IRD has released **guidance** on how the EMS should be completed for ESS benefits, where PAYE is deducted and not. Where no election to withhold PAYE is made, the disclosure of the benefits in the EMS will give rise to *"No PAYE deductions are showing where an employee has positive gross earnings"* errors. To prevent these errors arising, and reduce administration associated with dealing with IRD queries when the EMS is processed, it is recommended that employers contact IRD in advance of the EMS filing. Employers should provide IRD with a list of the employees who are participating in their ESS. A phone number (**0800 443 773**) is provided for those without a direct IRD contact.

Employers will have the choice whether or not to withhold PAYE on ESS benefits (e.g. to help employees avoid provisional tax liabilities). This can be made on an employee by employee basis or on a benefit basis for each employee. The ability to apply the PAYE withholding to individual employees, and benefits, is an important change from the initial legislation. The initial legislation treated the decision to withhold tax from ESS benefits as irrevocable and applying to all employees of the same class in the ESS. This will give employers greater flexibility and means the PAYE election is worth a closer look.

New use of money interest ("UOMI") safe harbours

The recently passed **Taxation (Business Tax, Exchange of Information and Remedial Matters) Act**, contains important changes for the 2017-18 income year which:

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- Removes use of money interest ("UOMI") applying for the first two provisional tax instalments, if these are paid under the standard uplift method (i.e. based on last year's tax liability plus 5% or two years prior plus 10%). This means that there will be no interest for the year if the correct uplift is applied and the entire liability is then paid by the third instalment.
- Increases the existing UOMI "safe harbour" residual income tax threshold from $50,000 to $60,000 and extends this to non-individuals, such as companies. Under this safe harbour, no interest applies until the terminal tax date if all three instalments are paid under the uplift method.

We believe most taxpayers will benefit from taking advantage of the first change. The exception is if you expect significantly lower income, or to make losses, in the 2017-18 year.

New withholding tax rate election rules for contractors

From 1 April 2017, contractors will be able to elect their own withholding tax rate, subject to a minimum rate of 10% for resident and 15% for non-resident contractors. A non-declaration rate of 45% will apply where a contractor has not supplied their name or IRD number. Under these new rules, your system may need to accommodate a variety of withholding tax rates.

Other tax changes

The **Taxation (Annual Rates for 2016-17, Closely Held Companies, and Remedial Matters) Bill**, which is expected to receive Royal Assent before 1 April, contains a number of amendments that will apply in the new tax year:

- ***Closely held company changes*** – these include new eligibility restrictions from 1 April 2017, and the removal of the deduction limitation rule from the 2017-18 income year, for "Look Through Companies".
- ***RWT on dividends*** – RWT will be optional on fully imputed dividends paid to corporate shareholders, from the date of Royal Assent of the Bill.
- ***NRWT and AIL restrictions*** – NRWT will apply to interest on offshore related-party loans, where the interest is not "paid", if the NZ borrower is allowed a deduction for the interest cost. The ability to apply the Approved Issuer Levy, instead of NRWT, will be removed for "back-to-back" loans or where a third party is interposed between the NZ borrower and foreign related party lender. These changes will apply from 1 April 2017 for standard balance date taxpayers.
- ***Debt remissions (and capitalisations)*** – there will be no debt remission income for the debtor, where shareholder debt is forgiven within a wholly-owned group, or forgiven pro-rata in certain other circumstances. This change, once enacted, applies retrospectively to 2006-07, but only if that position was taken in past returns. Otherwise, it will apply from the 2014-15 year onwards.
- ***GST on capital raising costs*** – from 1 April 2017, GST can be recovered on these costs, if the capital raising (e.g. through debt or equity) relates to a business's taxable activity.

Australian listed share exemption

From 1 April 2017, the exemption from the Foreign Investment Fund rules for certain Australian listed shares – Australian resident companies on the ASX All Ordinaries index – will be extended to all shares listed on the ASX.

The exemption also requires consideration of whether the share is in a "company" (as defined for Australian tax purposes), tax resident in Australia, and excludes stapled securities. Therefore, care will need to be taken when applying this wider exemption.

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Holiday pay calculations

In a 2016, we **highlighted** potentially incorrect calculations of holiday pay under the Holidays Act 2003 by employers (and their payroll providers). This remains an issue that the labour Inspectorate of the Ministry of Business, Innovation and Employment is investigating.

KPMG has helped a number of employers to identify and correct these holiday pay calculation issues. Additionally, this is only one of a number of components of a modern payroll. Employers also need to consider the accuracy of their PAYE, ACC and KiwiSaver calculations and deductions. We can help with independent assurance.

FBT – year-end and 2018 planning

If you have paid any fringe benefits during the 2016-17 year, your final quarter FBT return is due 31 May.

FBT can be a complicated area to navigate. To help our clients, KPMG will be running FBT training in early May, focussed on practical advice on how to comply with your obligations and manage your liability. To register your place please click on the following **link**. Tickets are going fast, so register now.

For further information

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