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Newsletter SUMMER 2023-2024

New government set to introduce tax reforms

Given one of the National Party's big campaign promises was tax cuts, we can safely assume the new government will follow through on its proposed reforms.

Any changes are unlikely to be before July 2024. So let's look at the proposed new rates of income tax:

Income up to $15,600 a year	10.5% (previously 14,000)
From $15,600-$53,500	17.5% (previously 14,000 to 48,000)
From $53,500-$78,100	30% (previously 48000 to 70,000)
From $78,100-$180,000	33% (previously 70000 to 180,000)
Over $180,000	39% (no change)

Other likely changes include a rise in the amount you can earn to qualify for the Independent Earner Tax Credit. The credit is currently available to people who earn between $24,000 and $44,000 a year. It's worth $520 a year and reduces progressively for incomes between $44,000 and $48,000 a year, becoming nil when your income reaches $48,000.

The upper limit is to be increased from $48,000 to $70,000 a year, with the progressive reduction starting at $66,000. This would mean people with incomes between $44,000 and $66,000 will qualify for the $520 tax credit.

Other policies include a 25 percent rebate for childcare costs, worth up to $75 a week. This will be calculated on joint household incomes. The maximum joint income for getting the full rebate is to be set at $140,000.

Expect interest deductibility for rental properties to be restored, progressively rather than being reduced progressively as follows:

- 60% deduction in the 2023/2024 year
- 80% in the 2024/2025 year
- 100% in the 2025/2026 year

Depreciation for commercial building is likely to be scraped from the 2024/25 year as well as the proposed GST on digital platforms like Airbnb and Uber.

Tax rate for trusts to go to 39%

Tax distortions are increasing.

A short while ago the top tax rate for both an individual and a family trust was 33 percent. When this was increased to 39 percent for the individual, there was an obvious incentive to retain as much income in a trust as possible.

This led to the former government proposing an increase to 39 percent tax on trusts, effective from 1 April 2024. At this stage the new government has made no comment regarding the previous government's proposed 39% flat tax rate for trusts. The Bill covering this lapsed when Parliament recessed for the election.

If we assume the new government follows through with this and your taxable income is less than $180,000 (the threshold for the increase to 39 percent tax) it would pay to distribute as much of the trust income to you or any other beneficiary whose income is below $180,000. You would be paying tax at 33 percent whereas the trust would be paying tax at 39 percent. Remember, if you allocate income to a beneficiary to save some tax, you must also pay that beneficiary the money, at some stage.

There is just one problem. One of the prime reasons for setting up a family trust is to protect family assets so they can't be sold up by creditors, if you're ever sued. So, if the trustees of your trust distribute income every year to you and you don't spend it, those savings would not be protected from someone suing you. Whereas the assets remaining in your family trust do not belong to you and would not be available to pay your debts.

As you can imagine, the income distributed from your family trust to save tax could accumulate to quite a large sum. If you give it back to the trust, ie its gone in a circle, Inland Revenue could say you only distributed it to avoid tax. It's very difficult to predict when IRD will use the avoidance provisions they have at their disposal– please take our word for it being a risk.

Companies pay tax at the rate of 28 percent. Therefore, if you accumulated your savings within a company, you would pay a lot less tax than you would by doing so through a trust. You wouldn't have the protection a trust offers, but that that might not necessarily matter to you.

The only time you would pay more than 28 percent is when you wanted to use some of the money. You would need to declare a dividend, which would then become part of your income.

When you retire and your income falls, you might find the distributions from a company ultimately get taxed at a lower rate than 28 percent and you actually get some tax back, depending on your other income.

It's unlikely the government would consider putting up the company tax rate because New Zealand companies would not be competitive with those overseas.

Brief

Donations – rebate not permitted

Sometimes a charity will organise tickets for a show to raise funds. Your payments for the tickets are not donations for tax purposes. The reason for this is you can get a donation rebate only if your payment doesn't provide you with any significant benefit.

Claims for renting to flatmates

A tax deduction can be claimed for the share of the area of your home used by flatmates.

The income you derive is, of course, taxable. There are two components of the area used by flatmates:

- the area exclusively occupied by them
- common areas available to both you and the flatmates.

Inland Revenue considers you should treat the common area as 50 percent rented and 50 percent for your own use. It doesn't matter how many flatmates you have. The IRD does not give any rational for this method of apportionment. It is arguable, based on case law, that the common area should be apportioned based on the number of occupants eg if it's you with 3 flatmates that would mean 75% of the common areas would be claimable. This basis gives a better reflection of how the expenses relate to you and the flatmates however be aware IRD will want to cling to their view so taking a different position could mean a dispute.

If you have interest to claim and a loss, you can only claim the interest and the loss against other income, such as salaries or wages, provided the home is considered your "main home" ie predominately used by you. This is a different calculation. IRD have stated you can treat the common area as 100 percent available to you. For example: You have two flatmates. You have 25 percent of the area of the house exclusively for yourself and they have a total of 40 percent exclusively for them. This leaves 35 percent common area. For the purposes of being able to claim a loss you occupy 60 percent (your 25% +35%) of the home and therefore can make the claim.

TAX CALENDAR

November 28 2023

First instalment of 2024 provisional tax for those with June balance dates.

January 15 2024

Second instalment of 2024 provisional tax (March balance date except for those who pay provisional tax twice a year)

Pay GST for period ended 30 November 2023

April 7 2024

Terminal tax for 2023 (March, April, May and June balance dates).

For all clients except those who have lost their extension of time privilege.

Wishing you and your family a pleasant and restful holiday period with the happiest of Christmases

Jeanette