

Tax Round Up – January 2012

Tax Administration

- Due dates in January

Income Tax

- Christmas Functions and Gifts – Tax Deductibility
- Correction of GST Errors
- Working for Families – New Tax Credit Rates
- Credit Card Surcharge Fees – GST?
- Standard-Cost Household Service for Childcare Providers – Proposed Changes/Clarifications

Tax Pooling

- Amendments to the Tax Pooling Rules

Tax Administration

Due dates in December

9 January

- Annual income tax returns for taxpayers with September 2011 balance dates
- Dividend withholding payment returns for taxpayers with a September 2011 balance date.

16 January

- PAYE returns for 16th – 31 December (bi-monthly filers)
- 2nd Instalment of provisional tax for taxpayers with a March 2012 balance date
- GST return and payment are due for the period ended 30 November 2011
- 1st Instalment of provisional tax for taxpayers with a July 2012 balance date
- 3rd Instalment of provisional tax for taxpayers with a November 2011 balance date
- 1st Instalment of provisional tax for taxpayers with a May 2012 balance date – 6 monthly filers
- 2nd Instalment of provisional tax for taxpayers with a November 2011 balance date – 6 monthly filers
- Provisional tax for taxpayers using the GST ratio method with a November, January, March, May, July and September balance date
- Terminal tax for taxpayers without a tax agent with a February 2011 balance date
- Terminal tax for taxpayers with a tax agent with a December 2010 balance date

20 January

Last day for lodgement and payment of:

- PAYE returns for December (monthly filers)
- PAYE returns for 1st – 15th January (bi-monthly filers)
- RWT on dividends and royalties paid in December for monthly payers
- NRWT and/or AIL deducted in December
- AIL for interest payments made in December
- Quarterly FBT return for the quarter ending 31 December 2011

30 January

- 1st Instalment of provisional tax for taxpayers with an August 2012 balance date
- 2nd Instalment of provisional tax for taxpayers with a April 2012 balance date
- 3rd Instalment of provisional tax for taxpayers with a December 2011 balance date
- 1st Instalment of provisional tax for taxpayers with a June 2012 balance date – 6 monthly filers
- 2nd Instalment of provisional tax for taxpayers with a December 2011 balance date – 6 monthly filers
- Provisional tax for taxpayers using the GST ratio method with a December, February, April, June, August and October balance date
- GST return and payment for the period ended 31st December 2011

Income Tax

Christmas Functions and Gifts – Tax Deductibility

Functions where food, drinks and entertainment are provided are likely to be subject to the entertainment expenditure rules. Under these rules only 50% of the expenditure can be claimed for income tax purposes. Note that the entertainment rules include incidental costs such as venue hire, music or entertainment and waiting staff. These are all 50% deductible. Incidental food provided on the business premises i.e. a staff morning tea is however, fully deductible.

Generally, you can claim 100% of the costs of gifts for income tax purposes. Please note however, that gifts to staff could be subject to fringe benefit tax (FBT). There is an exemption where the total value of all benefits over a three-month period does not exceed \$300 per employee and that the total value of all benefits provided over a twelve month period (including any related-entities) does not exceed \$22,500. If the taxpayer does not meet the above criteria for exemption, they are subject to FBT on the full value of all benefits.

For more information please refer to the Business Update December 2011 Issue 26, pg. 2 Christmas functions and gifts – tax deductibility <http://www.ird.govt.nz/aboutir/newsletters/business-tax-update/>

IR 268 Entertainment Expenses <http://www.ird.govt.nz/taxagents/forms-guides/number/forms-200-299/ir268-guide-entertainment-expenses.html>

IR 409 Fringe Benefit Tax Guide <http://www.ird.govt.nz/taxagents/forms-guides/number/forms-400-499/ir409-guide-fbt.html>

Correction of GST Errors

The Inland Revenue Department has recently published the rules in relation to correcting GST errors in a future GST return. They have also discussed the differences between section 113A of the Tax Administration Act 1994 and section 20(3) of the Goods and Services Tax Act 1985. Note that these two sections both allow corrections with regard to GST errors.

Section 20(3) of Goods and Services Tax Act 1985 allows a GST input tax deduction that was previously omitted, to be made in a later return period without having to issue a Notice of Proposed Adjustment (to the Commissioner). Under this section there is a two year time frame to which the correction must be made (from earlier of payment or invoice date). Note that this time frame does not apply where any of the criteria in section 20(3)(b) apply. In these circumstances the taxpayer will have an unlimited time to claim the input tax deductions in a later taxable period.

In comparison, section 113A of the Tax Administration Act 1994 gives the Commissioner the discretion to amend an assessment where the error is minor - \$500 or less and arises from a clear mistake, simple oversight or mistaken understanding.

Although the Commissioner is not prevented from exercising discretion under section 113A of the Tax Administration Act 1994, common practice is generally not to amend an assessment under section 113A if it can be amended under section 20(3). Therefore, if an amount has not previously been claimed, it should be claimed in a future GST return. Examples of circumstances where the Commission will consider amending the GST under section 113 (where section 20(3) would otherwise apply) include:

- Where the input tax error resulted from incorrect advice given by Inland Revenue.
- The Commissioner is already investigating the earlier period to which the error relates.

Note that requests to the Commissioner to consider amendments under section 113 need to be made in writing with supporting documents.

Please refer to the following documents for more information;

Agents Answers – Issue 142, December 2011 How to correct a GST mistake in a future return pg.3 <http://www.ird.govt.nz/aboutir/newsletters/agents-answers/>

Questions we've been asked 09/04 The relationship between section 113 of the TAA and the proviso to section 20(3) of the GST Act <http://www.ird.govt.nz/technical-tax/questions/questions-gst/qwba-0904-relationship-between.html>



Working for Families – New Tax Credit Rates

Please refer to the table below for details to the changes to the Working for Families tax credits:

Qualifying Child	Current Amount	New Amount
First child if under 16 years	\$4,578	\$4,822
First child if 16 years or older	\$5,303	\$5,303
Second child if under 13 years	\$3,182	\$3,351
Second child if 13 to 15 years	\$3,629	\$3,822
Second child if 16 years or over	\$4,745	\$4,745

The minimum family tax credit threshold will increase from \$22,204 to \$22,568 per annum from 1 April 2012.

The increases apply for the 2012/13 and later tax years.

Credit Card Surcharge Fees – GST?

The Inland Revenue Department were recently asked to consider the correct GST treatment of charges made by retailers to customers as a reimbursement of the fee they are charged by the credit card company. Note that in 2009 the Commerce Commission and the credit card companies reached an agreement allowing retailers to on-charge this fee. The IRD have now stated that they consider the surcharge to be part of the underlying supply and therefore, GST needs to be charged.

Standard-Cost Household Service for Childcare Providers – Proposed Changes/Clarifications

Inland Revenue has released a consultation document which proposes changes and clarifications to determination 09/02 standard-cost household service for childcare providers (educators). Note that determination 09/02 sets out the components of expenditure (standard costs) that are typically incurred by educators who provide childcare services in their own domestic accommodation.

Following feedback on this determination, proposed changes are intended to provide clarification on accepted practice and reflect the recent change to zero per cent depreciation on buildings. Note that this has a flow on impact on the fixed standard-costs of domestic dwellings (where owned).

The key proposed changes include:

- The determination includes before and after school care for school aged children.
- Extend the application of the determination to include income received by childcare service providers when providing activities included in the standards for out of school care and recreation.
- To treat as income, retainer payments made to educators to preserve a child's placement in a childcare programme for absent children, or paid when an educator (or a family member) is sick. Retainer payments to an educator while they are on vacation are also income related to an educator's home-based childcare activity.
- Additional costs (as incurred) which have not been taken into account in the standard costs (in the determination) will be allowed as an additional standard-cost of providing their home-based childcare service.
- The apportionment of annualised fixed standard-cost for domestic dwelling and administration costs are calculated on a 52 week basis consistent with the number of weeks in an income year (from 48 weeks).
- Where a home-based childcare activity is run for a full year (ignoring vacation breaks and absences due to sickness), the taxpayer is able to claim the full annualised fixed standard-cost amount.
- Home-based childcare that is commenced or dissolved part-way through an income year requires an apportionment of the fixed standard costs.
- Reduction in the notional cost component of the fixed standard domestic dwelling cost from five percent to four percent. Note that this recognises the reduction in the building depreciation rate.

Please refer to the following link on the IRD's website for further information;

Consultation – Proposed changes/clarifications to Determination DET 09/02: Standard-Cost Household Service for Childcare Providers ("Educators") <http://www.ird.govt.nz/public-consultation/>



Tax Pooling

Amendments to the Tax Pooling Rules

The Taxation (Tax Administration and Remedial Matters) Act 2011 contains a number of important amendments to the tax pooling rules. The key objective was to make the legislation simpler, fairer and allow for consistent application between tax types.

The main change in this regard, allows taxpayers to apply tax pooling purchases to future provisional or terminal tax payments. This would commonly occur where a taxpayer elects to purchase extra tax during the year to top up an anticipated provisional tax shortfall. As no actual liability exists at this point in time and the tax return is not filed (or due), Inland Revenue would not apply the tax pooling purchase. Inland Revenue's main concern in doing this was that taxpayers would purchase tax in excess of their provisional or terminal tax obligations and use that excess for liabilities not intended to be covered by tax pooling such as GST arrears.

A new section RP19B allows the taxpayer to purchase tax for expected provisional tax liabilities – a return does not need to be filed before a transfer can be completed. Note however, there are some restrictions:

- Returns for prior years need to have been filed.
- The backdated effective date of the tax pooling transfer is limited to the tax year in which the funds are used.
- If there is an excess tax pooling purchase amount, this amount can only be refunded, rolled to a future tax year or transferred to another tax obligation with no back-dated effect.

Other changes include:

- Extending time limited to satisfy provisional or terminal tax obligations from 60 to 75 days.
- Removal of the time limit for taxpayers making transfers of tax from deposits that they have made on their own account.
- Allowing members in a group of companies to use tax pooling deposits made or purchased by any member of the same group, in certain circumstances.
- Extending the use of pooling funds to voluntary disclosures for certain non-income tax revenues where there has been no previous assessment.
- Granting the Commissioner discretion to allow taxpayers to use tax pooling in certain cases of income tax or RWT voluntary disclosure where no return has previously been filed.
- Removing the ability to use tax pooling funds to eliminate imputation account debit closing balances.
- Clarifying the effective date of tax pooling funds received when deduction notices are applied.

These changes apply from 29 August 2011.

Please refer to the following document on IRD's website for further information and examples of the changes: <http://www.ird.govt.nz/technical-tax/legislation/2011/2011-63/2011-63-provisional-tax-pooling/>