

AGENTS ANSWERS

Inland Revenue's tax agents' update



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REMINDERS

7 September: 40% of your clients' returns are due to be filed unless you've negotiated personal filing dates.

30 September: End of FBT second quarter for clients - payment due 20 October.

If you have any suggestions for topics you'd like covered in this newsletter, email agents.answers@ird.govt.nz

Employee Share Scheme changes

Changes made to modernise taxation of Employee Share Schemes (ESS) come into effect on 29 September 2018. These changes ensure that the tax treatment is in line with other forms of employment income.

When an ESS benefit is taxable to an individual will be based on the **share scheme taxing date** which is the earlier of the date when:

- the benefits are either transferred to a non-associated person or cancelled, or
- the employee share scheme beneficiary owns the shares as any other shareholder would without the terms of employment affecting the status of the ownership or value of the shares.

Example 1

Acme Limited (Acme) transfers shares worth \$10,000 to a trust to hold for their employee, Alice. Alice only receives the shares from the trust if she stays employed by Acme for at least 3 years. She receives no benefit from, or ownership of, the shares if she leaves before then. As there is a risk that Alice will leave Acme's employment within 3 years, the share scheme taxing date is the date she has been there for 3 years.

Example 2

Acme Limited transfers shares worth \$10,000 to a trust to hold for their employee, Bob. Bob receives the shares 3 years after they are transferred to the trust as long as he is not dismissed for serious misconduct in this time. Bob will still be entitled to the shares if he ceases employment within 3 years as long as the employment is not ceased due to serious misconduct, so the share scheme taxing date is the date the shares are transferred to the trust as there is little risk that Bob will lose his entitlement to the shares.

Instalment arrangement proposals

Before calling to ask us to consider an instalment arrangement proposal for your clients, some questions to ask them are:

- Why has the debt not been paid in full by the due date?
- Can they pay the total debt in full today? If not, can they pay in full at a future date?
- Can they pay some of it now?
- Do they understand how the debt came about and how to avoid it happening in the future?

If their business is suffering from cash flow difficulties, they must find the money elsewhere to fund the business, they cannot use PAYE or GST for this.

- What measures have been put in place to ensure ongoing tax obligations are met?
- Can they borrow the money elsewhere to pay the debt in full and/or raise a lump sum towards the debt, eg an overdraft, a financial loan or personal/business loan?

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Once you have determined that the customer cannot raise the money to pay the debt, then you can:

- ask what is the maximum amount that they can afford to pay on a regular basis towards the overdue debt, while keeping current tax obligations up to date? They must be aware future tax assessments will not be included under this arrangement.
- confirm that these payments will not place the customer into financial hardship.

Allocating withholding tax credits to shareholders in tax returns

For the 2018 and later tax years, companies that receive schedular payments will in some circumstances be able to transfer the tax deducted from these payments directly to the company's shareholder-employee(s).

When you are completing IR4s and IR3s for your clients and allocating withholding tax credits to shareholder-employees, please go to our website to find some information on how to do this correctly:

www.ird.govt.nz/contractors/about/claiming-company-tax-deductions.html

Effective date of GST registrations

We have recently published a standard practice statement *SPS 18/03: Effective date of GST registrations*. The statement sets out the effective date the Commissioner will register a person for GST. It covers the general rules under the legislation and how the Commissioner will apply discretion where the legislation provides for an alternative date to be used.

You can read the SPS on our website at:

www.ird.govt.nz/technical-tax/standard-practice/general/sps-1803-effective-date-of-gst-registrations.html

Change of address for Significant Enterprises (previously Large Enterprises)

Please now post all mail to Significant Enterprises, P O Box 39010, Wellington Mail Centre, Lower Hutt 5045.

The phone number for general enquiries remains the same - 0800 443 773 between 8am & 4.30pm Monday to Friday.

You can also send us secure mail or send urgent correspondence to **Payroll.Bureau@ird.govt.nz**

Law changes for cross border structuring and transactions

The recently enacted Taxation (Neutralising Base Erosion and Profit Shifting) Act 2018 includes law changes:

- for cross border structuring and transactions, and
- 2 new elections for hybrid entities and hybrid instruments, one to avoid possible double taxation and the other to simplify compliance.

If you are making an election, please send it to **Hybridelections@IRD.Govt.NZ**

These recent law changes will affect some of your clients. The Government expects the changes will result in companies paying an extra \$200 million in tax. Most provisions come into effect for income years beginning on or after 1 July 2018.

Draft guidance is available on our Tax Policy's website **taxpolicy.ird.govt.nz/**

