



Credit Crunch - IRD as a Lender

We are all aware that it is becoming increasingly difficult to obtain finance/funds in the current economic climate. Accordingly, desperate businesses may begin to turn to the Inland Revenue Department ("IRD") for credit by deliberately short paying tax.

Given the high interest rate and the potential for shortfall and late payment penalties to be imposed, using the IRD for credit will be a last resort for businesses. That being said, in the coming months many businesses will have exhausted all other avenues.

As a sign of the times, reducing the UOMI rate on underpayments to the same rate used for overpayments (6.66%) is one of the measures in Labour's economic rescue package. If this was to occur post-election, by either party, this would be an extremely significant change as the deliberately high current rate of 14.24% is largely there to discourage taxpayers from using the IRD as a bank. Under Labour's proposal, the reduction in rates would apply from 15 January 2009 to May 2010.

A danger of taxpayers using the IRD for credit that they cannot otherwise obtain is that only GST and PAYE are preferential creditors in the case of insolvency or liquidation. Therefore, there is a significant risk to the NZ economy/treasury in having businesses that are in trouble becoming heavily indebted to the IRD as the IRD will in

most cases be an unsecured creditor. To ensure that the proposed reduction of UOMI would not create an incentive for taxpayers to "borrow" from the IRD, there would be a power for the Commissioner to impose the full-rate of UOMI where the IRD was satisfied that there had been a deliberate under-payment.

How it affects you

We, like the rest of New Zealand, have long held the belief that the current 14.24% rate is far too high and in the case of disputes, it often leads to a taxpayer being penalised by the IRD's delays. With any luck, the measures being taken by governments around the world will ease the credit crisis sooner rather than later. If not, businesses will know that the IRD is a sure bet for obtaining credit for those willing to pay the cost.

If adopted after the election, the proposed reduction of UOMI would be a welcome change for taxpayers as the current rates charged by the IRD are bordering on criminal especially when combined with the frustrating delays that are met when matters end up in a dispute.

Reducing Your FBT Cost on the Provision of Motor Vehicles

In these tight economic times, businesses are constantly trying to reduce costs. One such cost is the provision of fringe benefits to employees which arose when economic times were better. There are a number of mechanisms in the fringe benefit tax legislation which allow employers to reduce the taxable value of the benefits provided and therefore the cost incurred.

The provision of motor vehicles is the biggest value of benefit where savings can be made. As you may know, the taxable value of a motor vehicle is based upon the GST inclusive value of the vehicle, the method chosen (cost or tax book value), the number of days it is available for private use, less any contributions made by the employee.

All of these components to the FBT calculation provide opportunities to reduce the FBT payable on motor vehicles.

The value of the vehicle depends on the purchase price paid by the employer. Where vehicles are leased under an operating lease, the "purchase price" is the cost to the leasing company. This value is likely to be significantly below the list price at a car yard.

The type of FBT method chosen is largely a moot point when a benefit is first provided, but if you have been using the cost method for five years in relation to a vehicle, changing to the tax book value method is possible and significant savings can be made.

Reducing the availability for private use can reduce the FBT taxable value also. Limiting availability can often be difficult, with the exception of work related vehicles, as home to work travel is generally of a private nature. Where

savings can be made is where an employee is out of town on business and the vehicle is not available for private use. We would suggest putting in place appropriate documentation to substantiate any position taken.

Finally, an often overlooked saving is where an employee incurs expenditure with respect to the vehicle which is not reimbursed by the employer. For example the employee goes on holiday and pays for all petrol themselves, and the employer continues to pay FBT on the vehicle during that time. FBT recognises the benefit received by the employee of not only the vehicle, but all costs in relation to the vehicle. Accordingly, where the employee incurs the cost themselves this can reduce the taxable value of the benefit and the FBT cost to the employer.

How it affects you

If you are paying FBT on motor vehicles we recommend reviewing your FBT calculations and processes to ensure that you are only paying as much FBT as you need to. All of the savings highlighted above will require sufficient documentary evidence to justify any position taken. This is particularly important if private use is being limited or prohibited at certain times.

Points of Interest ...

- The IRD is to trial not allowing tax agents who use E-File to call or use INFOexpress to request paper returns except in special circumstances, from the 1 December 2008. It is a way of doing a little "something" for the planet.
- The Government has released its submission to the review of Australia's Future Tax System, with a focus on the mutual recognition of Australian franking credits and New Zealand's imputation credits. This submission was made in July at the request of the Australian Government.
- E-Services is a useful and timesaving innovation from IRD but remember to cancel staff access when they leave your employment.

To The Point ...

"A black cat crossing your path signifies that the animal is going somewhere".

Groucho Marx



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