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REPORT - DECEMBER 2019

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FBT - FINICKY, BOTHERSOME & TIRESOME

Fringe Benefit Tax (FBT) on privately used vehicles is neither new nor rare. However, errors in FBT calculations are common due to the murky and complicated nature of the rules and principles that apply.

Generally, FBT is payable when a business-owned vehicle is available for private use by an employee. The availability component of this definition is often misinterpreted; as FBT is payable when a vehicle is simply available to the employee, whether or not the vehicle is actually used privately.

By definition, if a vehicle is used for home to work travel, this counts as private use. However, that same travel from home to work is ignored if the vehicle qualifies as a "work-related vehicle".

This leads to our next common error - the application of the work-related vehicle definition. To qualify, the vehicle can't be designed principally to carry passengers, the name of the employer's business needs to be identified permanently and obviously on the vehicle's exterior, and finally, it needs to be a condition of employment that the employee stores the vehicle at home.

A common error is to treat a sign written sedan as a work-related vehicle – in factory form, sedans will not qualify for the exemption as they are principally designed to carry passengers.

When it comes to calculating the amount of FBT payable, the formula seems simple enough: multiply the proportion of days that the vehicle was available for private use during the quarter by the relevant vehicle value and a specific percentage. However, each of these elements can be misunderstood.

There are two methods available to determine a vehicle's value - either the cost price method, or the tax book value (TBV) method. The TBV method is the original cost price less its total accumulated depreciation at the start of the FBT period. A minimum value of $8,333 applies when using the TBV method.

Once a method has been chosen for a particular vehicle, the same method must be used for five years. Typically, the lowest value is achieved by using the cost price method from acquisition, with a change to the TBV method after five years. Cue our next common error: when changing to the TBV method, the $8,333 minimum amount is not an automatic option; it can only be used if the vehicle's TBV is less than $8,333. As a general rule, FBT is calculated based on GST inclusive vehicle values. GST exclusive values can be used, but the percentage needs to be adjusted accordingly.

FBT can be frustrating because it takes considerable time to calculate for what can seem like a small amount of tax. But it is worthwhile reviewing both the availability on which FBT is being calculated and the calculation itself. There may be savings to be had or errors to be identified, both of which can add up over time.

De minimus threshold: for 'unclassified benefits' provided to employees, such as gift vouchers, flowers and chocolates. FBT is not payable when the value of such benefits in a quarter is below $300 per employee, and the total value of unclassified benefits provided to all employees does not exceed $22,500 in the past year. For example, if 10 employees are each given $200 vouchers at Christmas, no FBT would be due providing no other benefits in the quarter were provided and the $22,500 annual threshold is met.

RESIDENTIAL BRIGHT –LINE

The Income Tax Act 2007 has long contained provisions to tax the sale of property (or other assets) acquired with the intention of disposal. However, 'intention' is a subjective concept and has been difficult for Inland Revenue to police. Hence, the bright-line test, (section CB 6A) was introduced as a means to tax profits made on property purchased and sold within a short space of time. It has been in effect for a few years and it is now worth revisiting how it works.

The bright-line test applies to land for which a person first acquired an interest in, on or after 1 October 2015. Typically, a person acquires an interest in land when a Sale and Purchase Agreement (S&P) is executed. This is important because if this occurred before 1 October 2015, the bright-line test does not apply. When the bright-line test was first introduced it applied if the period between the change of title to the purchaser and the date they subsequently entered into a S&P to sell, was less than 2 years. If the change in title was not registered, it is measured from the date the person first acquires an interest in the land (e.g. the date of the S&P).

When the current coalition government took office, the 2 year period was extended to 5 years. The extended 5 year period applies if the owner first acquired an interest in the land on or after 29 March 2018. Again, this is important because the shorter period of 2 years applies if a person acquired their interest in their land between 1 October 2015 and 28 March 2018.

The provision captures a broad array of residential land, including land with a consent to erect a dwelling, and bare land zoned for residential purposes. However, the provision does not apply to the 'main home', farmland, and property used predominantly as business premises. Properties acquired by way of inheritance are exempt, while roll-over relief applies to transfers under a relationship property settlement.

In most cases, people will apply the 'main home' exemption. To do so the person must have lived in it for most of the period of ownership. If the house is in a trust, the main home exemption is basically only available if a beneficiary and the trust's principal settlor lived in it. The main home exclusion can only be used twice in the two-year period prior to a disposal and cannot be used if a person has a regular pattern of buying and selling residential land.

Because the section has been drafted narrowly, it can apply unfairly. For example, if an investment property owned by an individual for 20 years is transferred to their family trust on 30 March 2018. For bright-line purposes, 30 March 2018 becomes the acquisition date to the trust and a sale within 5 years will be taxable, even though 'the family' has owned it for over 20 years.

The bright-line provisions are straightforward at first glance, but the devil is in the detail and deciphering the exemptions and timing requirements can be complex.

NEW PROVISIONAL TAXPAYERS BEWARE

Changes to the provisional tax regime, effective from the 2018 tax year, have generally been well received by taxpayers.

Prior to the change, Inland Revenue charged interest from each provisional tax date if a taxpayer's actual liability exceeded their 'uplifted' amount from prior year(s). This effectively meant taxpayers were required to predict their full year results as early as five months into the year. Now, providing payments are made under the standard uplift method, no interest is payable - providing any excess tax is paid by the third provisional tax date where tax payable is over $60k, or by terminal tax date where Residual Income Tax (RIT) payable is less than $60k.

However, there is a caveat for "new provisional taxpayers". IRD have released "Questions we've been asked" 19/04 for taxpayers in their first year of business. If the first year's tax liability exceeds $60,000, then the 'Use of Money Interest' (UOMI) concession is not available, and will apply from the first provisional tax date, as per the old rules.

For example, where a large business is restructuring and diverges part of its business into a new company, the new company cannot rely on having a nil standard uplift liability, so if RIT exceeds $60,000 interest will be charged on any tax shortfall from each provisional tax date. New taxpayers should pay heed to this rule to avoid unexpected interest charges in their first year.

NEW POSTAL ADDRESS

Due to closure of the Wellesley Street Post Office that has served us for the last 32 years, we have to move our post box to leafy Epsom from **1 January 2020**. Everything else remains unchanged. The new box number is:

Marsden Robinson Chow Limited
P O Box 29008
Epsom
AUCKLAND 1023

Any inconvenience is regretted.

CORPORATE GOVERNANCE FOR SMALL COMPANIES

Good corporate governance is often viewed as important for large companies with an established board of directors. However, the principles that underpin good corporate governance can benefit any organisation, irrespective of size.

Why is it then that the term governance often raises alarm bells with small business owners? Perhaps it's the fear of losing control over their business, or the assumption that they must report to someone else. When in fact, good corporate governance should lead to business owners feeling more empowered, more supported and more equipped to make good quality decisions.

In a nutshell, governance is all about thinking strategically and taking a 'big picture view' as opposed to focusing on day-to-day operations. In the context of small businesses, owner-operators are often bogged down with the day-to-day running requirements of the business, leaving little time to devote to long-term strategy and sustainability. One of the key benefits of governance structures is the ability for small business owners to take time to work "on" the business as opposed to work "in" it. This subtle switching of 'hats' is one of the first steps toward building a governance structure.

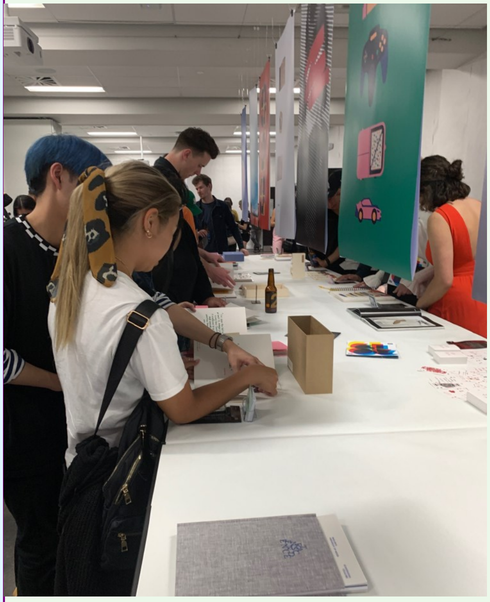
However, there is no 'one-size-fits-all' approach to governance; it will look different for each and every business. The approach will depend on the size and stage of the business, the operating environment, the risk profile and the key stakeholders. It is therefore crucial that all businesses take time to think about their governance practises. Broadly, governance structures typically fall into one of three categories: no formalised governance structure; an advisory board; or a full board. The idea of a full board may be overwhelming for SMEs or not appropriate given the size and scale of the business, but they may still benefit hugely from establishing an advisory board.

At one point or another, SME owners will inevitably need expert advice, that's where an advisory board comes in. An advisory board is an informal group of business professionals who help advise owners on a number of business issues. Generally, an advisory board should have a legal advisor, an accountant, a marketing expert, a human resources expert, and a financial advisor.

The ability to draw on these different areas of expertise offers SMEs the benefit of a variety of different perspectives, knowledge, experience and most importantly support. Opting for an advisory board also ensures overall decision making authority remains with the owner, removing any apprehension owners may have about loss of control.

As entities progress through the business life-cycle, they may eventually find that their advisory board grows into a full board. There is an abundance of resources available that outline the composition and responsibilities of boards, including guidance issued by the Financial Markets Authority (FMA) which includes eight key principles that underpin best practice. The topics include areas such as ethical standards, board composition and performance, risk management, and reporting and disclosure. Whilst it is unlikely that all of the principles will be relevant for small businesses, they provide sound guidance on the fundamental areas and help simplify the underlying objectives of governance.

GENERATION Z - OUR FUTURE WORK FORCE



The rise of Generation Z ('Gen Z') is imminent in today's workforce. Comprised of those born between mid-1990s and early-2000s, Gen Z has grown up in a world with technology at their fingertips. Common traits include: confidence, desire to succeed, thriving on recognition, being adaptable and tech-savvy. However, their most valuable aspect is they represent an organisation's future.

Fast forward 10 years from now – baby boomers will be retired and employers will have no choice but to recruit an increasing number of Gen Z employees. As Gen Z members are currently young, they are perhaps not a priority when it comes to recruitment planning. However, it is crucial employers learn to understand this generation and how to attract, recruit and retain them.

If Gen Z members are not being challenged, recognised or rewarded for their efforts, they will have no hesitation to search for opportunity elsewhere. Today, it is increasingly common for employees to change jobs after spending only months with their employer. It is clear that the fierce, unparalleled loyalty that was once displayed by previous generations will not be as prevalent in the future. Being adaptable and tech savvy also means Gen Z will demand remote working and flexible working – such "perks" will become expected, rather than incentives.

To attract Gen Z into their organisations, employers should be aware that the approach to job searching is significantly different to the traditional methods. Often,

GEN Z - Cont'd

[from previous page] Gen Z begin their job search on the organisation's website – looking for the organisation's culture to impress them. They then head to social media to learn more. Hence, organisations need to get creative with different social platforms and use them to reach out to potential candidates.

Organisations should also assess whether existing recruitment processes remain appropriate. For example, it is currently commonplace for psychometric testing, essay writing, and even written case studies to be requested before interview stage. An absence of face-to-face communication can make Gen Z candidates feel like just a number. Understandably, this lack of human interaction does not initiate feelings of loyalty. Extensive recruitment processes can also dissuade Gen Z workers from applying at all, meaning employers are missing out on potential candidates. To combat this, organisations should prioritise the key aspects of the recruitment process, and eliminate any unnecessary stages.

Ultimately, whether an organisation can tailor their recruitment plan for Gen Z will depend on its individual circumstances. Nonetheless, it is important for employers to understand this generation and how to best attract, recruit and retain them.

TIMES THEY ARE A-CHANGIN'

Developments in electronic payment methods and improved ease of online payments from your smartphone or tablet, means processing cheque payments has become a rather laborious task.

However old habits die hard, and a significant amount of people continue to use cheques – Inland Revenue (IRD) alone received more than 430,000 cheques in the year ended June 2019. Although this is a large number, it represents just 5% of all payments to IRD for the same period, and over time reflects a 20% year on year decrease in the proportion of cheque payments.

IRD and ACC have announced that from March 2020 they will no longer accept payment by cheque; other than for customers that are unable to use alternative payment options.

Besides internet banking, both IRD and ACC accept payment by debit/credit card over the phone, via direct debits, and cash or eftpos payments at Westpac Bank branches. In addition, IRD payments can be made through MyIR, and for ACC through your MyACC for Business accounts. Doing away with cheques will impact a range of taxpayers/businesses; however, it is a reflection of the digital world we live in today and a definitive move away from the paper based era of payments.

GOODBYE 2019, XMAS PARTIES

Where has the year gone, right?

In July, we welcomed the clients of Chen & Associates, all of whom have transitioned smoothly into MRC. We would like to take this opportunity in thanking you, the MRC family of clients, for your instructions this year. We have a Team that is super passionate about helping you and on their behalf, we would like to wish you and your family a fabulous festive season ; we look forward to working with you again next year.

A timely reminder from MBIE via their website *business.govt.nz* relating to host responsibility this festive season:

- **Limit the supply of alcohol:** Provide only a certain number of drinks per person. Ideally, have someone serve alcohol rather than allow self-service.
- **Provide alternatives to alcohol:** Have plenty of low and non-alcoholic options and drinking water.
- **Say "Yeah, Nah":** It's totally OK to say "Nah" to another beer, and "Yeah" to a glass of water instead.
- **Eat up:** Encourage people to eat and make sure it's easy for them to access food.
- **Mingle, talk, play, dance:** Put on some games and activities, play music for people to dance to, so they have more to do than just drink.
- **Model behaviour:** Make sure everyone knows a certain standard of behaviour is expected. Make sure you, as the host, lead by example.
- **Be SunSmart:** If your function is outside, encourage people to bring a hat and glasses. Make sure you provide sunscreen that is water-resistant, broad spectrum, at least 30SPF. Have spare hats for those who forget their own.
- **Look after young people:** Remind everyone to keep an eye out for each other, both to discourage too much drinking and to help young people, or anyone, who may have had too much alcohol.

Get home safe: If you're offering alcohol, it's your responsibility to make sure everyone can get home safely. Have a transport plan and even provide some taxis.

We wish you a very Merry Christmas and a Prosperous, Healthy and Happy New Year. Happy Holidays!

IMPORTANT TAX DATES

2nd Day after Payment of wages - Payday Filing to IRD

20 November - PAYE , RWT, NRWT Returns are due

28 November - GST due for period-end October

5 December - PAYE due for large employers

20 December - PAYE , RWT, NRWT Returns are due

5 January - PAYE due for large employers

15 January - GST due for period-end November

15 January - Provisional Tax due

20 January - PAYE , RWT, NRWT, FBT Returns are due