KNOW HOW

AUGUST 2015 ISSUE

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Welcome to the August edition of BDO Know How where we share business updates and news. If you would like more information on the issues discussed, or would like to share your views, please get in touch. We'd love to hear from you.

Yours sincerely,

Adam

ADAM DAVY
Head of Advisory BDO New Zealand

adam.davy@bdo.co.nz

Get social with us

www.bdo.co.nz
editor@bdo.co.nz

GST FOR ONLINE PURCHASES

On Tuesday the Government released a white paper on the collection of GST for online purchases.

Oddly, it will not be you, the NZ purchaser, who has to return the GST on your overseas purchases. Under the proposals, it will be the overseas suppliers who will need to register for NZ GST, and return GST when they sell services (that includes e-books, music and videos) to kiwi consumers.

Sound confusing?

Colloquially called the Netflix tax, GST is being imposed on services and intangibles as it is an easier option right now according to Revenue Minister Toddy McLay. Imported goods is a logistics issue because of the number of goods being imported. However, whilst the Minister says no country has yet been able to introduce a comprehensive tax on imported goods, he would like to hear from anyone who thinks they might have a solution. Any takers?

Draft legislation is expected before Christmas but any new law will not come in to effect until next year (so your Christmas shopping is safe this year).

We are not alone here in NZ, as similar taxes have been introduced by South Africa, Norway, South Korea and Switzerland. Plans are afoot for Australia and Japan to follow suit.

The introduction of GST on imported services is "about creating a level playing field for collecting GST and putting New Zealand businesses and jobs ahead of the interests of overseas retailers, but it must be done with the least possible inconvenience to New Zealand consumers", we are told.

The white paper clearly focuses on services, however the Government is concerned about low-value imported goods which fall below the Customs de minimis, levels. With the growing volume of imported goods, there is concern for NZ businesses who are, by implication, not as competitive as their overseas counterparts because of the GST component.

The Government is seeking feed-back and comment on the 'Netflix' proposals by 25th September, so remember to have your say.

BACKING PARALYMPIAN FIONA SOUTHERN ON HER MEDAL QUEST FOR RIO 2016

BDO is proud to support Fiona Southern, London 2012 Paralympics bronze medallist. Fiona has been a strong ambassador to BDO and has ridden for BDO in the 4 day BDO Tour of Northland and 7 day BDO Wellington to Auckland Cycle Challenge.
Fiona has now qualified for the Duathlon World Championships in Adelaide in October and is in a strong position to qualify for the Paralympics in Rio de Janeiro in 2016. Please join BDO in backing Fiona to get there by donating to Fiona's givealittle page:
https://givealittle.co.nz/cause/helpfionatorio

Rio2016 PARALYMPIC GAMES

WILL THE EUROZONE CRISIS AFFECT YOUR BUSINESS?

With the Greek exit from the Eurozone narrowly averted for now, events in Europe have temporarily moved off the knife edge. However with the IMF warning that Greece's public debt is now "highly unsustainable" and Spain and Italy needing to borrow a further €986 billion by 2017, the problems faced by the Eurozone are far from resolved.

SO WHAT DOES THIS MEAN FOR NEW ZEALAND BUSINESSES?

For now at least it looks like the Euro will remain as the currency in most of Europe. This means that the key risk faced by NZ businesses with customers or suppliers in Europe is a rapid devaluation of the Euro or other European currencies brought about by any further concessions needed to keep highly indebted countries from defaulting. For NZ businesses facing uncertainty around the Euro, one way to manage exposure is through forward exchange contracts allowing you to lock in an agreed upon rate and reduce the short term uncertainty risk.

An added risk to consider for businesses with customers or suppliers in highly indebted European nations is the risk caused by failure of any of these customers or suppliers. Highly indebted nations are staring down the barrel of increased re-financing costs on already record debt levels. This is likely to significantly depress economic growth in these countries and may lead to the collapse of businesses.

New Zealand based businesses reliant on European suppliers or customers may want to consider the supply-chain risk that could result from the collapse of these trading partners. The best way to reduce these risks is to consider alternate sources of supply and to continue to diversify your customer base.

Long term, the situation in Europe remains uncertain as economic conditions over the past few years have allowed very high debt levels to continue to build up in certain countries. Traditionally, this would be solved by default, inflation, currency devaluation or a fast growth environment. However, all of those look extremely difficult for Europe with a single currency. Given this, the long term risk faced by New Zealand businesses is the risk of a country exiting the Eurozone and overnight introducing a new national currency with a fixed exchange rate for conversion of existing Euro payment obligations. The new currency may either rapidly devalue or appreciate leaving your business with assets and/or liabilities suddenly valued very differently. As a New Zealand business the best way to protect yourself from this risk is:

- Try to negotiate any key contracts in New Zealand Dollars
- If Euro is the currency of payment check that this is expressly defined in your agreements
- Look at credit support (e.g. guarantees or letters of credit) from an entity you are satisfied is outside the European Union and not highly exposed to the Eurozone

Whilst a temporary solution may have delayed a "Grexit", the Eurozone still faces some significant problems and New Zealand businesses with interests in Europe would be best advised to keep a close eye on the situation.

EASING THE PAIN OF TAX PAYMENTS

Not making provisional tax payments on time or underpaying provisional tax can expose you to interest and late payment penalties.

When it comes to paying income tax, any over or underpayment will attract interest, known as the use of money interest ("UOMI") rate. UOMI is aimed at encouraging people to pay the right amount of tax at the right time while also providing compensation to you if you pay too much tax, and to the Government if you pay too little.

It's periodically adjusted to reflect changing economic conditions and movements in underlying bank interest rates. At present it's 9.21% on underpayments of tax, and 2.63% per annum on overpayments.

The interest rate spread is somewhat wider than rates paid on bank deposits and charged on loans. This is to discourage taxpayers from using Inland Revenue ("IR") as a bank.

So it's important to proactively manage your provisional tax payments to mitigate your exposure to UOMI and late payment penalties.

This means not just trying to calculate the correct amount of provisional tax to pay at each instalment, but also exploring all your options for funding provisional tax payments through the use of tax pooling. Tax Poolers are a bit like banks that deal only in tax.

In simple terms, approved tax poolers (called Tax Intermediaries) are able to buy and sell tax payments from taxpayers. In essence they can match due tax refunds with taxpayers who have tax to pay. The tax intermediaries offer this service at better interest rates than the Government's UOMI rates, offering significant savings.

Tax pooling also saves taxpayers, who have underpaid, from late payment penalties as the transfer to their IR account is at the original date of payment by the original payer.

THE OPTIONS

Approved tax intermediaries offer a range of products and finance options to help you manage your provisional tax compliance, such as:

- Paying your provisional tax into a tax pool to get a higher interest rate in the event of being due a tax refund; and greater flexibility over ease of refunds and managing your provisional tax compliance at each instalment date.
- Purchasing a tax credit from the tax pool where you had a higher liability to pay provisional tax than you were able to meet at the instalment date usually resulting in a reduced rate of UOMI and elimination of any late payment penalties.
- A finance option where you can finance a tax credit at a certain date with the provisional tax being paid at a later time. This guarantees the credit being transferred into the IR account at the earlier instalment date when the finance option is closed out by settling the principal amount at the end of the finance period.

The process requires no financial information, no complicated application forms and no personal guarantees or security and approval is in most cases immediate. All funds in the tax pool are held by independent trustees, such as the Public Trust or Guardian Trust, until transferred to Inland Revenue.

EVALUATING YOUR OPTIONS

There are a myriad of reasons why you may incur UOMI and late payment penalties inadvertently. So it's important to evaluate the options carefully to determine which suit you best.

Where your cash flow cycle doesn't match the provisional tax instalment dates, for example, you might consider tax finance where you have reasonable certainty of funds being available at the end of the finance period.

If you have surplus cash early in the year, you may consider paying the first instalment into a tax pool and then re-evaluate your needs at the second and third instalments as necessary.

Tax pooling offers an important alternative source of funding for your business to help you manage your tax obligations according to your situation.

TAXING PROPERTIES - NEW 2 YEAR BRIGHT-LINE RULE

For those entering into sale and purchase agreements for property after 1 October this year, gains on sale of residential land may be taxed if the property is disposed of within 2 years of acquisition. It is being called "the bright line test".

The date of acquisition is important for this new 2 year rule. The day property is acquired will be the one registered on 'Landline' (rather than the date of the sale & purchase agreement). For subdivided land, the date of acquisition is the date when the unsubdivided land was acquired. Likewise, the date of disposal will be the date you enter into the contract of sale.

These new rules won't affect all property. There are exemptions if the property:

- Is the person's main home (it applies to homes in trusts too)
- Is inherited from a deceased estate; or
- Is transferred as part of a relationship property settlement.

The bright line rule does not apply to farmland and business premises. However, farmland must be land capable of being farmed as an economic unit, so lifestyle blocks are not likely to be exempt.

If the land sales are now going to be taxable, certain tax deductions will be allowed to reduce the overall profit (and therefore the tax payable).

The following costs should be deductible:

- Cost of the property;
- Costs related to buying the property and incidental costs;
- Capital improvements;
- Holding costs if these have a nexus with the income, such as interest, rates, insurance, repairs and maintenance. These are deductible in the year in which they are incurred.

Disappointingly, any loss you make on sale will be "ring-fenced". This means it can only be offset against taxable gains from other land sales. And you do not get a deduction for losses if the property is sold to your mates (associated person rules apply here).

Your transactions can be attacked by Inland Revenue under the 'anti-avoidance' banner if any of the following transactions are entered into with the intention and purpose of defeating the bright line test:

- Disposal of shares (sell shares instead of the land);
- Change in trustees or beneficiaries of a trust;
- Change in person who can appoint trustees or beneficiaries of a trust; and
- Change in ownership of shares in a corporate trustee.

Current Tax Treatment

Property acquired with the purpose or intention of sale is taxable regardless of how long the property has been owned. It is the intention of the person at the time of acquisition that is determinative. The new 2 year bright line test is intended to complement this rule.

However, there are two exclusions for this provision:

- This provision does not apply if the property was the person's residence; or
- If it was used mainly to carry on substantial business from

These exclusions do not apply if the person is engaged in a pattern of acquiring and disposing properties. If a person is engaged in a pattern of buying and selling properties, then any gains will be taxable.

If there is no intention/purpose of resale, while there are provisions that deal with land developers, land dealers and builders (which also extend to associated persons in specific circumstances) etc, a "normal" person does not have to account for tax on the sale of their real property.

The above proposal extends this - and brings to tax gains if property is sold within two years, provided it is not the person's main home.

For example, an investor with a rental property portfolio will pay tax on a property they sell within two years of acquisition, whereas currently, they would not (unless they fell within the ambit of the current land taxing rules).

APP VERSUS WEBSITE – WHAT'S THE BEST FOR YOUR BUSINESS?

If you think that an app for your business will more efficiently deliver existing goods and services to your customers, it is definitely worth considering but not at the cost of a responsive, mobile friendly website.

Don't think of apps as stand-alone projects but rather two gears in a cog simultaneously supporting each other. Where websites are a wealth of stream-lined information, apps provide the customer engagement, a rich marketing channel that cultivate customer loyalty. However, it is important to remember that people are not clamouring for another icon for their home screens. To make an app that matters, it has to matter to your customers by giving them something they can't get elsewhere.

Apps give you an opportunity to be a primary point of contact for users thus being one step ahead of the competition on the digital landscape. Residents of the digital age do not linger on unresponsive apps/websites. Those are just swiftly swept aside. As app usage increases in comparison to website viewings, it is important to consider investing in an app now to give a compelling demonstration of the value of your product.

To find out more about BDO, please contact your nearest office on

0800 379 528

FOR MORE INFORMATION CONTACT

KERIKERI
Homestead Road,
Kerikeri
T: +64 9 407 7250
E: kerikeri@bdo.co.nz

WHANGAREI
49 John Street,
Whangarei
T: +64 9 430 0471
E: northland@bdo.co.nz

AUCKLAND CBD
BDO Tower, Level 8,
120 Albert Street,
Auckland
T: +64 9 379 2950
E: auckland@bdo.co.nz

AUCKLAND NORTH SHORE
Level 10, BDO Tower
19 Como Street, Takapuna,
North Shore
T: +64 9 486 2125
E: auckland@bdo.co.nz

AUCKLAND EAST TAMAKI
Level 2, BDO House,
116 Harris Road,
East Tamaki
T: +64 9 274 9340
E: auckland@bdo.co.nz

HAMILTON
Level 1, BDO Building,
1026 Victoria Street,
Hamilton
T: +64 7 839 2106
E: waikato@bdo.co.nz

TAURANGA
Level 1, The Hub,
525 Cameron Road,
Tauranga
T: +64 7 571 6280
E: tauranga@bdo.co.nz

ROTORUA
1130 Pukaki Street,
Rotorua
T: +64 7 347 9087
E: rotorua@bdo.co.nz

GISBORNE
1 Peel Street,
Gisborne
T: + 64 6 869 1400
E: gisborne@bdo.co.nz

NEW PLYMOUTH
10 Young Street,
New Plymouth
T: +64 6 759 9034
E: newplymouth@bdo.co.nz

NAPIER
86 Station Street,
Napier
T: +64 6 835 3364
E: napier@bdo.co.nz

PALMERSTON NORTH
32 Amesbury Street,
Palmerston North
T: +64 6 358 4163
E: manawatu@bdo.co.nz

WELLINGTON
Level 1, Chartered Accountants House,
50 Customhouse Quay
Wellington
T: +64 4 472 5850
E: wellington@bdo.co.nz

CHRISTCHURCH
30 Sir William Pickering Drive,
Burnside,
Christchurch
T: +64 3 379 5155
E: christchurch@bdo.co.nz

INVERCARGILL
46 Don Street,
Invercargill
T: +64 3 218 2959
E: invercargill@bdo.co.nz

BDO