

NEWSLETTER

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The business of immigration

New Zealand's immigration system is currently undergoing a significant overhaul, which is sure to impact many local businesses. Following the changes to Investor Category visas announced in December 2016, further changes are also proposed to the Skilled Migrant Category (SMC) visa, for implementation in August. The proposed amendments are set to ensure better outcomes for both New Zealand citizens and those who are seeking to immigrate here.



Investor visas were first introduced in 2009, resulting in over \$2.9 billion invested into NZ. Generally, investors may be granted resident status if they make qualifying investments in NZ for 3 or 4 years. There are two categories – Investor 1 applicants must invest at least \$10m and Investor 2 applicants must invest at least \$1.5m (plus have other funds available to live on).

Currently, around two thirds of these investments are in bonds. The proposed changes, effective from May 2017, seek to change this by encouraging investment in 'growth-oriented' industries. The 'growth-oriented' list includes industries associated with equities, commercial property, new residential builds or managed funds, with the potential for others to be added in the future, decided by Government need.

If Investor 1 applicants invest upwards of 25% in New Zealand growth-oriented investments they will have more flexibility on how they can meet the minimum 'days in NZ' requirement for this visa type. Furthermore, Investor 2 applicants will receive a reduction in the total amount they need to invest if they are willing to invest in growth investments – a \$0.5m discount to be exact. To attain this discount, investors will be required to

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allocate more than 50% of their total investment to growth-oriented business. They will also enjoy less restriction on how they spend their required days in New Zealand over the four year period of application, much like the Investor 1 category. The additional funding is expected to provide a boost to the economy, providing an alternative funding option for businesses that may have been restricted by lack of investment into growth-oriented ventures.

Alongside this, changes to the SMC visas are also making a splash in the business environment. Residence can be granted for skilled workers under a 'points' system, with points granted for various criteria including qualifications and job offers. From August, the points system is supplemented by the introduction of remuneration thresholds: jobs will need a minimum salary of \$41,538 to be considered 'mid-skilled' – being 85% of NZ's medium income.

More points will also be available for skilled work experience and for some post-graduate qualifications. It is hoped that this will help limit the net inflow of immigrants, whilst targeting this visa type to individuals that are skilled in their industries, allowing businesses to bring in the people and skills that are beneficial to NZ as a whole.

The Government is seeking to balance the economic growth that immigration brings along with the additional strain it places on public services and current infrastructure. Getting the right balance is a challenge, but solace can be taken from the fact that it is a sign of a strong economy. It is important that the Government continually reviews immigration policies to ensure they are attaining the correct outcomes for a prosperous New Zealand.

Proof of intention

The sale and purchase of residential property is an area of focus for IRD Investigators as a result of the ongoing investment in the Property Compliance Programme. A Taxation Review Authority ('TRA') case heard in May 2017, serves as a timely reminder for all property owners to remain aware of the tax implications that can arise from residential property sales. The case involved the purchase and eventual sale of a family home by a son who had previously been involved with other property investments.



A key criterion for determining the tax status of a property transaction rests on whether the property was purchased with the purpose or intention of resale. The intention of the taxpayer is determined subjectively at the date the property is acquired.

There are instances where taxpayers have tried to satisfy this subjective test by embellishing their future intentions to support a more desirable tax outcome. Hence, it is common to place some weight on any documentation that might also refer to a taxpayer's future plans for a property.

In this particular case, a substantial amount of weight was placed on a diary note recorded by the taxpayer's bank officer, accompanying the loan approval request for the property. The note recorded that the taxpayer had committed to the purchase of the property because his parents were no longer financially able to complete renovations themselves, and that he would sell the property once the renovations were completed, in order to release funds needed for his other property developments.

Due to the diary note and the taxpayer's history of buying and selling property, the IRD sought to tax the sale of the property. But the taxpayer argued that the file note was not a true account of his intentions. He told the TRA that the bank officer was a close friend of his, a friendship that had been built over years of loan applications and property investments. This had resulted in the bank officer recording a note not of a conversation, but of a mistaken assumption about the taxpayer's intention to resell his parent's home.

The taxpayer asserted his true intention was to assist his parents while they were experiencing a period of financial difficulty, safeguarding the family home for the long term. This alternate set of facts was further aided by the form of the bank officer's note – it did not refer to a specific conversation, but was written as part of the loan approval request, containing information determined relevant by the bank officer.

The process for a case to reach the TRA is lengthy and involves a significant number of steps for both IRD and the taxpayer, so IRD often only reach this point if they consider themselves to have a high chance of success. With this in mind, it must have come with considerable relief to the taxpayer when the TRA ruled in his favour, concluding that the evidence showed he did not purchase the property with the intention of resale.

The case is interesting because the taxpayer went through what would have been a difficult and stressful Investigation and then 'Disputes Process', due to a statement that he didn't make and likely

didn't know existed. The lesson here is that if a property is not being purchased with a purpose or intention of resale, it could be a good idea to state

that on the record through the acquisition process, rather than simply relying on that being implicit.

Budget 2017

Budget 2017 presented a broad range of small yet smart changes that target working families and low income earners. From a tax perspective, the key changes are predominantly to the income tax thresholds, working for families' package and the independent earner tax credit.

All taxpayers will benefit from the tax cuts, and it is hoped that as consumers spending capacity increases, we will see a boost in the consumer economy as a direct consequence of the tax cuts.

Income tax thresholds

The income tax thresholds are set to change from April 2018 for the first time since 2010, with the lowest 10.5% bracket increasing from \$14,000 to \$22,000, and the next bracket of 17.5% moving from \$48,000 to \$52,000.

Over time inflation has pushed wages and salaries into higher tax brackets, resulting in the Government benefiting from a higher proportion of income being taxed. These new income tax thresholds seek to rectify this bracket creep and in that sense, simply reverses effective increases in the tax rates arising as a result of inflation.

Taxpayers can expect savings of \$11 a week on income earned over \$22,000 a year, and up to \$20 a week for anyone earning more than \$52,000 a year.



Independent Earners Tax Credit

The Independent Earner Tax Credit (IETC) is to be cancelled at the end of the 2017 income year. However, the loss of the IETC for those earning \$24,000 to \$44,000 is being incorporated into the increase to the income tax thresholds. With only a third of IETC eligible individuals actually

claiming the credit, it is an overall positive change for those in that income range.

Working for Families

There has been a multitude of small changes to Working for Families. The Family Tax Credit rates will change, such that families with a first child under 16 will receive an additional \$9 a week, and there will be an increase of between \$18 and \$27 per week for each subsequent child under 16.

The maximum amounts payable to households entitled to the Accommodation Supplement are also set to rise, as are the weekly payments for the Accommodation Benefit for eligible Student Allowance recipients.

The combined effect of these changes will hopefully provide families with greater disposable income to spend on goods and services. The aim is that the flow-on of income into consumer spending will strongly support economic growth over the coming years. The challenge for businesses then becomes how to make the most of growing consumer spending if they also want to benefit from this year's budget.

PAYE changes and tax simplification

Inland Revenue (IRD) have recently released a new Taxation Bill and published the eighth discussion document in the Making Tax Simpler series, both of which aim to reduce the cost of tax compliance and administration for NZ businesses and individuals.



Under the current PAYE system, it can be difficult for IRD to collect the correct amount of tax from individuals over the course of a tax year. The nature of the system means that mistakes can be made when selecting PAYE codes, or if a person's income changes unexpectedly the amount of tax withheld over the course of a year is not likely

to be accurate, leading to tax refunds or liabilities at the end of the year.

IRD propose increasing the frequency that employers provide information to IRD from monthly to every payday, which could be weekly or bi-monthly for some employees. This will be facilitated

by the integration of payroll software with the IRD system, so that employee income and deduction information can be sent to IRD with a simple 'push of a button'. PAYE information will be sent as pay checks are processed, so payroll reporting will become an integral part of the tax

process rather than a separate and additional function for employers. For those with payroll software systems this may make a small reduction in the tax administration involved with employing staff and ease the compliance burden for businesses. For those without payroll software system the administration time and, hence, cost may increase significantly. There is also a longer term proposal that all employers will have to provide this information in an electronic format (e.g. via "MyIR") further increasing compliance time and cost.

The draft Bill also proposes that more detailed information will be collected more regularly on individuals' investment income, such as interest, dividends, portfolio investment entity (PIE) income, taxable Māori authority distributions and royalties.

The new rules will require the payer to submit information about individuals to IRD on a monthly basis, or whenever payments are made if the payment frequency is less than a month. This is a further increase in compliance time and cost.

Taxpayers will still be responsible for providing any additional information to IRD, such as rental or self-employed income, however it will be possible for this to be provided via the online 'MyIR' system.

The IRD estimate that an additional \$21 – \$27 million of income tax revenue will be collected per annum under the new rules, and an additional 185,000 individuals will have their investment income included when determining their Working for Families entitlements, allowing more accurate calculations.

In summary, the proposals aim to use digital solutions to "simplify" the tax administration process. Both the PAYE changes and introduction of detailed reporting for investment income will give IRD more real-time information and ultimately give the Government greater insight into a taxpayer's financial position. This will open up opportunities to redesign social policies and improve the future administration of other systems such as child support, KiwiSaver, Working for Families and student loans. The reality is that the effect of all these changes will, in our opinion, increase not decrease compliance time and cost for employers. We have made submissions to the Minister of Revenue on these points but have received a "chilly" reception, i.e. the proposed changes will go ahead – so much for reduction in compliance time and cost!

Snippets

YouTube receipts

With over 400 hours of content uploaded every minute, YouTube comprises a massive entertainment platform. The site has over 1 billion



monthly users, with a continual demand for quality online content across a diverse range of subjects.

Armies of users produce and upload videos, aiming to earn the most views, leading to opportunities to make money. Income can be generated from various sources, such as:

- Advertising revenue (e.g. Google's AdSense campaigns);
- Affiliate and sponsorship income (paid for promotion of products or companies); and
- Paid content (where a fee is required in order to see the content).

The IRD has recently provided guidance regarding the taxable nature of such income, which is based on ordinary tax concepts. The key considerations are whether the individual is intending to make a profit, or is engaged in a 'scheme or undertaking to make a profit'.

So, if you receive YouTube income you may need to include this in your income tax return, even if you did not intend to profit. If you are receiving amounts

regularly or are relying on the amounts as a form of income, the income is likely to be taxable.

Think ahead to IRD requesting a list of NZ members that have received payments from YouTube over \$XXXX

Tax innovation

With the persistent need for additional Government revenue it could be time to look to history for answers.

In 1535, King Henry VIII of England introduced the first 'Beard Tax' on males growing facial hair. The effectiveness of the tax in England was questionable, with records at the time being somewhat 'short' on detail.



The second iteration of the beard tax was implemented by the Russians in 1698. Their policy was a little more extensive and enabled the police to forcibly shave anyone refusing to pay the tax. Men were required to pay between 60-100 rubles (a small fortune at the time) depending on their position in society, with 'wealthy merchants' charged the full 100 rubles upon entering a city. They were then issued a 'beard token' to evidence payment.

A few hundred years later in 1944 the Russians had another great initiative - Tax on Trees. The tax imposed on fruit trees alone became so expensive for farmers that it led to a mass felling of fruit trees, causing a fruit shortage throughout the country. The tax was eventually repealed 10 years later.

Fringe Benefit Tax (FBT) Audits

We have mentioned in previous newsletters that the Inland Revenue Department have not had an active nationwide FBT audit programme for some years. Whilst we have no evidence that this will change in the near future we have noted various mutterings from them over recent months. Therefore we are of the view that a programme may be launched some time in the near future.

We recommend that all clients with employees, including shareholder employees, review their potential FBT exposure, in particular with regard to any potential private use of motor vehicles. Please note that it is availability for private use not actual use that can trigger the FBT liability.

For further information on FBT we recommend you read the FBT Guide on the IRD website (www.ird.govt.nz).

Should you require any assistance with FBT please contact us.

Tax Payment Advice (TPA) Notices

In keeping with modern business practice we are now emailing to our clients with Income Tax to pay our TPA notices. We are now only posting hard copy letters to those clients for whom we do not hold an email address.

Generally we will email TPA notices about 3 weeks before the payment is due.

We recommend that clients keep a diary note of their tax payment dates and contact us should they not receive a TPA notice when they expect to receive one.

If you have any questions about the newsletter items, please contact us, we are here to help.