Chapmans
CHARTERED ACCOUNTANTS

Tax update – March 2024

In anticipation of the Government announcing new legislation in March we thought it was timely to provide an update on what we know so far and what we expect will be in force from **1 April 2024**.

What we expect:

- Trust tax rate likely to increase to 39%.
- The current interest limitation rules (for residential rental properties) will be repealed.
- Bright-line test will be reduced to 2 years.
- Depreciation on commercial buildings will be removed.
- New GST marketplace rules set to come into force from 1 April 2024.

Increase in the trustee tax rate to 39%

Last year the previous government announced its intention to increase the trustee tax rate from 33% to 39% effective from 1 April 2024.

The National Government have not ruled this out and all signs point to this legislation being enforced. Therefore, it is important to understand what this change means for your Trusts and the steps you can take to minimise the impact.

1. Firstly, if your Trust owns shares in a company there may be an opportunity to declare a dividend to the Trust prior to 31 March 2024 (before the rate increases). We are in the process of reviewing those clients that are impacted and we will contact you to discuss this further if we consider there is an opportunity available. Please be aware the payment of a dividend will result in an RWT cost (due 20th April) which is likely to be the deciding factor for most clients.

2. Secondly, there is still the ability to distribute additional income to beneficiaries on lower marginal tax rates (as is currently done in practice). The increase in the trustee rate only maximises this opportunity.

We will send out another update once the tax bill is released. We recommend holding off on paying any dividends until the rate increase is confirmed (expected to be late March 2024).

Level 1, Westgate Chambers,
3A/2 Maki Street, Westgate,
Auckland 0814.
PO Box 84 148 Westgate 0657

P 09 831 0205 | F 09 831 0206
E team@chapmans.co.nz
www.chapmans.co.nz

Removal of interest limitation

The new government has confirmed its intention to restore interest deductibility for residential rental properties. This change was originally intended to be brought in over time by phasing the interest deductions back in (the same way they were phased out).

However, during the negotiations with the Act party it was agreed that the interest deductibility will be restored in full from 1 April 2024. We are yet to see the details of how this will look.

We will provide a further update once the draft legislation is released.

Changes to the bright-line test

When the bright-line test was originally introduced (by the National Government at the time) the intention was for properties brought and sold within 2 years to be subject to capital gains tax on sale (subject to exemptions, for example the family home).

However, since then amendments to the legislation have created complexities, particularly for family transactions.

The proposal is to reduce the current bright line period from 10 years back to the original 2-year period.

The intention is to have this change in place by July 2024 meaning properties acquired before July 2022 will not be subject to capital gains tax on sale.

The specific details have not been announced, and we suspect there are some complexities to work through before this legislation is introduced.

Until further information is released, we recommend holding off on any decisions to sell or transfer property that may otherwise be subject to the bright line rules under current legislation.

We will keep you informed of any announcements.

Removal of commercial building depreciation

The ability to deduct depreciation for commercial buildings was a welcomed change that provided tax relief to struggling businesses during the COVID period. This change then became permanent legislation.

The new Government have confirmed they will remove this tax break. This will result in an increase in tax to pay for commercial property investors.

New GST Marketplace rules

The new government originally intended to repeal this legislation, however they have recently confirmed this will now remain in place.

To recap from our May tax update, this change will apply to **listed services** (such as Airbnb, Uber, food delivery, etc).

Current rules

The marketplace charges GST on its fees to list a particular item, ie a bach listed on Air BNB or book a batch. Whether GST applies to the listing itself depends on the owner's registration status.

New rules (from 1 April 2024)

The marketplace will now be required to charge GST on the listing itself (regardless of whether the actual owner is GST registered or not).

This change will have a different impact depending upon the owner's registration status:

- **GST registered owner** - Makes a deemed supply to the marketplace which will be zero-rated. A GST input claim can continue to be made for associated expenses.

- **Unregistered owner** - Entitled to claim a credit equal to 8.5% of the value of the supply. This is claimed by the marketplace (in its GST return) and then passed onto the unregistered owner (for example by reducing their commission charges). The credit is intended to compensate an unregistered owner for the GST they have paid on their operating costs.

Please note these changes are not intended to jeopardise the GST treatment of the underlying property itself. This means where an owner is not GST registered (because supplies are under the GST threshold of $60k) these rules will not automatically bring the property into the GST net (even though the marketplace must now charge GST on the supply). Therefore, in this situation the owner would not need to pay GST on the ultimate sale of the property solely because of these changes.

For those clients who provide accommodation through a marketplace, how you deal with these changes depends on whether you are GST registered or not. We recommend contacting us to discuss how these changes apply to you.