trialbalance

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NZ CA An Association of Independent Chartered Accountants

In this Issue

You cannot shake hands with a clenched fist.

Indira Gandhi

Government's proposal to abolish gift duty in New Zealand from 1 October 2011

In recent months you may have seen media comments on the Government's proposal to abolish gift duty in New Zealand from 1 October 2011.

There has been some comment from interested parties, some well-informed and some not so well-informed. NZ Trustee Services Ltd (NZTS) have been closely involved in the process and have consulted with the Revenue Minister Peter Dunne.

NZ Trustee Services Ltd has reviewed the Inland Revenue Department's regulatory impact statement and we have had discussions and meetings with the Department's officers as well as the Law Commission which is also considering some of the concerns associated with gift duty repeal.

Having considered all of the above, we do not believe that it would be wise to rely on large scale gifts to give instant protection of those assets from creditors, WINZ and IRD and that real caution must be taken.

We are informed that current legislation and operational changes will be used by Government agencies to police gifting programmes in the future and that this will allow these agencies to still claw back larger gifts made to Trusts in past years if for example, rest home subsidies are being sought. This will also apply to private sector agencies with creditors having similar rights.

Whilst the abolition of gift duty will be welcomed by many, there are still some very grey areas that will need clarification. For example, there is no definition of "gift" and it seems this will need to be determined by future Court rulings. This is unsatisfactory and causes some doubt.

What does this mean for you, our clients? Firstly, your gifting programme should continue until the law changes and is implemented. We expect this to be in October 2011.

Secondly, we will be monitoring this issue closely over the next few months and will be making recommendations to our clients.

Thirdly, we believe that the on-going management of Trusts including annual meetings, confirmation of strategies, correct and timely minuting of decisions will be crucial to ensure Trusts will meet future tests of compliance. This will allow the benefits of Trust ownership of assets to continue most effectively for clients.

Source: NZ Trustee Services

Budget Announcement to KiwiSaver Changes

The changes announced by John Key and the National Party in the latest budget, enable the Government to save $2.6 billion over the next four years.

The changes will not commence immediately, providing people and businesses time to adjust.

The following changes were announced:

- From 1 April 2013 the minimum employee and employer contributions will increase from 2% to 3%.
- From 1 April 2012 the tax free status of employer contributions will be removed and all employer contributions will be subject to Employer Superannuation Contribution Tax (ESCT) at the employee's marginal tax rate.
- The Member Tax Credit (previously up to $1,040 p.a.) will decrease by 50% from $1 to 50c for every $1 contributed by members, up to a maximum of $521 p.a. as from 1 July 2011.
- The Government is to assess whether there should be a one-off enrolment exercise with employers.

Source: RSM Prince

10 telephone tips

We all know the story … it costs 5 times as much to bring in a new customer, than to keep an existing one. When people become your customer, they want to be loyal. So, why do they leave? Most of the time, they leave because of small oversights and lack of attention to plain, old customer service.

When customers call on the phone, we are provided with a tremendous opportunity to reinforce and grow the relationship. It makes good (economic) sense to take the extra time and effort to make these calls as meaningful and service oriented as possible. Attention to customer service will go a long way in helping you to satisfy your customers and make them feel as if they are truly special.

- Always tell your customer what you CAN do for them. Don't begin your conversation by telling them what you CAN'T do.
- Allow irate customers to vent. Do not interrupt them or start to speak until they have finished having their say.
- Diffuse anger by saying "I'm sorry or "I apologise."
- Use your customer's name at different points in the call.
- Make certain that your "solution" to the customer's problem is acceptable to them. Get their approval and agreement.
- Always conclude each call with a "thank you" or a verbal message of appreciation for their business.
- Make certain that your tone of voice is in sync with your words. Remember, your tone of voice can completely contradict your message.
- Listen attentively! There is nothing worse than asking an irate or troubled customer to REPEAT what they have just said.
- Go the extra step by following up on your solution. Re-contact the customer to make certain that everything has been handled in a satisfactory manner, and that they are pleased with the outcome.
- Remember to ask if there is anything else that you can do for your customer. Taking the time to ask the question often results in increased business and a more committed customer.

Source : KiwiHost

Changes in tax treatment of unsuccessful in-house developed software

For a number of years accountants and tax advisors treated the cost of unsuccessful software development as deductible for tax purposes. This tax treatment was based on the IRD notice "Tax treatment of computer software", published in an appendix to Tax Information Bulletin (TIB) in May 1993.

The IRD advised on 1 April 2011 that the part of the 1993 TIB article that suggests a taxpayer is allowed a deduction of expenditure on software development where the software is never implemented or used in the taxpayer's income-earning process should be treated as withdrawn from the beginning of the 2011/12 income year. Inland Revenue has advised that taxpayers taking a "tax position" after that date should not rely on this part of the article.

The following summary of the 1 April 2011 notice assumes that the taxpayer is developing software for use in an existing business or income-earning activity.

- Software developed for use in an income earning process will provide the taxpayer with a long-term benefit, and will generally be a capital asset.

Office Management

If you run an office, you should review, from time to time, how it is being managed.

Office tasks tend to be given to those who are ready and able to handle them at the time. So what happens?

The willing eventually become overloaded and they are often doing jobs which could be handled by those with less skill.

What should you do if you find you need to reorganise the office?

1. Start by getting your team on your side.
2. Aim to get a list of every task. Get your team to help you.
3. Classify the task according to their degree of difficulty. Forget about who should do what at this stage.
4. Be careful with your classification. Just because a job appears to be easy, it might not deserve a 1 on a scale of 1 to 4 for difficulty. Telephone answering is an excellent example. Really good telephone reception can be worth a lot of money, in spite of what the big corporations think. I give it a 4.
5. Having graded the jobs in consultation with your staff, you can now start allocating them.
6. Use your list for staff training. Allocate a back-up person for every job.
7. Keep a schedule of who is going to get practice doing what job every week and make sure this learning is done.
8. Review the schedules regularly and make sure everyone gets plenty of repeat practice. People learn from doing things. If they are shown once or twice and don't get practice, they forget.

If you implement something like this, you should manage a whole lot better when a key person is away. We suspect this list applies not only to office work.

"Man's mind, once stretched by a new idea, never regains its original dimensions."

Oliver Wendell Holmes

- Expenditure incurred in undertaking feasibility studies to determine whether to develop a capital asset is allowed as a deduction. In the context of software development this means that expenditure incurred analysing the feasibility of developing a piece of software for use in a business would be deductible. This is consistent with the position set out in the 1993 TIB article, which refers to this as the "pre-development phase".
- However, once a decision has been made to proceed with the development of software, any expenditure incurred beyond that point will relate to the acquisition of the software and/or rights in the software. From that point on, expenditure should be capitalised. The rights in the software, provided they are "depreciable property" as defined in the legislation and are used or available for use in the taxpayer's income-earning process, then can be depreciated.
- Consequently, it is possible that certain expenditure may never be deductible. This would occur when the expenditure is capital in nature but not depreciable property because the relevant property never came into existence or was never used in the business.

Source: RSM Prince

Disputes Tribunal a useful tool for debt recovery

If you have a disputed debt of $15,000 or less, a convenient way of getting the issue resolved is to use the Disputes Tribunal.

Both parties conduct their own case. If you have to use the Disputes Tribunal, here are some points which might help you:

- Go to the Ministry of Justice website, www.justice.govt.nz / tribunals/disputes for some useful advice on conducting your case.
- If your claim exceeds $15,000, you can still use the tribunal, but you have to accept you will not get more than $15,000.

You can search the tribunal decisions on the website above. If you type in key words, cases will come up on your computer. This means you can compare your case with others previously decided.

How good is your brand?

Let's start with us establishing what a brand really is. Many things make up a brand but I see a brand as a customer's perception of your business.

An extension of this is that each person in a business also has their own individual brand which can add to or detract from the company brand.

The Beatles are one of the most successful bands (and brands) ever. They came from humble beginnings and there is no doubt that they were four extremely talented men. As well as being a band, they were also a business – and an extremely successful one.

The Beatles built their brand on significant face time with their customers – "Eight days a week". They toured relentlessly as well as giving newspaper and television interviews. Even their airport arrivals were an event.

Face time leads to familiarity which leads to likeability, creating trust, mutual understanding and respect. All of these are important parts of your brand.

Humour and charm were the cornerstones of the Beatles brand. Their interviews were fun, they often quipped while on stage including the famous John Lennon quote at the Royal Command Performance (attended, among others, by the Queen Mother) – "Those of you in the cheap seats clap your hands. The rest of you just rattle your jewellery".

Humour eases tension, shows you are human and creates an emotional connection.

Continuous evolution of their music was a key focus for the Beatles. They were constantly trying new things to make their music better. We need to evolve our businesses to provide new and more innovative options to our clients to keep ahead of our competition.

The Beatles also extended their target audience. They would not continue to play "I want to hold your hand", aimed at their teenage audience, for 40 years. They extended their appeal to the parents by songs like "Yesterday" and then to the grandparents with "When I'm 64".

We need to treat long standing clients like brand new ones looking for new innovative ways to improve our offering. But we also need to look for options to extend our customer base with the products we already sell.

Our business needs to develop the individual brands of our people. We tend to employ people similar to ourselves but by employing a range of skills and talents we create diversity and thus a greater appeal to a wider audience.

There was a role for everyone with Paul and John initially doing most of the songwriting, collaborating together exceptionally well, even though they have very different talents. They encouraged George to write and he developed his skill over time contributing songs such as "Something" and "Here comes the sun". Ringo was not left out. His drum kit was always elevated on the stage so that he could connect with the audience. One song on each album was written for Ringo to sing. Who could not relate to his voice in "Yellow Submarine".

If our business is one team, made up of diverse individuals contributing varying skills our brand will grow in strength through a depth of knowledge, approaches and innovation which will apply to a wider audience.

The Beatles were not only excellent musicians. They had strong convictions speaking out against the Vietnam war and calling a press conference when they discovered they were to play to a segregated audience in the US.

If you can infuse your communication with belief, passion and conviction your brand will be more compelling, your business more interesting.

The Beatles were infectious, exciting and enthusiastic so people wanted to be around them. Your business can build the same traits as the backbone of your brand on the way to success. No one will forget the Beatles and they shouldn't forget your business either.

Source : Sudburys Limited

Bankrupt trustees

Bankruptcy is an unpleasant topic. However, it does happen, and in the current climate it is happening more than ever before.

While the general restrictions that apply on a bankruptcy are well understood the position of bankrupt trustees is less clear.

Assets owned by a trustee are excluded from the bankrupt's estate. However, this will be subject to there being any claims the Official Assignee can make regarding assets that may have been transferred to a trust.

As a bankrupt cannot carry on business without the Official Assignees permission it can be appropriate for a bankrupt trustee to resign to avoid any administrative difficulties.

Source : Ayres Legal Lawyers

The overdrawn current account

A common and clever cash saving trick employed by many directors when they are facing cash issues is to stop taking a salary and record the money they take from the company as drawings.

This idea is sometimes not the director's but rather that of their external accountant. Either way, the effect is the same.

If the company is making a loss, taking drawings instead of a salary is a good idea because it reduces the amount of PAYE that the company has to pay to the IRD.

If the company was making a profit this would have minimal cash effect because the company could expense the director's salary and reduce the corporate tax, drawings are considered a loan to the company director and therefore not an expense.

Alas, not all companies experiencing cash pressure come out the other side. Some end in the hands of a liquidator and one of the first things liquidators do is look at the director's current account.

If you thought that was the end of the story you would be mistaken. A company director taking drawings must incur a liability to the company, to be repaid if the company demands it? Surely. Sadly not.

When confronted, delinquent company directors have rushed to the Court claiming a quantum meruit defence.

The director concedes that they took drawings and not a salary, but they claim they did work for the company so therefore they were entitled to a salary and the company cannot have the money back.

This elaborate piece of sophistry has been upheld by the Courts. The leading case on this issue is Shadbolt v Creative Concrete and Landscaping Limited.

However, directors who run this defence need to be wary. Income is income. A tetchy liquidator who has been stymied in this way may elect to inform the Inland Revenue of the matter, and would be correct in doing so. A current account that has gone unpaid can be viewed by the Inland Revenue as income and tax should be paid on it.

Source :Waterstone Insolvency

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Changes in Particulars

Please remember to let us know of any changes in:
* Physical address * E-mail address * Phone and/or fax numbers * Shareholdings * Directorships * Trustees
Or anything else that may be relevant.