

Features

- **Budget 2009 tax measures**
- **Gilmore Brown Limited services update**
- **Holiday houses – income tax treatment**
- **Company share transfers**
- **Changing GST periods**
- **Voluntary student loan repayment bonus**
- **Non payment of PAYE**
- **IRD mileage rates**
- **Field Day winners**
- **New look Gilmore Brown Limited website**



Budget 2009 tax measures

The 2009 budget included:

- the delay in the personal tax cuts due to take effect on 1 April 2010 and 1 April 2011, however the tax cuts that came into effect on 1 April 2009 remain
- the closure of the KiwiSaver mortgage diversion facility to new applicants from 1 June 2009, but the facility will remain available to existing participants.

The Minister of Finance stated the Government's medium term goal remains to align the top rate of personal tax and trust tax rates with the company tax rate of 30%.

Gilmore Brown Limited services update

Trustee services

We provide assistance with setting up and operating both family trusts and trading trusts.

We will advise on financial structuring to ensure asset protection and tax minimisation and if required, we can provide you with ongoing trustee services in the form of our trustee company.

Holiday houses – income tax treatment

The Inland Revenue has recently issued a statement in relation to the income tax treatment of holiday houses when they are rented out from time to time.

Any rental income received is taxable and should be returned in the owner's tax return.

Whether, and to what extent, expenses are deductible, depends on the connection with the income earned.

In the case of a holiday house rented out for only some of the income year, the ability to deduct expenses such as interest, insurance, depreciation and rates depends on the specific circumstances and whether there is sufficient connection with the earning of rental income.

If a holiday house is essentially available to the owner, their family and friends, which means it is only available to rent to third parties on a limited basis, the Inland Revenue will apply the following principles:

- the owner is not entitled to claim a deduction for expenses incurred for the periods the holiday house is not rented.
- if the holiday house is rented out on an arm's length basis, an owner can claim a proportion of the expenses incurred equal to the time the holiday house was actually rented. If one or more parts of the holiday house are not available to be used by the person renting the holiday house (eg, a room is used to store the owner's personal possessions and it is locked so only the owner can access it), then a deduction is available only for the proportion of the holiday house available for use by the person renting the holiday house.

- in cases where a holiday house is used by friends or family who are not charged rent, but instead make a minor contribution towards the owner's expenses, this payment will generally not be rental income. Consequently, the owner will not be required to return the amount received, but nor will any deductions be allowed for the corresponding period.

Evidence of a holiday house being available for rent generally needs to be more than a mere statement of its availability, sporadic or limited advertising, or advertising that is of a nature unlikely to attract many customers. Rather, there must be evidence of active and regular marketing of the holiday house at market rates and of the availability of the holiday house at times and for periods that demonstrate the holiday house is earning rental income or is genuinely available to earn rental income. Therefore any expenditure incurred which is potentially deductible is not denied because it is private.

If the holiday house has mixed uses, the ability to deduct expenditure comes down to a case-by-case assessment weighing all the evidence. Objective evidence is required of the holiday house being genuinely available for rent and having a real prospect of occupancy and rental income being earned. This needs to be considered separately in relation to each year.



Company share transfers

A recent company law case highlighted the need for the transfer of shares to be recorded on the share register of the company to confirm legal title of the shares had been transferred.

The signing of an agreement for the sale and purchase and the delivery of the share transfer to the registered office were not sufficient to pass legal title.

Often lawyers will complete these documents for you but not always advise us immediately. As we are the registered office for a number of companies, it is important our office is advised of any changes of shareholding and provided with copies of the documents as soon as they occur so we can update our records.

There may also be tax implications as a result of shareholder changes.

Changing GST periods

A reminder, it is vital you advise our office of any changes in your GST return periods as it will affect your provisional tax payment dates.

An example being, you may decide to change your GST to six monthly if your turnover is between \$250,000 and \$500,000 and you currently file your GST two monthly, as the turnover threshold for filing GST two monthly, increased from \$250,000 to \$500,000 from 1 April 2009.

The IRD do not inform us of any changes requested by taxpayers therefore we rely on you to advise us. This will ensure our systems are updated and we advise you of the correct provisional tax payments when they are due. If we are not informed and payments are made late, penalties may be imposed by the IRD.

Voluntary student loan repayment bonus

To encourage borrowers to repay their student loans sooner, the Government has introduced a 10% bonus for those who make voluntary repayments, over and above compulsory repayments, on their student loan.

From 1 April 2009, voluntary repayments made to the Inland Revenue totaling \$500.00 or more in a tax year will get a bonus 10% of the amount repaid credited to their student loan account. For example, a person who makes voluntary repayments totaling \$1,000.00 in a tax year will reduce their loan by \$1,100.00.

The bonus will be credited after the end of the tax year. For anyone who repays their student loan in full, the bonus will be credited at the time of the final payment.

Non payment of PAYE

PAYE is different from other tax in terms of penalties. The law treats PAYE as the employee's money, not the employer's debt to the IRD. Non payment by an employer can result in a jail sentence.

In a new development, IRD liquidators are insisting directors of any company they have put into liquidation are personally liable for unpaid PAYE. They consider unpaid PAYE is evidence of trading while insolvent. A company director or a manager with responsibility for expenditure can be prosecuted if PAYE is not paid.

The IRD has recently changed its penalties for unpaid PAYE. It can impose a monthly penalty of 10% on unpaid PAYE. Therefore in 10 months the liability doubles and keeps going up until it reaches a maximum penalty of 150% on top of the original tax and interest owed.

IRD mileage rates

The Commissioner of the IRD must, from time to time, set and publish a mileage rate for expenditure incurred for the business use of a private motor vehicle.

Previously, the IRD mileage rates were:

Banded rate

1 to 3,000 km	62 cents per km
3,001 km and over	19 cents for each km over 3,000

Flat rate

Any distance	28 cents per km
--------------	-----------------

From the 2008/2009 income year, the IRD mileage rate has been set at:

Flat rate	
Any distance	70 cents per km

With this change, it may be appropriate to review employment agreements that refer to IRD mileage rates and for the self employed to review the mileage rates they are currently using.

The 5,000 kilometre work related limit still applies to self employed tax payers.

Field Day winners

Congratulations to the winners of our daily draw:

Thursday 26 February

C R Roadley Limited
A J Hilton

Friday 27 February

E C and K W Dugmore
R G and M C R Stevenson

Thank you to the clients who visited our site. It is always good to see you.

The information contained in this newsletter is of a general nature and should be used as a guide only. A senior representative of Gilmore Brown Ltd should be consulted for specific advice before action on any matters herein.

New look Gilmore Brown Limited website

You can now request appointments on-line, send us an enquiry on-line and subscribe to receive this publication by email.

Send us your feedback and let us know what else you would like to see on our website.

Our people

Directors

Ean Brown
Chantal Gilmore

Managers

Angeline Waetford
Barbara Collinson
Bryan Taylor
Daryl Small
Dianne Campbell
Gayle Anderson
Greg Atkins
Phillipa Taylor
Sally Adams

Contact information

Telephone

09 470 1800

Email

accounting@gilmorebrown.co.nz

Freephone

0800 FOR GBL

Website

www.gilmorebrown.co.nz

Facsimile

09 470 1833