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DB CHARTERED ACCOUNTANTS LTD

In this newsletter we discuss the GST changes from 1 April 2024, director obligations, GST considerations on the sale or purchase of commercial property and the increase in the UOMI and square metre rates.

GST CHANGES FROM 1 APRIL 2024

New rules have been passed into law for the “sharing economy” which operates through online marketplaces (digital platforms) such as a website or app. These online marketplaces include the likes of Uber, Airbnb and booking.com.

From 1 April 2024 New Zealand and offshore based online marketplaces must collect and return GST on the following ‘listed services’ (legislatively defined) when they’re performed, provided, or received in New Zealand.

- Short-stay and visitor accommodation
- Ride-sharing and ride-hailing
- Food and beverage delivery



This change means the marketplace operator (e.g Airbnb/Uber) is deemed to be the supplier of the services and is required to collect and return GST at 15% on all services provided to end-users through their marketplace. A new flat-rate credit scheme is introduced trying to minimise compliance costs for sellers who are not registered for GST.

GST registered supplier - where your holiday home is advertised on an online platform for \$230 per night, the platform pays the \$30 GST to the Inland Revenue. The transaction between the platform and yourself is zero rated. This means you include the \$200 as a zero rated supply in your GST return.

Non GST registered supplier - the platform will still be required to pay GST to the IRD on the transaction. The GST payable to the IRD is reduced by a “flat rate credit” of 8.5%. This credit is intended to be an approximate amount of GST that the property owner or driver could claim as input tax if they were GST registered. This credit is passed on to the NZ tax payer.

Therefore, if the property is listed online for \$230 per night, you would receive \$217 (being \$230, less GST of \$30, plus \$17 – being 8.5% of \$200) from the platform. The platform will return net GST of \$13 to the Inland Revenue (Gross GST of \$30 less the \$17 flat rate credit).

“Opportunity is missed by most people as it is dressed in overalls and looks like work”

Thomas Edison

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While the supplies of the accommodation and other related services will be subject to GST, these rules do not bring the property itself into the GST net. This means that provided annual income is less than \$60,000 you will not be required to charge or return GST on any future sale of the property.

The other impact of this legislation is that IRD will be supplied details of all income earned through these platforms. This will give IRD the ability to assess whether individual tax payers or entities are including this income in income tax returns.

DIRECTORS OBLIGATIONS – PART 2

In March 2023 we covered off the main duties of a company director including:

- Acting in good faith and in the best interests of company (s131),
- Exercise powers for proper purpose (s133),
- Comply with the Companies Act and the company constitution (s134),
- Not - agree to, cause or allow the business of the company being carried on in a manner likely to create a substantial risk of serious loss to the company's creditors. (s 135 – Reckless Trading),
- Not - agree to the company incurring an obligation unless the director believes at that time, on reasonable grounds, that the company will be able to perform the obligation when it is required to do so (s136), Duty of care - exercise the care, diligence and skill that a reasonable director would exercise (s137).

The recent Mainzeal case has confirmed that when a company is distressed, avoiding risk to creditors fits within the fundamental duty to act in the best interests of the company. Creating a risk of loss to creditors is not in the company's, or the directors', best interests. As such the Mainzeal directors were in breach of sections 135 (reckless trading) and 136 (duty in relation to obligations) of the Companies Act 1993.

Once a company gets in to a distressed position (for example being insolvent and unable to pay its debts as they fall due, or having liabilities greater than its assets), directors are required to take relevant action. This would generally include:

- Carefully monitoring the performance and prospects of the company
- Seeking professional advice regarding options
- Develop a plan for continued trading that directly deals with the company's solvency issues.
- Monitor progress with the plan.

Courts will generally allow a reasonable time for directors to take stock and decide what course of action they should take. However continuing to trade without a valid plan or prospects could see directors facing prosecution under Section 380 of the Companies Act.

JOKE

A young executive was leaving the office late one evening when he found the CEO standing in front of a shredder with a piece of paper in his hand.

"Listen," said the CEO, "This is a very sensitive and important document here, my secretary has gone for the night. Can you make this thing work?"

"Certainly," said the young executive. He turned the machine on, inserted the paper and pressed the start button.

"Excellent, excellent!" said the CEO as his paper disappeared inside the machine.

"I just need one copy."



SALE OR PURCHASE OF COMMERCIAL PROPERTY – GST CONSIDERATIONS

Our general recommendation is that where a commercial property sale is subject to GST that the agreement states “\$x plus GST (if any)”.

Schedule 1 at the back of the Sale & Purchase agreement then allows the purchaser to declare if they intend to use the property for making taxable supplies (as a commercial property), and if the purchaser is going to be registered for GST on settlement.

Zero-rating for GST purposes – in order for a commercial property to be zero-rated (i.e. the GST rate charged on the transaction is 0%), both parties to the transaction are required to be registered for GST.

Where the seller is registered for GST and the purchaser is not, the purchaser would be required to pay the sale amount plus GST of 15%. The vendor then pays this GST component to the IRD in their next GST return.

In this scenario, if the vendor is on a payments basis for GST, the GST is returned once settlement occurs. If the seller is registered on an invoice basis, GST is payable once an invoice or similar document is issued.

If, at a later date, a GST registered purchaser decides to de-register from GST (which they are entitled to do so if all income, including rent, rates and insurance on-charges, are less than \$60,000 per year), the taxpayer would be required to pay GST to the IRD based on the market value of the property at the time of de-registration. So, while the purchaser may have had zero GST to pay on purchase (as the transaction was a zero-rated purchase from a GST registered taxpayer) there will still be GST consequences if the GST activity is not maintained.

As a reminder, the supply of residential property or a dwelling is exempt from GST. Different rules may apply for short-stay accommodation where annual income is over \$60,000 per year (and see our March 2023 newsletter for more information on this).

Additionally, since July 2021, commercial property worth more than \$1,000,000 should have separate prices allocated for land and buildings in the agreement.

BOOK REVIEW

ATOMIC HABITS: AN EASY & PROVEN WAY TO BUILD GOOD HABITS AND BREAK BAD ONES – JAMES CLEAR (2018)



Atomic Habits discusses the compound effect that hundreds of small decisions can have. James Clear refers to these decisions as atomic habits.

Clear provides not only his advice but also scientific evidence on habits and how habits work. He describes the four laws of behavior change, which consist of making habits obvious, appealing, easy, and satisfying. This framework is straightforward but effective. When properly implemented, these rules can assist readers in forming positive habits and getting rid of negative ones.

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In order to assist the reader grasp the significance of these modest adjustments, he discusses the psychology and neuroscience behind them while outlining how to put these changes into practice.

One key thing that the author emphasises that is worth noting is that change doesn't happen overnight but rather via the accumulation of little, consistent activities.

Overall a good read for anyone interested in developing and breaking habits while learning the science behind it.

CHANGES TO USE OF MONEY INTEREST & SQUARE METRE RATES

Use of Money Interest (UOMI)

From 29 August 2023 IRD has increased the Use of Money Interest (UOMI) Rate on underpaid tax to 10.91%.

The IRD charges UOMI to all taxpayers who do not pay their provisional or terminal tax on time, until the required tax is paid.

Additionally, taxpayers with annual tax payable over \$60,000 will be charged UOMI from the 3rd provisional tax date (7 May for March balance dates & 28 June for May balance dates) until they have paid the annual tax due in full.

For provisional taxpayers, when tax is overpaid, the IRD now applies a credit interest rate of 4.67%.

Square Metre Rate

Business owners often use their private residence for both business and private purposes. This means the business owner may be able to claim deductions for the business use. This can be done using the square metre rate calculation provided by the IRD.



The square metre rate for the 2023 income year is \$51.05 per sq. metre.

This rate covers the costs of power, gas, insurance, phone and internet. For more information on how to use the square metre rate to claim these expenses please refer to our September 2022 newsletter.

IMPORTANT TAX DATES

- 20 September 2023** - August PAYE Payment due – Payday returns to be filed 2 days after pay day
- 20 October 2023** - September PAYE Payment due – Payday returns to be filed 2 days after pay day
- 28 October 2023** - 2024 (1st Instalment) Provisional Tax (6 Monthly GST filers).
- 28 October 2023** - April-September 2023 (6 monthly & 2 monthly) GST Return Due.
- 20 November 2023** - PAYE Payment due - Payday returns to be filed 2 days after pay day.



Who wins in a fight between Sunday and Monday?

Sunday. Monday is a weekday.



Thanks from the team at DB Chartered Accountants Ltd: David, Elaine, Emma, Gaylene, Karen, Kathryn, Katie, & Pam.

If you would like to discuss anything mentioned in our newsletter please contact us at:

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