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STAPLES RODWAY

Tax Talk | May 2018

The resurrection of the R&D tax credit

The government is planning to revive the research and development (”R&D”) tax credit which applied to the 2008/09 income year. An R&D tax credit is proposed to be applied at a rate of 12.5% on eligible expenditure incurred from 1 April 2019. Businesses with a minimum spend of $100,000 on R&D within an income year or R&D outsourced to an approved R&D provider, would qualify for the Tax Incentive.

It is planned that R&D will be defined as:

1. Core activities: those conducted using scientific methods that are performed for the purposes of acquiring new knowledge or creating new or improved materials, products, devices, processes, or services; and that are intended to advance science or technology through the resolution of scientific or technological uncertainty; OR
2. Support activities: those that are wholly or mainly for the purpose of, required for, and integral to, the performing of the activities referred to in paragraph (1.).

Overall, the new scheme is substantially similar to the former regime that applied to the 2008/09 income year, however, there are a few key differences.

Key points on the scheme are:

- The credits are non-refundable. This means businesses in tax losses or businesses that have surplus credits will not be able to ‘cash out’ their credits like they did under the 2008 regime. However, any surplus credits will be carried forward to future income years.
- The maximum credit claimable is capped at $15 million per year (i.e. tax credits can be claimed at 12.5% on $120 million of eligible expenditure).
- The business’s imputation credit account will be credited by an amount equal to the R&D tax credit.
- The new return process will be completely paperless and will require businesses to register as a R&D business on myIR.

With the introduction of the new regime, the government plans to phase out the Callaghan Innovation R&D Growth Grants. Additionally, the government is planning to review other ways to better support businesses in tax losses, however, any change in this area will not occur until at least 1 April 2020.

If you are interested in finding out more information concerning the planned R&D tax incentive credit and what you can do now to prepare, or wish to make a submission on the

discussion paper, please contact your Baker Tilly Staples Rodway advisor who will be pleased to assist.

Read how proposed policies changed following feedback.

Residential rental tax losses to be ring-fenced

An officials' paper recently released by Inland Revenue, proposes to “ring-fence” residential rental tax losses, meaning that such losses could only be offset against residential rental income. The new rules could apply from as early as the 2019-20 income year and would apply to most taxpayers with loss making residential rental activities.

At present, residential rental losses can be offset against a taxpayers other income. The officials’ paper indicates that the rules will apply to restrict the offset of losses from all residential land other than properties subject to the “mixed-use asset” rules, and land held on revenue account.

The rules should apply on a portfolio basis, so a taxpayer with multiple properties can offset any rental losses incurred against profits from any number of their residential properties, rather than on a property by property basis. It is also proposed that, where a taxpayer sells a property subject to the ring-fencing rules and the sale is taxed (for example, under the bright line test), any rental losses may be used to reduce the tax payable. Losses unused in an income year may be carried forward and offset against future rental income, or income from property sales.

Special rules would also be enacted to ensure taxpayers do not exploit interposed entities to circumvent the new rules (for example, the limitation of interest expenditure in excess of rental income and an entity’s distributions).

The aim of the new rules is to reduce demand for residential properties from investors. The government expects the measure to increase the supply of residential properties to prospective home buyers. The rules are intended to achieve a similar effect as the removal of tax depreciation deductions on buildings, a move that occurred before the last property boom.

Inland Revenue have requested submissions regarding the proposal and are still to determine whether they should be phased in over two or three years. Taxpayers with, or considering acquiring, residential rental properties will need to consider the potential application of the proposed rules.

If you would like to discuss the proposed rule, or for more information, please contact your local Baker Tilly Staples Rodway tax advisor.

GST on non-deductible entertainment expenses - now it makes sense

From 1 April 2018, there has been a change to the way in which the GST output tax adjustment on non-deductible entertainment expense is calculated. 50% of certain entertainment is treated as non-deductible for income tax purposes, and a GST adjustment is also required.

Previously there was an anomaly whereby the "supply" of non-deductible entertainment was treated as being a GST-inclusive amount even though the actual entertainment expenditure used in the calculation was exclusive of GST. Because of this, the GST output tax adjustment was calculated as 3/23rds of the non-deductible entertainment amount.

From 1 April 2018, the "supply" is considered to be a GST-exclusive amount with the GST output tax adjustment being calculated by multiplying non-deductible entertainment expenditure by 15%.

The GST output tax adjustment must be included in the GST return covering the period the income tax return is filed or the period the income tax return is due to be filed, whichever is earlier. The GST output adjustment paid (and expensed in the profit and loss) is itself non-deductible and is therefore required to be added back in the income tax calculation.

If you have any questions regarding this adjustment, please contact your usual Baker Tilly Staples Rodway advisor.

GST on low-value imported goods

In a long anticipated move, the government has released a discussion document proposing their mechanism to charge GST on low-value imported goods (generally goods costing less than NZ$400). Given that both National and Labour have been in favour of expanding the GST net to cover low-value imported goods, we are almost certain that the proposals will be accepted. The discussion document is available here (http://taxpolicy.ird.govt.nz/sites/default/files/2018-dd-gst-low-value-goods.pdf). Submissions on the discussion document close on 29 June 2018. Subject to legislative changes, the government is planning that the new rules will come into force from 1 October 2019.

The approach will be similar to that taken by the Australians. The overseas seller of low-value imported goods will be required to register for and account for GST on their sales of goods to New Zealand residents that are not New Zealand GST registered, being so-called

“B2C” supplies. This is subject to the overseas seller selling more than NZ$60,000 of such goods into New Zealand per annum.

Australia’s rule change comes into force on 1 July, and we are yet to see how successful this approach will be. In saying that, the GST on remote services rules (the so-called ‘Netflix tax’) introduced in 2016 has been highly successful, with the amount of revenue earned being four times greater than estimated.

If enacted the rules around the collection of customs duties will change as well. Until now, New Zealand Customs have imposed GST and customs duties on imports where the amount of GST and customs duties owing was NZ$60 or more. As a result, some items costing less than NZ$400 were subject to GST and customs duties at the border, plus a collection fee.

An example used by Inland Revenue was for a pair of running shoes costing NZ$300. Under current rules, the import of these shoes are subject to GST and customs duties totalling NZ$79.50 (NZ$30 tariff and NZ$49.50 GST) as well as cost recovery charges from New Zealand Customs of NZ$49.24, for a total cost of NZ$428.74. Under the proposed rules, the duties will not be collected and therefore the cost of the shoes will be NZ$345 (NZ$300 for the shoes and NZ$45 GST).

Our View

Large multi-national online retailers such as Amazon are already having to account for GST/VAT overseas, and so will be ready for this change. The main impact will be felt by smaller businesses with New Zealand customers ordering online. These businesses may not have the sophisticated systems necessary to handle cross border compliance.

While at a consistency level this will level the playing field for retailers, we suspect that this will result in little change for bricks and mortar retail. Given their scale and lack of overheads, online retailers provide a much wider range of products generally for a lower price. In some cases, the effective removal of tariffs on goods costing less than $400 will ironically, make things slightly more advantageous for online retailers compared with bricks and mortar retail.

As previously mentioned, the government is planning that these changes take effect from 1 October 2019. Please contact your Baker Tilly Staples Rodway advisor if you plan to make a submission on these new rules.