LOSSES FROM RENTAL PROPERTIES

The following is the proposed tax law, which has yet to be enacted. Some of it could be changed.

As you will know, losses on residential rental properties may no longer be claimed as a deduction in your annual tax return.

They will have to be carried forward to the next year and set off against any rental profits in that year. Any surplus losses get carried forward again.

What happens when you sell your property? The losses can still not be claimed. Your only solution would be to buy another rental property. You would then be entitled to use those past losses as a deduction against profits on the new rental property.

If you own several properties, you can treat each separately, if you wish, but there doesn't seem to be much achieved by doing this. If you do nothing they will be treated as a "portfolio" and you will be entitled to set off profits and losses on each of them against the others. Any surplus losses then get carried forward.

There are occasional situations where your rental losses can be set off against the profit on the sale of the property. This is only allowed if that profit on sale is taxable, i.e. not a tax-free capital gains.

TAKE CARE WITH TAX WHEN WINDING UP YOUR BUSINESS

If you're considering selling your business and you run it through a company, you could have a tax problem.
You may not take out, straight away, large amounts of your capital gain on sale of the business. If you do, you might find you get an unwanted tax bill.

Generally, when a company makes a capital profit, the shareholders may only distribute this money to themselves if it is in the process of winding up the company. If they pay out before the company is officially in liquidation, they have to pay tax on the capital gain.

GET IT RIGHT AND SAVE MONEY WHEN WINDING UP

If you are winding up your business and you're on a payments basis, save GST by paying as many bills as possible before you deregister.

If you are an ordinary company and incur expenses in the year after giving up business, you're not going to be able to claim them because there will be no income. You will have an unusable loss.

Have as few bills as possible in the year after ceasing business.

ACC and accounting costs come to mind. You might be able to adjust your provisional payment to ACC for the following year. To be a valid income tax claim, it would have to have been invoiced and be payable before balance date.

For accounting costs, get your financial statements completed, invoiced and paid before balance date. A signed agreement (before balance date) agreeing the amount of the accounting costs would also work if the accounts are completed after balance date.

If you're winding up about the time of balance date, you could save accounting fees by not continuing in business beyond the end of the financial year.

On the other hand, if your income has been taxed at the top rate and your future income is going to be attracting a lower rate of tax, you could be better to sell (or cease business) part way through a year.

The income for the part year could be taxed at a much lower rate than would have been the case if it'd been part of a full year's income.

This can be done when we prepare your annual accounts, provided we do this within the time the Inland Revenue allows. Normally, we are allowed until 31 March following balance date to get the tax returns to Inland Revenue for the year.

MORE TO TAX WORKING GROUP THAN MEETS THE EYE

You might be forgiven for thinking, as a result of all the media attention, the only thing the Tax Working Group ever did was to make recommendations about a Capital Gains Tax.

You might be interested in some of the other suggestions contained in clause 37 of working group's report:

- Increase the provisional tax threshold from $2500 to $5000
- Increase the automatic deduction for legal fees from being just in connection with the buying and selling of property to other types of professional services
- Increase the threshold at which you don't have to count your stock to $20,000 - $30,000
- Simplify depreciation rates
- Simplify FBT
- Possibly remove the 50 percent limit on claim for entertainment expenses
- Up the threshold for writing off low-value assets

Let's hope the Government implements them all as soon as possible.

CHECK ON ACC

Always check ACC invoices. Sometimes they record your occupation incorrectly.

If you have a PAYE salary and also a provisional tax salary from your company, you could find your total income is greater than the maximum threshold for paying ACC, and be overcharged. ACC charges on the basis of information it gets from Inland Revenue. It then makes a provisional charge for the following year. If you are winding up your business, you may care to ask ACC to lower its provisional charge.

PUT TRANSACTIONS THROUGH ONE BUSINESS ACCOUNT

To minimise the risk of error, put all your business transactions, which should include expenses paid out of your own pocket, through one business bank account.

In this way, you will avoid confusion over whether GST has been claimed, and minimise the risk of errors arising from misunderstandings.

How to do this?

- If you have accidentally used your personal account, make a payment from your business account to reimburse.

- If you are short of money in your business account, transfer an amount from your personal account by way of a loan to the business. Make sure we know the deposit is your own money.
- If you are paying your credit card account, pay the personal portion out of your personal bank account and the business portion out of your business bank account.
- For small items of expenditure, collect them up in a notebook and when you get to about $100, make a payment from your business to yourself as a reimbursement.

HELP US TO HELP YOURSELF

Here are some of the problems we strike when preparing your annual accounts and what you can do to help us:

- Avoid supplying too much information – we will phone or email a list what we need. Too much information means we have to wade through it, in case there is something you intend us to see.
- Respond to our questions as soon as possible, while your work is fresh in our mind – maximum a couple of days.
- Our systems are designed so we can complete your job as efficiently as possible. If you are contemplating providing us with summaries please discuss this with us before going ahead, so we can agree what works for both of us.
- Getting stuck – if you can't give us the answers because something is missing, let us know as we can usually work out a solution.
- If you think a cost is border line, please ask us. When we find a personal cost has been put down as a business expense, we have to check to see if there are any other mistakes of this nature and this adds to the time taken to complete the job.
- It is easier for us to help you if you contact us prior to a major event such as purchasing or selling real estate, signing agreements and legal documents, creating new entities (eg companies/trusts) as the transaction may have taxation implications that you are not award of.

DOMESTIC VIOLENCE LEAVE

An employee is now entitled to up to 10 days paid "domestic violence leave" in each entitlement period (ie, 12 months), subject to eligibility criteria (including completing six months current continuous employment.
An employee may also be entitled to domestic violence leave if, for more than a period of six months, they have worked for the employer:

- For at least an average of 10 hours a week during that period; and

- Not less than 1 hour in every week or 40 hours in every month during that period

As with flexible working requests also, an employee affected by domestic violence may take domestic violence leave regardless of how long ago the domestic violence occurred, and even if the domestic violence occurred before the person became an employee.

An employer may require proof that an employee is a person affected by domestic violence, for domestic violence leave to be taken.

Domestic violence leave cannot be carried forward if it is not taken by the end of the 12 month period.

An employer must pay an employee their Relevant Daily Pay or Average Daily Pay for each day taken as domestic violence leave that would otherwise be a working day for the employee.

Refer to the clauses on "paid leave for victims of domestic violence" in the Holidays Act 2003 for guidance.

NEWS IN BRIEF

Donations rebates

You can now send in your donations receipts to Inland Revenue as you get them, as long as you submit them electronically. Or, you can continue as usual and save them up for the end of the year and attach them to the IR526 form.

65+ KiwiSaver

The requirement to pay the employer's contribution of 3 percent for Kiwisaver ceases when the employee reaches 65 years of age. If you are over 65, you are going to be allowed to have a KiwiSaver scheme, but you won't qualify for the government subsidy of $ 521 a year.

Hire for attitude

Attitude counts more than aptitude. Hire somebody with a great attitude over someone who is only offering greater technical skill. You can teach skill.

FUN MATH

$$1 \times 8 + 1 = 9$$
$$12 \times 8 + 2 = 98$$
$$123 \times 8 + 3 = 987$$
$$1234 \times 8 + 4 = 9876$$
$$12345 \times 8 + 5 = 98765$$
$$123456 \times 8 + 6 = 987654$$
$$1234567 \times 8 + 7 = 9876543$$
$$12345678 \times 8 + 8 = 98765432$$
$$123456789 \times 8 + 9 = 987654321$$