NEW ZEALAND TRUSTEE SERVICES

Accounting & Tax Update

APRIL 2024

Kia ora

HAPPY NEW YEAR!!! WELL AT LEAST HAPPY NEW FINANCIAL YEAR. THE GOVERNMENT CERTAINLY HAS STARTED OFF THE YEAR WITH LOTS OF FIREWORKS AND A BANG WITH THE INTRODUCTION OF THE INCREASE IN THE TRUST TAX RATE FROM 33% TO 39%.

This bill has once again been rushed through parliament at the very last moment, only days before it was due to come into effect. The Inland Revenue has not had a chance to review the changes long enough to issue an interpretation statement so no doubt the year ahead will be a case of two steps forward and one back as we all come to grips with how to comply and systems are actually built to deal with the changes.

Let's talk about Trust tax rate changes

FROM 33% TO 39%

You may have read or heard that there are changes afoot for the taxation of Trusts. NZTS has been monitoring the proposed changes.

The following is a summary of where we are today and likely future directions.

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Background

IN MAY 2023 THE GOVERNMENT INTRODUCED THE TAXATION (ANNUAL RATES FOR 2023-24, MULTINATIONAL TAX, AND REMEDIAL MATTERS) BILL WHICH AMONGST OTHER THINGS PROPOSED RAISING THE TRUST INCOME TAX RATE FROM 33% TO 39% FROM THE 1 APRIL 2024. THE REASON FOR THE INCREASE WAS TO ALIGN THE TOP INDIVIDUAL RATE OF 39% ($180,000 OF INCOME) WITH THE TOP TRUST RATE TO STOP INCOME SHIFTING. IN JUNE 2023 PG MADE A WRITTEN SUBMISSION AND FOLLOWED THAT UP IN JANUARY 2024 WITH A VERBAL SUBMISSION EMPHASIZING THAT IN TARGETING TRUSTS WITH INCOME OVER $180,000 THEY WOULD BE OVERTAXING THE MAJORITY OF ESTATES AND TRUSTS IN NEW ZEALAND WHO HAVE INCOME BELOW THIS LEVEL. THE BILL WAS ASSENTED AT THE END OF MARCH 2024 AND BECAME LAW ON THE 1 APRIL 2024.

CHANGES

As a result of the submissions changes were made to the bill to exclude some parties which are as follows:

- Immediately Distributable Estates will stay at the existing rate of 33% in the year of death and for the following 3 years. At that point the tax rate will increase to 39%. This lower rate will apply where the date of death occurs in the 2021 income year onwards
- A de minimis threshold based on net income of less than $10,000 has been introduced which will see Trusts and Continuing Estates with net income of less than $10,000 being taxed at the existing rate of 33%
- Where the trustees net income exceeds $10,000, all the income will be taxed at 39%
- Trusts that are settled for disabled beneficiaries will be taxed at the existing rate of 33%
- A 'disabled beneficiary' is defined as people receiving any of the following support payments:

  - Disability allowance
  - Child disability allowance
  - Supported living payment on the grounds of restricted work capacity, or
  - the JobSeeker Health Conditions and Disability
- It also includes people aged 65+ who meet the definition of 'disabled beneficiary' in the income year they turned 65 or the income year prior
- Beneficiary income distributed to a close company beneficiary will be taxed at the trust rate of 39% rather than the company rate of 28%
- Energy and Legacy superannuation trusts will be taxed at 33%
- In all other situations the Trustee tax rate will increase to 39%
- As the company dividend rate is still 33%, the trust will in effect have an additional 6% tax to pay if it receives company dividends.

EFFECTS

- Unfortunately if income is retained by a trustee rather than being paid or credited to a beneficiary, who has a low/medium tax rate and that income is over $10,000 then over taxation will occur
- Where trusts do retain income over $10,000, RWT tax rates will need to be increased to 39% in April 2024 to insure the correct tax is deducted
- Any portfolios and bank accounts will need to be reviewed and the RWT rate increased to 39% where needed
- There is no proposed increase in the PIR rate for PIE funds. The increase in the tax rate to 39% means there is an 11% tax incentive to invest in PIE funds which have a 28% tax rate
- The increased tax rate may result in larger taxation payments for trusts which may require more cash to be held. It may also lead to more trusts having to pay provisional tax where income is retained. This maybe offset if the income is from a PIE and the rate is set at 28% and therefore would be a final tax.

WHERE TO FROM HERE

We will review Inland Revenue's Interpretation Statement when it is released to understand how the department will enforce the rate change and deal with any and all ambiguities and provide further updates as necessary.

In the interim, please contact your accountant if you have any questions or wish to discuss what these changes may mean for you and your personal circumstances.

KIND REGARDS

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Your NZTS Team