



TAXATION & FINANCIAL SPECIALISTS

Where the client comes first...

Newsletter

WINTER 2014

Trustees must be aware of fishhooks

A solicitor in a provincial town was the independent trustee for a family trust. Mr and Mrs B bought and sold 11 properties over a 12-year period. Ms X, the solicitor, did the conveyancing.

The trust treated these properties as separate residences of the beneficiaries. The tax department alleged the transactions were taxable and charged both GST and income tax, plus penalties..

The trust deed required all trust decisions to be made unanimously. In this case, it would have required Mr and Mrs B and Ms X to have agreed to each purchase and each sale.

However, Mr and Mrs B acted on their own account, buying and selling property and arranging finance, and then getting their solicitor, Ms X, to do the legal work.

It seems regular minutes were not prepared. However, they were prepared retrospectively and signed by all trustees. It seems that even if the minutes had not been completed, Ms X had agreed to the transactions because she would have signed the various documents in her capacity as a trustee and she would have known that all the transactions were occurring.

Ms X was held to be jointly and severally liable for all tax and penalties, along with the other two trustees. This means if they could not or would not pay some or all of the money owing to the IRD, Ms X would have to make up the shortfall.

If you are an independent trustee of a trust, we hope you have read this little story. If it gives you nightmares, resign your trusteeship first thing in the morning.

If you must accept the position of trustee for someone else's trust, you must know what is going on. If your co-trustee(s) thinks they can act independently, resign. Sometimes this can be a painful process. For solicitors and accountants it can mean the loss of clients. For others it can be the loss of friends. Face up to it, don't get caught like Ms X.

Make sure you get proper tax invoices

Not all retailers are issuing proper tax invoices.

For purchases over \$50 at a minimum a tax invoice must include the words "Tax Invoice" as well as the GST registration number.

If you do not receive a tax invoice for goods purchased, you are not permitted to claim GST. Should you be given an invoice which does not qualify as a tax invoice, ask the assistant to record the missing information on the document and, to be extra cautious, get the person to initial the changes.

You may well discover the omission after you have left the shop. The remedy, in that case, is to ring the firm concerned, get the name of the person you talk to and ask for permission to insert the missing information as **agent for the supplier**. Then insert the missing words or number. Be careful, it is illegal to be issued with two tax invoices for the same transaction.

GET PERSONAL-BUSINESS LOAN ARRANGEMENTS RIGHT

A client bought a new car for his business. The business paid for the car but the finance arrangement was in his own name. The interest is not tax deductible on the money borrowed.

While we can remedy the situation, it adds to our work and your costs. Make sure if you are borrowing money for your company, the

documentation is made out to the company and is signed on behalf of the company by you as a director.

Sometimes you can get a lower rate of interest by getting a loan in your own name rather than in your company name. If this is the case, talk to us. You could be appointed agent for the company. This would need to be properly documented.

Take care with bank discussions

Anything you say to a bank can be written down and used in evidence against you. Not by the bank so much as the Tax Department.

It is not confidential from the IRD. Always imagine an officer of the department is listening to your every word.

You have no control over the notes your bank manager makes of your meeting. Just in case he/she makes a mistake and writes a note of something he/she imagines was said, make a detailed diary note yourself immediately following the meeting.

For example, if you were to buy a property for renting and were to tell the bank there is a good capital gain to be made, this could be interpreted by the IRD as being a purchase made to get a capital gain. Consequence: taxable income.

If you have the intention to make a profit and a reasonable prospect of success, the eventual gain on any transaction you are engaged in is probably taxable. So, if you buy a rental property but have in mind selling it for a profit some time in the future, the profit on sale is taxable. On the other hand, if you buy the same rental property as a long-term investment to provide income in future years, you are not taxed on the profit you make on the eventual sale.

We all know property prices rise over time. So the person who buys to rent is aware there's likely to be a capital gain on sale of the property. The issue is you must buy for the income, not the capital gain.

The same applies to the sharemarket. Buy shares like Xero for fat dividends once they make profits and your sale of Xero shares for a gain is not taxable. Buy Genesis shares and sell them soon after issue "to take a profit" as sharebrokers say, and the gain is probably taxable.

Under-promise, over-deliver for good referrals

It should be obvious to anyone in business, not keeping your word does nothing to enhance your image.

It's often hard to tell a customer, very politely of course, "You'll have to wait". You might be a very small building company and know you won't have a gap in your work for six months.

If this is the situation, tell the customer you can start in seven months, turn up after 6½ and you'll be praised. Say you'll be along in three months (to keep the customer happy) and they'll hate you for taking six.

Never promise more than you can achieve. It's better to lose jobs than to upset customers, because happy customers are the very people who are going to recommend you for your next job. You'll get payback when the economy goes bad again, as it inevitably will one day.

You'll get referrals when others won't.

Que? This time the waiter delighted the customers

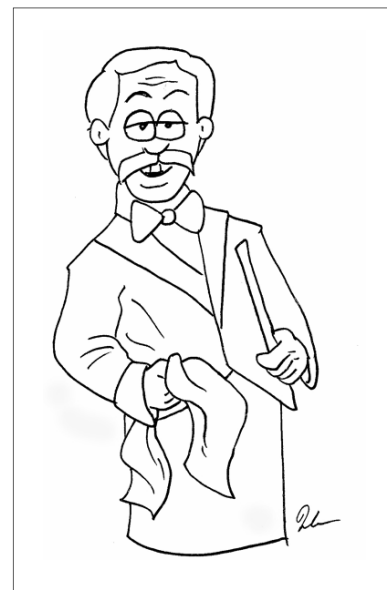
It reminded our two friends of a *Fawlty Towers* episode. They went to a restaurant and ordered rhubarb strudel.

However, the Italian waiter carefully recorded two roulades. "Rhubarb" and "roulade" sounded alike to him. When the roulades were served the guests explained this was not what they ordered.

To his credit, the waiter suggested they keep the roulades. "I will bring you your rhubarb strudels as well," he said. The guests were impressed. The lesson: If you make a mistake, delight the customer, don't merely put things right.

Staying with the restaurant theme, how often have you been engaged in an interesting conversation and the waiter or waitress has interrupted to ask if you have enjoyed your meal? The time to inquire is when the customer pays the bill, or better still, send an email next day requesting feedback (excuse the pun). This way you're likely to get a more considered opinion. Don't interrupt your customers – that's just rude.

If you're an unhappy customer, tell the staff when they ask you and give them a chance to respond. Don't vent your spleen on the internet. That's not fair, unless, of course, they won't listen.



When missing out creates opportunities

What do you do if you've missed out on a contract?

Stu is a real estate agent. He tried so hard to sign Norm up when he was selling his house. His was the best presentation. However, he didn't succeed.

When he found this out he wrote a very nice letter to Norm thanking him for being invited to tender this time and wishing him well with the sale of his house. Norm was so impressed he has told other people.

If Stu always does this (and you can bet he does), he'll inevitably get more referrals than he would have done. Stu is a top salesman. Surprised?

Amy is a top-flight caterer. She was invited to quote for a wedding. She missed out.

When she was told she had been unsuccessful, she asked (very nicely) why. She wanted to know what she could do better next time. Then, and this is the key, she sent an email to the bride and groom a short while before the big day wishing them the best.

Will she be remembered and get referrals? What do you think?

If you lose out when you've quoted, see if you can learn from Stu and Amy. Don't be sore about losing. Treat it as an opportunity to get more references.

Chronically short of time?

Here are some suggestions if you never seem to have enough time to get things done:

- Emails are a menace. Channel them through your secretary, if you have one. Don't let people email you directly. If you don't have a secretary, maybe you need a part-timer at least. The PA needs to learn from you what can be culled.
- You need a portion of each day when no one can contact you, including staff. Use this time to focus on your most important work ONLY.
- Start each day by planning your work. You may not need a complete list. A pile of files and notes you've made (in sequence) is a plan.
- Make your notes as you think of them, even if it's in the middle of the night or while you're out getting your exercise. Take a pen and paper with you wherever you go.

BRIEFLY

ACC classification

It appears ACC may be using "Manufacturing" as a default classification. If you receive ACC statements, check to see they have the correct classification for your industry. Your premiums could be too high. If this has happened to you, go back to earlier years and request refunds if necessary.

Tax rebates

IRD uses the processing date of rebates as the date the payment can be credited. For example, you are processing a tax rebate for 2013 year, so you send it to IRD in February 2014. They will use the date in February 2014 as the earliest date for transferring towards the 2013 income tax year. If you are a generous donor and your rebate is big, the lateness could cause you to pay Use of Money Interest or penalties, depending on your circumstances.

Facebook for staff

If you want to find out about a prospective employee, why not look them up on Facebook? If they have been foolish enough to publish material about themselves, which they would rather you didn't read, would they really make a good employee?

Banks are cashing in on PIE investments

PIEs are great for the banks.

They are now offering PIE investments at a lower interest rate than term deposits. They argue if you adjust for the tax saving you actually get a bit more with a PIE than you would for a term deposit. Where does the difference go? Answer: into the bank coffers.

Presumably, the banks might argue there is a higher administration cost in a PIE.

This may be a good example of an unintended consequence.

When the then Minister of Finance introduced the idea of a top 28 percent tax on PIE investments, did he think at the time this would lead to further enrichment of the banks and leakage of our overseas funds?

Shop around if you're an investor. Not all banks are doing this on all investments.



Say goodbye to expensive toll and cellphone calls

Would you like free toll calls within New Zealand and cut rates when you call a cellphone or make an overseas call? Go to www.callzero.co.nz

The person who put us on to this told us his mother lives in England. He calls her twice a week using the internet. Instead of spending more than \$10 per call the cost is now down to a little over \$2.

Can you use it for business as well? Yes, but get in touch with Callzero if you try to use it for a call centre. There are some limits on high use.

Is it a hassle to use Callzero? All you have to do is put it in your website favourites, log in



and insert your number and the number you are calling. It takes a little longer than just picking up the phone and dialling the number.

We've also found when we want to top up our Callzero prepayment, it pays to use an ISP other than Explorer. We use Google Chrome.

Is this all too good to be true? Well it really is true – try it.



TAX CALENDAR

May 28

1st Instalment of 2015
Provisional Tax
(December balance date)

June 2

Deadline for
Fringe Benefit Tax return

July 28

3rd instalment 2014
Provisional Tax
(June balance date)

August 28

1st instalment 2015
Provisional Tax
(March balance date)

Repellent makes a mark

A café serves Devonshire teas. There are tables and chairs outside and a lovely little stream ambles through the garden. That means sand flies. However, on each table you will find an insect repellent. That's clever service!

Improve your ads for better results

Many advertisements fail to get results. Improve your ads. Poor results from ads could be your fault.

- If you make an offer, make it worth having. A cafe offers a free coffee from 3-4pm on Tuesdays with any meal purchased. Would you get excited by this offer?
- Your offer is the most important part of the ad. Buyers viewing your ad think "What's in it for me"? Make your offer stand out – big and bold.
- Bigger ads get disproportionately better results. Small ads may be a waste of money.
- Place your ad on a right hand page or negotiate this with your advertising media. Ads on right hand pages are noticed more than those on left hand pages.

- Sell to satisfy wants not needs. We need healthy food but we like and **want** tasty food. Sell healthy food BUT make it tasty.
- Advertising is only a part of marketing. How customers perceive your business is another part. This includes the people serving, telephone reception, your premises (lighting, shop window, location etc) and everything else about your business.

Plan

Before you spend a cent, make a plan for the year and price that plan. Leave a few marketing dollars for the unforeseen. If a special deal comes your way, assess it in the light of your plan.