Motor Vehicles, Fringe Benefit Tax and changes to Company Gains on Liquidation

Motor Vehicles and Fringe Benefit Tax

For the 2018 financial year and future tax years, there is a new method for close companies that provide a motor vehicle to a shareholder-employee. For a new vehicle arrangement, (i.e. vehicles not in the FBT system previously) the company can elect a new calculation method whereby a claim is made to claim for the business use proportion of expenditure, with the private use being separated as non-deductible expenditure.

Under this new calculation method the treatment is the same for a sole trader or partner of a partnership. A log book is required to be maintained for a three-month period to show the business use of the vehicle. The business use percentage is also used for the input tax claimed for GST.

The existing rules of Fringe Benefit Tax for vehicles still apply if the new calculation method is not elected to be used and these are summarised below.

A fringe benefit arises when a motor vehicle is made available to an employee for their private use. It applies to vehicles both owned and leased by the employer.

There are a number of exemptions that may apply for example; the vehicle is a work-related vehicle, used for an emergency call or a long business trip.

A work related vehicle is a defined term and needs the following characteristics:

+ the vehicle must not be designed principally for the carriage of passengers, unless it has been modified to enable goods to be carried, i.e. seats bolted down
+ the vehicle has the employers name or other business identification that is prominently and permanently displayed on the exterior, i.e. signwritten
+ the private use needs to be restricted in writing to travel between home and work if it is available to be taken home by the employee.

The IRD treats travel between home and work to be private use, unless the home is also a place of work. Or the private usage is restricted in writing to the employee.

Changes to Treatment of Company Gains on Liquidation

Until now when a company has sold an asset to an associated party the capital gain was tax free to the company. When the company was liquidated the capital gains relating to the sale to an associated party was "tainted" and generally taxable on distribution.

Now from the 30th of March 2017, this has changed considerably. The scope of the "tainted capital gains" has been narrowed. The distributed gain is only "tainted" now if at the time of the asset disposal and at the time of liquidation there was 85% or more commonality of voting. If at the time of the liquidation, the asset is owned by a company that does not have the required common ownership or by a non-corporate, the gain or loss is not tainted and is non-taxable.

This change may enable some historical capital gains to be distributed tax free on liquidation.

This is general advice and as tax law is generally fact specific we recommend that you contact your usual McCulloch + Partner advisor if more detail is required.

Invercargill Office
128 Spey Street, Invercargill 9810
PO Box 844, Invercargill 9840
P: 03 218 6179 F: 03 218 2238

Queenstown Office
Level 2, 11-17 Church Street, Queenstown 9300
PO Box 64, Queenstown 9348
P: 03 442 7020 F: 03 442 7032