How to Minimise Income Tax without being a Tax Evader

Business Tax Planning Tips

No one wants to pay any more income tax than they legally have to and there is no law which says you must arrange your affairs to pay more tax than you need.

There is however a law which says that if you evade tax and are caught you will be penalised. The penalty for evasion is:

- **Up to 5 years jail**; and
- **A fine of up to $50,000**; and
- Penalty tax of up to 150% of the amount of tax evaded; and
- Interest on underpaid tax

Evasion includes:

- Deliberately not returning all business income
- Knowingly claiming expenses that are not business related.
- Knowingly omitting to include amounts owed to you at balance date
- Knowingly doing anything which makes your tax return, false, incomplete or misleading.

WHAT CAN YOU DO TO LEGALLY MINIMISE YOUR TAX?

1. Look at your trading structure. Would you benefit from using a company or trust? This may also reduce ACC.
2. Trusts still offer income tax advantages if you have children aged 16 or over who you are still supporting.

3. Pay interest on loans from yourself to your business. Not only can this defer income tax it also saves ACC.

4. Pay family members a fair wage for work done.

5. Ensure all assets are correctly identified so as to maximize the depreciation claim available.

6. Watch the timing of purchase/sale of fixed assets, particularly those where a recovery of depreciation is likely.

7. Ensure any obsolete fixed assets are written off – you no longer need IRD approval.

8. Do not value stock of consumables, unless they exceed the accruals threshold.

9. Accrue any bonus wages/holiday pay paid within 63 days of balance date.

10. Write any bad debts out of your debtors ledger **before** balance date.

11. Ensure stock on hand is valued at the lower of cost to you, exclusive of GST, or market value.

12. Ensure all assets costing less than $500 (GST exclusive) are written off in year of purchase.

13. Know what payments are subject to the withholding payment rules. Failure to deduct withholding tax (if required) can result in double tax.

14. Ensure any retentions owed by debtors at balance date are deducted from taxable income. Similarly ensure any retentions you owe to subcontractors are not claimed until the retention period expires or any required repairs are completed.

15. Claim any use of money interest paid to the IRD as part of terminal tax.

16. Know whether a lease is an Operating Lease or a Finance Lease.

17. Be aware of the timing of the deductibility of expenditure under the Accruals Determination.

18. Plan ahead. Use of money interest can add significantly to your income tax bill.

19. Consider using a trust to hold shares in your company (unless you expect to be incurring start up losses)

20. Look at putting investments that may generate tax deductible losses into a stand alone Look Through Company. (As from 1 April 2019 losses on residential rental properties can't be offset against other income)

21. Restructure your business to ensure all interest paid is tax deductible.

22. Look at investments where you can use the cash flow of the business to generate tax losses that exceed your cash outlay – considerably harder now that buildings can no longer be depreciated.

23. Know when you are liable for FBT.

24. Talk to us about options for minimizing FBT.

25. Ensure obsolete stock is identified and sold/scrapped before balance date.

26. Use a separate company to own any property you may possibly subdivide.

27. Be aware that subdividing land within 10 years of purchase generally makes any profit on sale taxable, no matter when sold. Talk to us about the exemptions **before commencing** the subdivision.

28. Be aware that the time when a contract becomes liable for tax is generally determined by the date the contract becomes unconditional not by when payments is received (except in case of land).

29. When you sell a business ensure any business goodwill is separately identified. It is generally not taxable whereas goodwill received on the grant of a lease is.

30. Ensure you do some work at home so that you can claim home office expenses/allowance.

31. Record all entertainment expenditure.

32. Use a Chartered Accountant. Anyone can call themselves an accountant these days, even persons with no qualifications or training. Using a Chartered Accountant is the only way you can be sure the person providing you with tax and related advice is qualified and is committed to on-going training.

33. Ensure transactions between associated entities take place at fair market value.

34. If you borrow funds from an associated company do you have to charge interest and pay RWT?

35. If you own a house in NZ have you checked that this does not make you a NZ tax resident, especially if you work in a country with which NZ does **NOT** have a Double Tax Agreement?

36. Be aware of when the Brightline rules apply to sale of residential property/land.

Ask for advice before taking any action.