



The Tax Lady

Accounting Services for Small Business

www.thetaxlady.co.nz

Client Newsletter [December 2017 & January 2018]

New provisional tax method from April 2018

The Accounting Income Method (AIM) is a new provisional tax option available from April 2018. AIM is intended to make paying tax easier for provisional taxpayers. It will particularly suit businesses that have:

- Turnover of less than \$5 million a year; or
- Irregular or seasonal income; or
- Accounting software or want to start using accounting software.

How will AIM work?

For a businesses to use AIM, they will need accounting software that has been approved by the IRD.

AIM capable software will use information from normal business processes to work out the provisional tax payment after taking into account any adjustments. It must have the capability to review the tax treatment of factors such as:

- The business depreciation register;
- Provisions including shareholder salaries;
- Private use expenditure;
- Debtors and creditors;
- Trading stock; and
- Prior year's losses.

Once the software has made any adjustments, it then calculates the provisional tax payment required.

The IRD has indicated that they will have the AIM legislation implemented before April 2018. This will help give users an idea of what to expect when using the software, although each provider may present AIM a little differently.

Payment frequency

AIM users will pay their provisional tax based on the GST return filing frequency. This will be every one or two months depending on how often GST is calculated and paid.

For those not GST-registered or who pay GST on a six-monthly basis, they will pay provisional tax every two months.

At the end of the tax year, terminal tax will be payable to settle any outstanding tax.

Benefits of using AIM

AIM will provide benefits, in particular, to small business clients. Some of the more significant ones are:

- No tax penalties or use of money interest (UOMI) is payable provided you pay what the software tells you on or before the due date.
- Provisional tax is only payable where the software indicates the taxpayer has made a profit. Where the taxpayer suffers a subsequent loss, a refund for any overpaid provisional tax that was paid in earlier months will be paid immediately rather having to wait until the end of the year to get a refund.
- The tax square-up at year-end will not result in any use of money interest UOMI.
- Removes the stress of getting provisional tax correct when using other calculation methods.
- Assists with business cashflow.

As clients are aware, there is now no UOMI on provisional tax at the P1 and P2 instalments, provided the tax is paid using the standard uplift method. However, clients will have to ensure their accounts are completed in time for the P3 instalment or run the risk of UOMI. Where this a concern, the solution may be to use AIM.

We would encourage our clients to get in touch to discuss if AIM is suitable for you.

Relief after investment property case overturned

A potentially precedent setting case involving a residential property investment and the ruling from the Tenancy Tribunal where a landlord was ordered to refund over \$10,000 to a former tenant because of a legal technicality has been overturned with the tenant being ordered to repay the landlord.

The landlord purchased the house at an auction without obtaining a LIM report. They were not aware that alterations made to the downstairs area of the property deviated from the plans submitted by the previous owner to the Dunedin City Council. The landlord lived in the property for some time before letting the house out. The Tenancy Tribunal held that as the work downstairs was unpermitted, the entire tenancy was unlawful and the tenant was entitled to a full refund of the rent paid.

This case would have served as a warning to landlords for the following reasons:

- The landlord agreed to let the property at a lower than market rate rent on the basis that only the tenant and her son would occupy the property, but her partner became a permanent resident
- The tenant, without the knowledge of the landlord, sublet the downstairs as a boarding house
- The landlord, upon finding out about the overcrowding of the property, gave notice to the tenant to vacate the property
- The tenant upon showing the landlord the unpermitted plans, which was the first time the landlord had seen them, then sought a full rent refund through the Tenancy Tribunal
- Upon becoming aware of the irregularity, the landlord sought a certificate of acceptance for the work that deviated from the original council plans which had stated the work was excellent
- The landlord counterclaimed for \$3,000 compensation and exemplary damages
- The Tribunal dismissed both the landlord's rehearing (requested in light of the certificate of acceptance) and the landlord's counterclaim
- The end result was the tenant had stayed in the house rent-free, made a profit from sub-letting the downstairs; and the tenant did not have to pay for damages caused to the property during the tenancy
- The landlord had to sell the property to pay the rent refund and costs

The District Court overturned the decision finding that the tenant did not suffer any detriment as a result of the breach.

Back-paid holiday pay

Holiday pay includes both annual leave and pay for statutory holidays. However, pay for statutory holidays are included as earnings in the period that you actually pay the employee.

Where the holiday pay is paid in addition to the employee's regular pay in a pay period, the holiday pay will be taxed as lump sum. Back-payments, including underpaid holiday pay, to an employee or ex-employee are regarded as lump sum payments and taxed accordingly.

Lump sums are also called extra pays and you can find out more about taxing lump sums at www.ird.govt.nz (search keywords: extra pay).

Important: This is not advice. Clients should not act solely on the basis of the material contained in the Client Newsletter. Items herein are general comments only and do not constitute or convey advice per se. Changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas. The Client Newsletter is issued as a helpful guide to clients and for their private information. Therefore it should be regarded as confidential and should not be made available to any person without our prior approval. 06/2017.