



Tax Tonic July 2020

Carl Brandt & Julie Segedin

GST and Zero-rating

Q: Anything like this farmland and the curtilage issue I always request 2 sale and purchase agreements. One for taxable activity, the other for home and curtilage

A: The norm is for one agreement and best practice is to value both components and state part as exempt and part taxable (either at 0% or standard rate) regardless of whether the agreement is plus GST or inclusive or whether the purchaser is registered or not

Q: Is GST claimable on expenses (picking & packing costs) that relate to Export Avocado Income (Exempt)? Thanks

A: Definitely, This is a good example of export sales (not exempt) so inputs on all related costs are claimable

Q: Providing accounting services in NZ for non-residents overseas zero rated? An accounting fee for an overseas person who owns a rental property in NZ - zero rate?

A: Yes the accounting fees are zero-rated for non-resident clients who are out of the country. The accounting services are not "directly in connection" with the rental property situated in NZ.

ICA converted to losses and subvention

Q: Excess imputation credits convert to a loss, but this loss isn't reflected in retained earnings, only the w/off of imp credits? Does this create a problem doing subvention offsets where you don't have a full accounting loss to offset the accounting profit in the other entity?

A: The conversion of excess ICs to a loss does not trigger a debit to the ICA. The Profit company which pays the subvention payment will have ICs that match its retained earnings as the subvention payment is a deduction through the P&L. As the other company with excess ICs does not suffer a debit to the ICA, its ICA will still record the ICs attached to the dividend it received (ie. \$56k ICs as a credit in the ICA and \$50k taxable income (before loss conversion), in the webinar example.

Q: Slightly off topic but IC converted to loss - does the IC actually hit the ICA account or will there be a subsequent debit entry?

A: The \$56k ICs attached to the dividend are a credit to the ICA and the conversion to loss does not trigger a debit to the ICA.

Q: A company was struck off some time back with accumulated tax losses of approx. \$358,000. My understanding is that it has also been closed off with IRD. I was just wondering if we for some reason were able to get that company re-instated at companies office if those losses would still be available in that company to be utilised?"

A: It is possible for companies to be reinstated with their losses restored but a bit difficult to answer without all the facts. Given the amount involved perhaps it would be worth the client obtaining some specific advice.

Residential rental losses and ring-fencing

Q: Please expand on the loss ringfencing for mixed use as I missed the comment about make the dwelling the biggest part. Thank you.

A: We discussed the point that if the predominant use (more than 50%) of the property is the main home, a rental loss derived from the same property is not ring-fenced. For example, a person who rents out a spare room as Air BnB, or has a small granny flat attached to the main house.

Q: Can you please clarify your answer regarding slide 73 Ring-fencing – dual use property – in or out. You added that if you had an Air BnB, the percentage of the house that you live in should be more than the area used for Air BnB.

A: Yes, if you are making a loss on an Air BnB that is part of your home, so long as your home area is more than 50% and you live there most of the year then you qualify for the "main home" exemption from the bright-line which also means the rental loss isn't ringfenced under the rental ringfencing rules. For completeness this isn't a "mixed use asset" because the house as one asset isn't empty for more than 62 days so there is no loss ring-fencing under the MUA rules either.

Q: Residential property rented to property developer as a show home. Is it residential or business-the loss will ring-fenced or not?

A: Ring-fencing should not apply here as, for the term of the lease, the house is not being used as a 'dwelling' and the nature of the lease is commercial not residential.

Julie Segedin (07) 282 0723 julie@jstax.co.nz

Carl Brandt (07) 282 0722 carl@carlbrandttax.co.nz

This Q&A report has been prepared for informational purposes only, and is not intended to provide, and should not be relied on for, specific tax advice in relation to a client transaction. You should seek appropriate advice before engaging in any transaction.