

BC'S BUSINESS BRIEFS

Deficits – What do they mean to you and I?

The release in the last few days of the ACC Corporations annual result and the Governments accounts to 30 June 2009, have received widespread media attention and comment. The following are a few thoughts from this author on the implications of both results.

- 1 The record Government Deficit of \$10.5 Billion should come as no great surprise to those of us who follow to any degree the current economic trends. No one is immune from the effects of the greatest decline in economic activity since the Great Depression and this includes the Government. Obviously it's revenue base would be expected to decline as both Income Tax and GST receipts drop as a result of the lower economic activity;
- 2 Higher Government spending had previously been signalled both as a result of the previous governments final term spend up and the current governments efforts to ensure the effects of the recession were cushioned by bringing forward capital project expenditure and increased benefit costs.
- 3 While in the long term the Government is like any other business in that it must match it's income with it's expenditure to survive, there are other factors which influence how much the Government can borrow to balance it's books and still receive support from lenders, in our case, substantially overseas. How our government stacks up in comparison with other developed countries government deficits will have a significant impact on both the cost of our governments borrowing costs (and therefore interest rates we all pay). In this regard, our government has actually performed better financially than many other countries in the developed world in terms of their deficit. An indicator of this is the value of our currency and we all know that our currency is trading at relatively high levels historically, which indicates the rest of the world is comfortable that as a country we have a history of stable government and sensible long term decision making.
- 4 Clearly the implications are that in the medium term Government spending needs to drop as a percentage of GDP and income needs to rise. Some of the rise in income will happen automatically as the economy recovers and tax and GST flows increase, however we can expect to see further scrutiny of spending and in particular the big ticket items of Health, Education and benefit costs. A prediction – there is nothing surer than the age of entitlement to National Superannuation will be extended!
- 5 ACC is an insurance business, just like any other insurer. However it's customers are anybody who works in New Zealand and we have no viable alternative as a supplier. It is therefore inevitable that we will all pay higher premiums for the cover we get and there will be further reductions to cover levels and entitlements. It would also not be surprising to see the current government investigate again the possibility of opening up some of the areas that ACC currently cover to private sector competition.

Company Directors Liability

A recent tax case has reinforced the liability that company directors take on. In *Evans v CIR*, the company was prosecuted for not paying its PAYE to IRD. The director was also prosecuted for aiding and abetting the company in not complying with its legal obligations. The director argued that not writing out the cheque on behalf of the company could not be considered to be aiding and abetting, which the District Court agreed with. However the IRD appealed the case to the High Court who ruled in the IRD's favour and the taxpayer then appealed to the Court of Appeal. The Court of Appeal upheld the High Court's decision and accordingly as the law stands, a company director can be held to have aided and abetted a company that has not discharged its tax obligations.

Hardship Provisions within Tax Law

Where taxpayers have genuine difficulty meeting their tax commitments, IRD have long had the power to enter into arrangements allowing liabilities to be cleared in a predetermined basis over a period of time. Anecdotal evidence from a number of tax agents appears to indicate that IRD are currently allowing more flexibility in some of these arrangements and it appears that this may be as a result of a directive from Government in these difficult economic times. If you are having difficulty meeting your commitments, it is better to come to an arrangement with IRD than to ignore the problem and hope it goes away. It won't and it will cost you more in the long run.

Company Dividends

In *CIR v Albany Food Warehouse* the company directors resolved to credit shareholders accounts with a dividend but also recorded agreements with shareholders that the dividend could only be paid out "as and when finance permits". The court held that the date of the dividend was the date of the Directors resolution, not the date of the actual payment of the dividend or the date of the journal entry crediting the shareholders account. This decision ratifies the treatment that is commonly used in distributing company profits to shareholders in closely held companies.

Please contact us if you require any clarification of matters raised herein.

Ross Baigent

Disclaimer of Liability: The views contained in this article are the personal views of the author. No liability will be accepted for actions taken in reliance on those views by any other person.

BAIGENT CONSULTING LIMITED
Downs, Auckland.

P O Box 64009, Botany.

301s Botany Road, Botany
Ph: (09) 274- 3075