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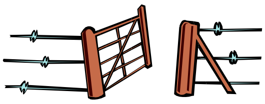
BROWN GLASSFORD AND CO LTD

Beyond the Farm Gate



Farming Newsletter

February 2010

THIS EDITION

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2010 Provisional Tax/Dairy Payout Increase

Clients with 31 May balance dates will have their second instalment of 2010 Provisional Tax due on the **28th of February 2010**. If you made a loss in 2009 and have no 2010 Provisional Tax payable, please check whether you should re-estimate your taxable position in light of the improved dairy forecast payouts.

We can file a re-estimation with the Inland Revenue and pay additional tax anytime up to the 28th of February 2010.

Minimum Wage Increase

The Government has moved to increase the minimum wage from $12.50 to $12.75 in line with the Consumer Price Index.

The training and new entrants' minimum wage will increase from $10.00 to $10.20. The new minimum wage rates will come into effect on 1 April 2010.

Motor Vehicle Expenses - Reimbursing Employees

The options that an employer has to reimburse an employee, including a shareholder–employee, for the business use of their private vehicle are:

- The actual expenditure incurred by the employee for the distance travelled by the vehicle for work purposes
- An employer's own reasonable estimate of expenditure likely to be incurred by the employee (this estimate may be based on a rate published by a reputable independent New Zealand source such as the New Zealand Automobile Association), or
- Inland Revenue's mileage rate which is $0.70 per kilometre.

It is up to the individual employer who chooses to use the Inland Revenue's mileage rate to ensure that the rate is suitable and that it represents a reasonable estimate of the employee's expenditure. As this rate is based around 5,000 kilometres of business travel per annum, the employer may consider using one of the other alternative methods to reimburse the employee.

PAYE Tax Tables

Inland Revenue have recently advised that they will no longer be issuing the printed copies of the PAYE tax tables for employers. Instead you will need to use their online PAYE/KiwiSaver calculator at www.ird.govt.nz.

You can also view or print-out the most up to date PAYE deduction tables online and these are the IR 340 and the IR 341. If you would still like a printed copy of the PAYE tax tables to be sent to you, you can order one through the Inland Revenue 0800 self service by calling 0800 257 773.

You can also electronically file your Employer Monthly Schedule IR 348 and Employer Deduction IR 345 to the Inland Revenue. Please remember you need to contact them to do this.

Income Tax Returns for Signing

Those clients who have Income Tax Return Declarations to sign and return to us need to do so as soon as possible. We are required to have all Income Tax Returns signed and filed with the Inland Revenue by **31 March 2010**.

Brown Glassford Grant Application

BROWN GLASSFORD AND CO LTD

Brown Glassford and Co Limited sponsor a number of agriculturally based community group projects annually. Because of the number of sponsorship requests we receive, we have established an annual pool so we can consider all requests at the same time. Each year we will close off the date for applications on the 30th of April.

Therefore if your rural community group wishes to apply for sponsorship from Brown Glassford & Co Limited, please have your form into Kathleen Woodside by the **30th of April 2010**.

A 'Grant Application Form' can be obtained from our website (see below) or contact our office and we can post you out one. If you have any further queries with regard to sponsorship, please contact Kathleen Woodside.

www.brownglass.co.nz

Fonterra Capital Structure

The New Capital Structure

As a result of the capital structure changes that have taken place following the majority vote by farm owners on 18 November 2009, there is now a clearer distinction between the amount paid for milk farmers supply to Fonterra and the dividend paid on shares they have invested in Fonterra. The dividends will be paid on the number of shares held by shareholders at 31 March and 31 May each year and not on the basis of milk production.

There is also the ability for farm owners to hold shares in Fonterra up to 120% of their recent or expected production. This has led to the terms "wet" shares (i.e. those supported by production) and "dry" shares (i.e. those not supported by production).

The Dividend Payment

By law the dividend payment must be paid in its entirety to the shareholder – i.e. the farm owner (in most cases). There is no ability for instructions to be given to Fonterra to split this payment with the sharemilker.

There is currently legislation before parliament, which means that unlike most dividends one receives, the dividends received from Fonterra will not be subject to resident withholding tax nor have imputation credits attached. Also, there will be no GST paid on the dividend.

The dividend will be paid based on the number of shares owned on the Dividend Record Date. These dates have been determined as 31 March and 31 May. Payments will be made on 20 April and 20 October following these Dividend Record Dates. The dividend will be paid based on the total shares owned on that date, not on the basis of the production.

Implications for Sharemilkers

Sharemilkers with existing contracts are legally entitled to continue receiving the equivalent portion of the payout they currently receive on all payments from Fonterra, including the dividend portion. For example a 50:50 sharemilker currently receiving 50% of all payments from Fonterra will continue to receive 50% of all payments (for production shares), even though the value-added portion of the payout has now been changed to a dividend payment. Sharemilkers have no entitlement to any payments related to "dry" shares.

Sharemilkers with current contracts that have a clause(s) that states payment changes that occur are not to adversely affect either party are legally protected, so any changes cannot adversely affect a sharemilker's income (this includes the Federated Farmers' agreements). Sharemilkers should be encouraged to seek legal advice to clarify individual contractual details where they feel this is necessary.

Fonterra has realised that there are concerns around the inability to split the dividend payment between the farm owner and the sharemilker. In recognition of this they have introduced a Dividend Related Payment Adjustment (DRPA). This will allow shareholders to adjust the milk payment allocation to reflect the current contractual obligations.

All shareholders with sharemilkers have been asked to complete a DRPA **election before 28 February 2010** to instruct Fonterra in regard to any DRPA. There are three possible options that are available:

- Make a payment adjustment based on all shares owned (wet and dry)
- Make a payment adjustment based on only shares related to production (wet shares only)
- Make no adjustment.

The adjustment will be made at the same time as the dividend payment and will be an adjustment to the milk payment for both the shareholder and the sharemilker.

This is not an issue for contract milkers that receive a set dollar value per kilo of milk solids.

An Example

A shareholder owns 80,000 shares and has a 50/50 sharemilker. On 20 April 2010 he is entitled to receive $40,000 plus GST ($45,000) for milk plus a dividend payment of $20,000 – a total, including GST, of $65,000.

On 20 April 2010 the sharemilker is entitled to receive $40,000 plus GST for milk – a total, including GST, of $45,000.

The shareholder has elected that a DRPA be made in relation to the 80,000 shares owned by him and that a 50% adjustment would be made.

The shareholder would therefore receive $10,000 plus GST less in milk – so a total of $30,000 plus GST ($33,750) – i.e. $40,000 minus $10,000 plus GST. Including the dividend, he would therefore receive $53,750.

The sharemilker would receive a total of $50,000 plus GST – i.e. $40,000 plus $10,000 plus GST for milk – a total of $56,250.

Increases and Decreases in Production

There are complications where there are increases and decreases in production. The milk price will be paid based on production, but the dividend (and therefore the DRPA) will be based on the number of shares held at the relevant dates referred to earlier. So if production is higher than the number of shares owned at the beginning of the season, the DRPA to the sharemilker will be less than as if it had been based on actual production. Likewise, if production decreases, the sharemilker will get more and the shareholder less.

What Needs to Happen Now?

All of our clients that are farm owners with sharemilkers need to complete the DRPA election **before 28 February 2010**. These have been posted to all shareholders and are also available on the Fonterra website. Fonterra have indicated that they will be actively monitoring the return of these forms.

At this stage we are not aware of any formal communication having taken place between Fonterra and affected sharemilkers; we understand that this is still to happen. All sharemilkers and farm owners need to discuss how to deal with this issue.

Rural law commentators are advocating that the only option that does not unfairly prejudice one party over the other is for farm owners to share the dividend payment on "wet" shares with their sharemilkers.

Sharemilking Contracts in the Future

When negotiating sharemilking contracts from now on, there are a number of items that now need to be considered in the contract:

- Milk price
- Capacity adjustment
- Dividend payment on wet shares
- Dividend payment on dry shares
- Retentions.