

# BUSINESSALERT

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## **IRD Bankrupts Taxpayer Who Paid Judgment Debt**

For reasons unknown the taxpayer built up tax arrears including penalties of \$29,215.56 by August 2011. The case below not only highlights taxpayer's responsibilities to pay tax but in the event taxpayers get behind in tax then it is vital to address the issue early. We can only recommend obtaining professional help to put together a repayment plan to the CIR and stick to it. Whilst the full background of the taxpayer's situation is not known it is clear that despite having been paid more than the judgment sum the CIR was unwilling to agree with the taxpayer to payment plan for some \$11,000.

### **Background:**

The CIR obtained judgment against the taxpayer in August 2011 for \$29,215.56. The taxpayer by failing to settle the judgment debt committed an act of bankruptcy in August 2011. In September 2011 the CIR filed a creditor's petition for an order adjudicating the taxpayer bankrupt. At this time the CIR asserted that the taxpayer owed more than \$43,000. The increase in the debt came about due to additional Goods and Services tax, income tax, penalties and interest. The taxpayer did not take issue with the CIR's assessment.

Following an initial adjournment, at the second call the taxpayer outlined a proposal to pay promptly around \$32,000 representing the original judgment debt (and some related calculations) and to immediately engage with CIR's counsel concerning other accrued tax debts. On that basis the Court granted a further adjournment to February 2012.

By the time of the hearing in February 2012 the taxpayer had paid the CIR the amount promised. The taxpayer had not however been able to persuade the CIR to accept a time payment for the balance of the debt (over \$13,000). The taxpayer sought a further adjournment which was opposed by the CIR.

### **Decision:**

The taxpayer was adjudicated bankrupt. The CIR was entitled to rely on the non-payment of the balance of the tax debt to seek the order for adjudication.

The Court noted that the extent to which the debt specified by the CIR in his application for an adjudication order exceeded the value of the judgment debt but referred to other cases to support its decision.

There was no ability for the Court to use its discretion and dismiss the application on the grounds that it was just and equitable to do so nor was there other sufficient cause why no order should be made

For further information on tax issues contact Norrie & Daughters.