



## ***Business Close Down***

Businesses can have an 'annual closedown' for their whole business or a part of it, but they must give at least 14 days' notice in writing. If a business closes down over the holiday period, employees are required to use their existing annual holidays to cover the closedown period. If an employee doesn't have sufficient leave, they can take leave without pay or the employer and employee can agree to use annual leave in advance.

## ***Public Holiday Pay***

With both Boxing Day and the 2<sup>nd</sup> of January falling on a Saturday the statutory holiday for these two days will fall on the following Monday respective. However, employers and employees may agree in writing to transfer the observance of a public holiday to another working day to meet the needs of the business or the employee. An employer can **only** make an employee work on a public holiday if:

- the public holiday falls on a day the employee would otherwise have worked; **and**
- the requirement to work on the public holiday is noted in their employment agreement.

Otherwise, an employee does not have to agree to work during a public holiday.

An employee must be paid for a day off on a public holiday if it falls on a day that the employee would otherwise have worked. If there is a public holiday when employees are on annual leave, they get paid for the public holiday if they would normally have worked on that day, and do not lose an annual leave day. **Employees who do ANY work on a public holiday are entitled to be paid at least time and a half for the time they actually work and a full day in lieu.**

## ***Annual Holiday Pay***

Employees are entitled to a minimum of four weeks pay for every 12 months of service. Holiday pay for annual leave is the greater of:

1. The average weekly gross earnings for that employee over the year (including any overtime), and
2. The current ordinary weekly pay (excluding overtime), at the time the leave is taken.

Holiday pay must be paid to the employee before they take leave, unless the employer and employee agree in writing that the normal pay cycle will continue undisturbed during the holiday.

## ***Cashing Up Annual Leave***

An employee may request in writing to be paid in cash for up to one week's annual leave per year and this may be granted by the employer. The request must be considered within a reasonable time and may be declined. The employee must be advised of the decision in writing and no reason is required to be given. If granted, the payment must be at least the same as if the employee had taken the holidays and must be paid as soon as practical – usually the next pay day. An employer cannot pressure an employee into cashing up holidays.

## ***Casual Staff***

Casual employees are not entitled to annual leave. Instead, they receive 8% over and above their gross earnings. If they agreed to be paid the 8% on a pay as you go basis on each pay day, then they are not entitled to extra holiday pay in the event of a business close down. If they have not been paid on a pay as you go basis, and the business has a close-down period, then they are entitled to 8% of their gross earnings less any payments already made from that amount. It is important to show the 8% as a separate entry on their pay slip or pay record. For public holidays, if it is clear that a casual employee would have worked on that day (had it not been a public holiday), then they are entitled to be paid for that public holiday just like any other employee.

With casual staff, it is crucial to keep an eye on their hours. If a regular pattern has formed, then they could lose their status as a casual employee and become either a full or part-time employee.

## ***Staff Christmas Party***



The cost of the food and drink for a staff party as well as incidental expenditure relating to the party such as entertainment, music etc will be 50% deductible for income tax purposes. This applies whether the party is on the business premises or off site.

## ***Gifts to Staff***

Generally the cost of gifts to staff (other than food and beverages) will not fall within the entertainment tax provisions and will be fully deductible. However, in the majority of cases the gifts will constitute fringe benefits. The \$300 per employee per quarter FBT exemption may apply.

## ***Cash Bonuses for Staff***

Cash bonuses are taxable to the employees. The employer is required to deduct Kiwisaver and PAYE, at the extra emolument rate. The following link is a guide on taxing bonuses. <https://www.ird.govt.nz/employing-staff/payday-filing/non-standard-filing-of-employment-information/lump-sum-payments>

## ***Business Health Check***

Take a look at your cashflow forecast and tax obligations over December-January, especially if you are impacted by seasonal revenue (such as Christmas revenue as a retailer). Both November and December GST are due for payment in January as well as provisional tax. If you are concerned, you may not be able to pay the tax due, please let us know and let's look at your options.

## ***Small Business Cashflow (Loan) Scheme***

The Government has announced the following changes will be made to the Small Business Cashflow (Loan) Scheme:

- Currently no interest is charged if the loan is repaid within one year. This will be increased to two years.
- Currently the loan can only be used for core operating costs. This will be broadened so that the loan can be used, for example, on capital expenditure.

In addition applications for the loan can now be made until 31 December 2023, an extension of three years.

These changes will be made by Inland Revenue unilaterally changing the terms and conditions of new and existing loan contracts. We don't yet have a date when this will happen, but it will be by 31 December 2020, and we'll keep you informed. At this stage, all other aspects of the loan scheme remain in place, including:

- It is for businesses with 50 or fewer full time equivalent employees.
- They must have been in business on 1 April 2020 and have experienced a 30% decline in revenue as a result of COVID 19 restrictions
- The maximum amount that can be borrowed is \$10,000 plus \$1,800 per full time equivalent employee and only one amount can be drawn down.
- The loan period is for five years and interest rate is 3% from the date of the loan being provided.

The Government has asked for advice on some of these existing aspects of the loan scheme, so further changes may happen at a later stage.

## ***Update on Temporary Business Relief Measures***

Some of the Covid-19 temporary measures introduced by the Government this year to help business have expired while others have been extended. Here is a brief summary:

- Safe harbour on directors' insolvency duties expired 30 September;
- Debt hibernation giving businesses short term relief expires on 24/12/20 with a possible extension pending. Organisations affected by COVID get a month's grace while talking to creditors, who can extend the protection by six months, during which most creditors can't take legal action.
- Provisions allowing online meetings, temporary exceptions to entity rules, and granting of exemptions to various Acts are extended to 31 March 2021;
- Allowing the use of electronic signatures when signing security agreements that contain powers of attorney has been extended to 15 May 2021.
- Applications for the small business loan scheme are open for 3 more years, closing 31/12/23 with fewer restrictions and no interest charged if repaid within 2 years (as explained above).

## ***New Top Personal Tax Rate of 39%***

The Taxation (Income Tax Rate and other Amendments) Act 2020 (just passed into legislation) introduces a new **personal** income tax rate of 39% on annual income over \$180,000. The new rate applies for the 2021–22 and later income years. Aside from amending basic income tax rates, the Bill amends a number of tax rules to incorporate the new top personal rate to 39%, including:

- PAYE rules (new secondary earnings and extra pay codes):
- Fringe benefit tax (FBT):
- Resident withholding tax (RWT) on interest:

- Employer's superannuation contribution tax (ESCT)
- Residential land withholding tax (RLWT)
- Retirement savings contribution tax (RSCT)
- The taxable Maori authority distributions non-declaration rate

The tax rate for companies remains at 28% and the trust tax rate remains at 33%.

We will be contacting clients who could be affected by the top personal tax rate change about tax planning for this change.

***Taxation (Income Tax Rate and other Amendments) Act 2020 - New IRD filing requirements for Trusts (to add to the other requirements regarding disclosure to beneficiaries).***

For trusts who are filing tax returns to Inland Revenue this Act recently passed has strengthened the requirements of what is required to be filed with IRD as from 1 April 2021 onwards (ie starting from the 2022 year end financials)

- A **Profit and Loss and Balance Sheet** for the trust for the income year
- The **amount and nature of each settlement** that is made on the trust in the income year
- The name, date of birth, country of tax residence, tax file number and taxpayer identification number of **each settlor** who makes a settlement on the trust in the income year
- The amount of **each distribution** made by the Trust in the income year
- The name, date of birth, country of tax residence, tax file number and taxpayer identification number of **each beneficiary who receives a distribution** from the trust in the income year.
- The name, date of birth, country of tax residence, tax file number and taxpayer identification number of **each person having a power of appointment.**

These requirements do not apply to non-active trusts, charitable trusts, foreign trusts, Maori authority.

**DON'T BE LATE**

January 15

TAX DATES

April 8

Second instalment of 2021 Provisional Tax  
(March balance date except for those who pay  
Provisional Tax twice a year)  
Pay GST for period ended 30 November 2020

Terminal tax for 2020  
(March, April, May and June balance dates)  
For all clients except those who have lost their  
extension of time privilege

If you think you won't be able to meet these payments in part or full on the due date, OR would prefer a more flexible arrangement for meeting your tax obligation refer to our website for more details on how TMNZ can assist. [www.cowleystanich.co.nz](http://www.cowleystanich.co.nz)

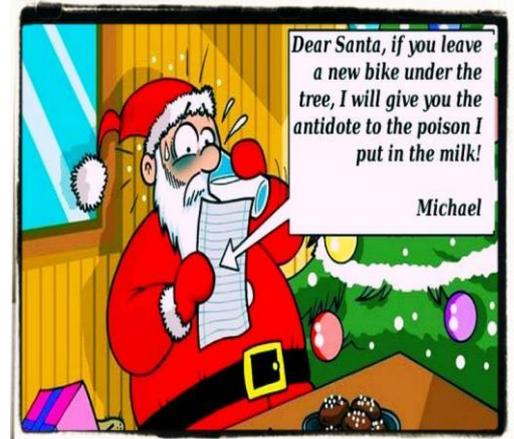
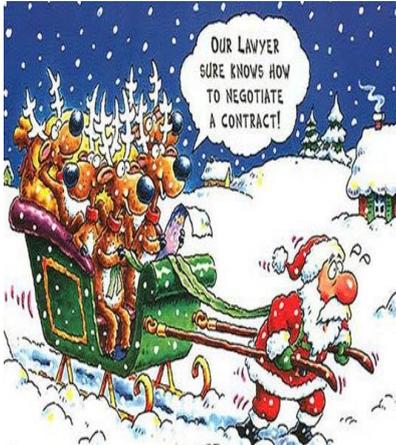
**Staff News**

In November we farewelled our office assistant Rochelle Dodd who has moved on to work longer hours for a family member. Rochelle was a valuable member of our team who had been with us for three years and will be missed.



Our client manager Laychin Tan recently had a very proud mother moment when her son Marcus a Year 7 student at Rototuna Junior High School placed 2<sup>nd</sup> in NZ after taking part in the annual University of Otago Junior Mathematics Exams. Fantastic Result.

# A Wee Bit of Christmas Cheer



## CHRISTMAS CLOSURE

*Our office will be closed from 4pm Wednesday 23rd December and re-open on Wednesday 6th January 2021*

*Trish, Russell and the team would like to wish all our valued clients a happy and safe Christmas.*

*After the year we have all had, it's important to recalibrate, reconnect, and create a positive mind-set for 2021.*

*Enjoy your time with family friends, and hopefully plenty of summer sun*

### **Disclaimer:**

*This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation*

