



PLANNING FOR THE HOLIDAY SEASON

Each year we like to remind clients about the obligations for the holiday season.

As the statutory holidays all fall during the week, there is no “Mondayisation” this season. 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 employee can be required to work on a public holiday only if the individual would otherwise have worked on that day and if the employment agreement requires the person to work on public holidays. In all other circumstances, employees need only work on a public holiday if they agree to do so and this should be recorded in writing.

Public Holiday Pay

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 work on a public holiday are entitled to 1.5 times ordinary pay for that day as well as a “Day in Lieu” (being any other day, as a day’s paid annual leave). This means that they can take another day as a holiday and be paid for it. You cannot contract out of this requirement, even if you offer to pay double or triple pay for working on a public holiday.

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. 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 PAYE at the extra emolument rate.

FBT - GOOD NEWS AND BAD FROM INLAND REVENUE DEPARTMENT

You may provide company vehicles to some employees. In some cases the vehicle is a work tool – for example, a ute for a project manager. In other cases, it is part of a salary package. Whatever the reason, Inland Revenue has good news and bad news. The good news is that IRD has consolidated all its published statements on motor vehicle FBT into one 57 page document with a logical flow, making the topic easier for you to understand. Although that doesn't necessarily mean it's easy!. The bad news is that IRD's views on how FTB applies may in some circumstances be a bit contentious. The new document, according to IRD, should give taxpayers increased certainty in understanding their FBT obligations in relation to motor vehicles, and lead to better compliance. There is potential for uncertainty over interpretation of some matters, so give us a call if you are unsure about how this may apply to your business.

HEALTH AND SAFETY HAZARDOUS SUBSTANCES REGULATIONS



On 1 December 2017 the rules around managing hazardous substances in the workplace transfer to the Health and Safety at Work (Hazardous Substances) Regulations.

These changes will affect many of our clients – the only businesses which aren't as impacted are those who purely use consumer products used in amounts similar to domestic use (so a bottle of spray and wipe in the staff kitchen for example).

We suggest you check out this website to ensure you are complying with the new regulations.

<http://www.hazardoussubstances.govt.nz/>

RETIRING AS A TRUSTEE

by Chris Kelly, Lawyer from Financial & Business Advisor Nov/Dec 2017



Many people agree to act as trustees of trusts set up by friends or relatives on the basis that they wish to help out or assist their friend or relative in some way. Eventually it comes time to retire as trustee for reasons such as age, the winding up of the trust or changes of circumstance. Retiring as a trustee is not as simple as it sounds and there are a number of potential liabilities that need to be covered off. It's not widely known that when accepting appointment as trustee, you are taking on a number of personal obligations and accountabilities. Therefore, it's essential that once you stand down you are completely released from any ongoing liabilities.

Follow the Process

1. It's essential that the document recording your retirement follows the terms of the trust deed. For example, if the trust deed requires there to be three trustees at all times and you attempt to retire leaving only two trustees, then your retirement is likely to be ineffective until a replacement trustee is appointed.
2. The documents recording your retirement must be signed by all trustees including you, the continuing trustees and any new trustees. There are legal requirements that must be met for the documentation to be effective.
3. If the trust owns property, the individual names of the trustees will be recorded on the title. It's essential that documents be completed to get your name off the title and to ensure it's registered in the names of the continuing trustees and any new or replacement trustees.
4. If there's a mortgage or guarantee provided by the trustees you must get the consent of the lender to the release of your personal obligations. In many cases the lender will require new documents to be completed by the remaining or new trustees.
5. It's common for loan documents with lenders to state that the liability of an 'independent' trustee is limited to the assets of the trust. If, however, you are a family member of a beneficiary of the trust the lender may take the view that you are not 'independent' and therefore you are personally liable for the borrowings of the trust. Unless the lender's documents specifically limit your liability, the rule is that you are personally responsible to the full extent of the obligations. When you retire as trustee it's essential that you obtain a full release and protection from the lender for any personal obligations to it.
6. In order to transfer the trust property over to the new trustees, it is necessary for the trust to have an IRD number. Many trusts which don't earn income have not obtained IRD numbers. However, to transfer the property over to the continuing/new trustees an IRD number will need to be obtained.
7. Any signing authorities with the trust's bank need to be updated, and the retiring trustee must be taken off any mandates or signing authority forms.
8. The IRD must be advised, in writing, that a trustee has retired otherwise it will take the view that the retiring trustee remains liable for any tax.
9. The local authority will also need to be advised once a trustee has retired otherwise it will assume that the trustees in its records are personally liable for the rates on the trust's property.

It's important that you insist on all these steps being followed through even if it's inconvenient to other parties and some institutions are slow to respond. If you don't ensure that all these matters have been completed, it may result in significant personal liability for you.

CASHFLOW FOR CHRISTMAS







Pay 15 January provisional tax when it suits you. As you start to look ahead to tax payments due on 15 January, we would like to remind you of a service you might find useful if paying IRD on this date will be somewhat problematic. Tax Management NZ (TMNZ) provides IRD-approved payment options that let you choose how and when you make your upcoming provisional tax payments. These eliminate late payment penalties and reduce IRD interest costs by up to 30 percent. Feel free to contact us if you would like to know more about TMNZ's service, or if you want to discuss tax planning and cash flow management ahead of 15 January.

REMINDER ABOUT CHRISTMAS TAX DATES

Remember – different rules apply over the Christmas period for filing and payments of tax:

- GST returns and payment for the period ended 30 November are due on 15th January 2018. **(Please note if we process your GST we still need your papers in by mid December if possible to complete your return due to staff taking leave).**
- 2nd instalment of 2018 provisional tax due on 15th January (March balance date except for those who pay provisional tax twice a year).

A FEW CHRISTMAS CUSTOMS FROM AROUND THE WORLD

 <p>Since a campaign in 1974, many Japanese families eat at KFC on Christmas Eve.</p>	 <p>In Venezuela natives travel to early church services during the festive period on roller skates, roads are closed for safety.</p>
<p>In Norway no cleaning is done on Christmas Eve and all brooms are hidden to stop witches and evil spirits from stealing them.</p> 	 <p>Deep fried caterpillars of the emperor moth are a South African Christmas delicacy.</p>
 <p>Due to the absence of fir and pine trees, those who celebrate Christmas in India opt to use Banana or Mango trees instead.</p>	<p>Germans hide a pickle (gherkin) in the Christmas Tree on Christmas Eve, the first child to discover it receives a small gift.</p> 
<p>Ukrainians decorate their trees with artificial spider webs instead of tinsel. Tales state a Ukrainian widow couldn't decorate her tree so spiders decorated it with webs.</p> 	 <p>Canada Post acknowledges mail sent to Santa Claus' address and replies as Santa.</p>

CHRISTMAS CLOSURE

Our office will be closed from 4pm Friday 22nd December and re-open on Wednesday 10th January 2018

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

May 2018 bring you all much happiness good health, and success.