

The LO Down



Winter 2012

Risk and Reward

ACC levy reductions

At a time of government 'fat trimming' it's nice to hear the word surplus. ACC has made a miraculous turnaround from several years ago, as a result of reduced management costs and drastic improvements in rehabilitation rates thus also resulting in 20% less people on long-term compensation.

Last year a \$3.5 billion dollar surplus was announced and now reductions in ACC levies have been signed into law, saving households \$340m a year and businesses \$247m a year. As of 1 April workers' pockets have been happier and businesses should be experiencing improved cash flow.

The levy on wage and salary earners has reduced by 17% - or \$170 a year (if you're an average wage earner). The levy on employers and the self-employed has reduced by 22%, a saving of \$1,120 a year for the average small business with seven employees.

The Earners' Account Levy (paid by wage and salary earners) has decreased from \$2.04 to \$1.70 (incl. GST) and the average Work Account Levy (paid by employers and the self employed) decreased from \$1.47 to \$1.15 (excl. GST) per \$100 of liable earnings. Work levies for individual companies depend on their industry classification and experience rating.



The benefits and pitfalls of trial periods

The trial period regime was labelled a success for its apparent increase in employment and was designed to make our job market more flexible. But you need a robust process. A number of cases have shown where poor process can come back to bite the employer.

Case study: Mr Blackmore emailed acceptance in response to a letter offering him employment with Honick Properties Ltd (HPL). The offer referred to a Federated Farmers employment contract but this was not enclosed with the offer and Mr Blackmore did not know that these contracts contained trial period provisions. Mr Blackmore resigned from his previous role, worked out his notice period and started work with HPL.

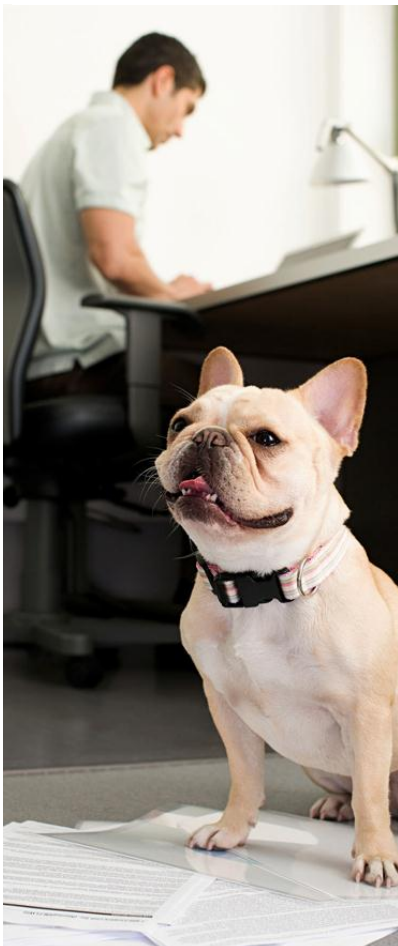
Within hours of beginning his first day he was presented with an employment agreement to sign on the spot, which he did. This agreement included provision of a 90 day trial period. This was the first he'd heard of it.

Mr Blackmore was later dismissed within that 90 day trial period. He was now jobless, unhappy and shocked at the turn of events.

Mr Blackmore disputed his dismissal, taking his case to the Employment Relations Authority which referred it to the Employment Court. The court ruled Mr Blackmore was entitled to challenge the justification for his dismissal stating that he was an existing employee when he signed the employment agreement. His employment was considered to have commenced at the earliest when he accepted the offer and at the latest when he started work - and thus a 90 day trial period could not apply to him.

Also, the court deemed the 90 day trial period defective due to unfair bargaining. HPL had expected Mr Blackmore to sign the agreement before he could consider it, seek guidance or negotiate prior to commencing work.

Cont.



Trial period best practice

1. Show good intention!
2. Discuss the inclusion of the trial period before the offer is made, and include a copy of the intended agreement when negotiating and offering the role.
3. Give the prospective employee time to consider the employment agreement and seek independent guidance or clarification.
4. Give him or her an opportunity to negotiate the agreement with you after the opportunity to seek advice has been given.
5. Ensure the trial period clause states you can dismiss the employee during the period and he or she can't then bring a personal grievance.
6. Ensure the employment agreement is signed before work starts.
7. When the agreement is signed, implement an effective induction process to ensure the quality of an employee's work.
8. Address performance issues during the trial period as you would with any other employee.

Employers shouldn't be complacent in their understanding of the 90 day trial. Recruitment and induction take time and cost money... and that's without factoring in the disruption and cost of a dismissal dispute.



Tax Talk

Reminder of payroll changes

By now all employers should be aware of the changes to the Student Loan Scheme, KiwiSaver and ACC levy rates that have affected payroll from 1 April 2012.

In brief:

- SL is the new tax code suffix for all student loan borrowers, regardless of earnings, unless they provide their employer with a repayment deduction exemption certificate. Extra student loan repayments made by employees (whether voluntary or due to arrears) will have a specific additional suffix
- Employer cash contributions are now subject to ESCT, **OR with the employee's agreement can be treated as salary or wages subject to PAYE**
- See previous page for ACC levy rate changes

If you don't use an external payroll system or you're unaware of the changes and how these affect payroll please visit www.ird.govt.nz/changes ... for more information.



The hammer is falling on student loans

Several changes to the Student Loan Scheme were announced in last year's budget, to be implemented over several years. On 1 April another instalment was delivered, including:

- IRD can now demand full repayment of a student loan from a borrower consistently non-compliant with repayment obligations, whether or not the entire amount is outstanding
- Borrowers will no longer be able to use business or investment losses to offset their income for repayment purposes
- Borrowers going overseas for 6 months or more can apply for a repayment holiday before they leave or within 6 months of being overseas. The maximum time of a repayment holiday has been shortened from three years to one

We anticipate further changes to the Student Loan Scheme in the 2012 budget; in fact some have already been signalled:

- The parental income threshold for student allowances will be frozen for 4 years
- The loan repayment rate will increase from 10% to 12% of income
- The repayment scheme allowing voluntary payments to be discounted by 10% will be scrapped
- Student allowances will not be available beyond the first four years of study

Stay tuned for more from the 2012 Budget!



It's business time - cracking down on cash

It's no secret that the IRD are cracking down on the hidden cash economy. Cash trade jobs, under-the-table wages and online trading cost the Government an estimated \$7 billion a year in lost tax and last year the government set aside \$120 million in government funds to help the IRD combat tax avoidance.

IRD has now rolled out industry benchmarks to spotlight suspicious players - focusing on industries more

likely to deal with lots of cash and therefore with scope to understate their income.

Statistics NZ have calculated these standard performance ranges using the financial statements and tax returns of all businesses (in each industry) with turnover below \$10m. Another 34 industry benchmarks are due for release this year and IRD intend to update benchmarks annually.

The 16 released benchmarks are financial ratios expected from a typical business in higher risk industries, including those relating to cafe, bar and restaurant owners, painters, electricians and car rental firms. The data is carved up into small, medium and large business brackets according to annual turnover.

This is a great opportunity for you to analyse how your business is performing in a number of areas. If for some reason your business falls outside the norm profit range, you can establish weaknesses to make positive changes and boost your profits.



Some legitimate reasons for falling below a benchmark are:

- Insufficient product mark-up
- Difficult trading circumstances
- High wastage
- You may be starting up or preparing to close down
- You may be running in a niche area of your industry
- Your competitors may be sourcing product at lower cost

Does your business measure up compared with others in the industry? Are you doing enough to remain competitive? Visit:

www.ird.govt.nz/industry-benchmarks/ to see if benchmarks are available for your industry. The IRD website explains how to benchmark yourself providing a clear example, and offers helpful tips to boost your profits. If you'd like to discuss this further please contact us.



Business Perspective

'The optimist sees the donut, the pessimist sees the hole.' Oscar Wilde

How optimistic are you?

There's no doubt recent times have seen the tightening of belts and an abundance of no.8 wire mentality. We're working smarter; however the world isn't out of the economic danger zone yet. It's likely to be a marathon, but kiwis are fit for the task - equipped with a positive attitude and sensible running shoes.

According to the April MYOB Business Monitor (The Voice of New Zealand Business Owners - economic report 2012) survey of 1,000 businesses, New Zealand businesses are confident and positive despite delayed global recovery. In fact we're even chirpier than our big brothers: just 12% of the New Zealand business owners surveyed expect to make a loss in the next 12 months, compared with 24% of Australian business owners.

The number of business owners reporting

revenue gains in the past year has increased from 28% to 34%. For the next quarter 33% of business owners have more work than usual on their plate including 43% of Christchurch business owners, signalling early benefits of the Canterbury rebuild.

11% of businesses are looking to hire full time employees while 14% plan on hiring part timers as well.

This year kiwi businesses are set to focus on the customer with 38% looking to invest in customer retention, and 28% in attracting new customers.

The true star of the show has been the humble start-up. The last 12 months saw start-ups report the most revenue gains (49%) and the least losses (18%).

The toddlers (2 - 5 years old businesses) also did well, reporting revenue gains of 39%. **Cont.**



How optimistic are you? Cont.

It is often said wars are won in winter, and this global financial crisis has provided the ammo for many entrepreneurs. If you're thinking of starting up a new business or dreaming of ways improve your current venture please give us a call to see what we can do to help you in your quest. Whether it be a business health check or initial business planning - we want you to experience the gains and rewards you deserve.



Compulsory Zero-Rating of Land

A reminder that land transactions can be zero-rated providing that:

- The transaction is between two GST registered parties.
- The purchaser intends to use the land for making taxable supplies.
- The land will not be used as a principal place of residence of the purchaser or an associate.

On the surface this looks simple but some situations we have seen have not proven to be so simple.

It is very important the property sale and purchase agreement is completed correctly by both the vendor and the purchaser and if in doubt proper legal/tax advice should be obtained by both parties to the agreement but especially the vendor.

The sale and purchase of a farm or rural property may include a portion of the property as "dwelling & curtilage" This is different again as there are two GST supplies in the transactions. The first being the "dwelling & curtilage" which is an exempt supply and the balance of the farm land that is a taxable supply that may be zero-rated as long as the above rules are met.

The sale of a business may involve the sale of land & buildings also. Normally as long as both the vendor & purchaser are registered for GST and the business is going to be continued as a "going concern" then the normal GST zero-rating can occur without a problem. Where "change of use" is intended then this is when it can get tricky.

We recommend any clients entering into land transactions as above, seek tax advice before doing so to ensure they get it right and pass the scrutiny of the IRD.

Imputation Credit Reminder

A reminder that if your Company has Imputation Credits accumulated at 30%, you should be considering issuing a dividend to utilise them at 30% before the 31st March 2013 before they drop to 28%.

The RWT rate is still 33% so there is likely to be a top up payable of 3% RWT on the 30% imputation credits, which will rise to 5% after 31 March 2013, if the 30% credits are not utilised.

Talk to us today about options.

Shareholder Employees

It is not generally possible to pay both a PAYE-deducted salary/wage and a non-PAYE salary to the same shareholder-employee in the same year.

All salaries are subject to PAYE unless:

- The person is a shareholder employee of a close company; **and**
- Does not derive salary/wages of a regular amount for regular pay periods; **or**
- An amount is paid as income that may later be allocated to them as an employee for the income year (this includes regular drawings)

Therefore if you draw PAYE wages as a shareholder-employee or take regular drawings, you are unable to then also receive a shareholder salary at year end after calculation of profits.

There is an opportunity to pay a bonus salary/wage at year end but it has to be paid within 63 days of balance date.

There are also attribution rules regarding excessive remuneration and also on distributions to a shareholder employee performing services through the Company structure.

There are additional rules/restrictions on working owners of a Look-Through Company.

This is a mine-field so please discuss with us what the best option is for you.



'Capital isn't scarce; vision is.' Sam Walton

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.

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