



NEWSLETTER

August 2005

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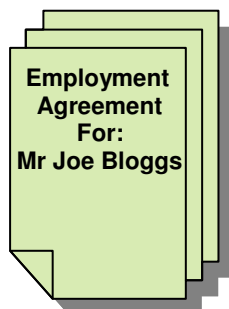
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Developments On The Employment Front

Amendments to Employment Agreements

All existing employment agreements (including written and unwritten (oral) employment agreements) should be amended by 1 December 2005 to include an "Employee Protection Provision". The purpose of the provision is to provide protection to employees who might be affected by their employer's business restructuring. The Employee Protection Provision must set out the process the employer must follow where there are affected employees whose employment may transfer to the new employer after the employer's business is restructured.

The Holidays Act 2003 also stipulates that all existing employment agreements must be amended to include a provision that confirms employees' rights to be paid "time and a half" for working on a public holiday.



Minimum Wages

The minimum wage was revised upwards with effect from 21 March 2005. The new wage rates are:

	Youths (16 & 17 year olds)	Adults (18+ years)
Per hour	\$7.60 (was \$7.20)	\$9.50 (was \$9.00)
8 hr working day	\$60.80 (was \$57.60)	\$76.00 (was \$72.00)
40 hr working week	\$304.00 (was \$288.00)	\$380.00 (was \$360.00)



Parental Leave

The Parental Leave and Employment Protection Act 1987 was amended from 1 December 2004 to amend the entitlements to parental leave and employment protection.

Employees who have been employed by the same employer for at least an average of ten hours a week during the immediately preceding six months, are now entitled to 13 weeks' maternity leave or one week's partner's / paternity leave.

This entitlement to maternity leave will increase to 14 weeks after 1 December 2005.

Certain medical practitioners and teachers who have periods of employment with more than one District Health Board or Board of Trustees respectively, may be treated as having one single employer.

Interest Deductibility

In general, people have the correct understanding that interest is deductible if it is incurred directly in relation to acquiring assets that are used to derive income. However, some confusion exists when it comes to interest incurred for reasons that are not directly related to earning income. For example, when someone borrows to pay taxes or if a qualifying company borrows to pay a dividend. In order to try and provide some clarity on the issue

the IRD recently issued a draft interpretation statement on interest deductibility. Deductibility will depend on the use made of the funds borrowed. So, interest is deductible if it is incurred in deriving assessable income or incurred in carrying on a business for the purpose of deriving assessable income. It is not deductible if the funds are used for a private or domestic purpose.



What about interest on funds borrowed to acquire capital assets? The Pacific Rendezvous case confirmed that interest is deductible on funds borrowed to acquire capital assets that are used to produce income. Since this case, the courts have applied a “use” test, to identify what the funds were used for and therefore determine interest deductibility. For example, if a person took out a loan to purchase a property to generate rental income, the interest will be deductible. However if the same person used the loan to purchase a new home to live in and kept their existing property to be used as a rental the interest would not be deductible. In the second scenario, the funds borrowed are being used to acquire a property that is not being used to derive income, therefore the interest is non-deductible. Although through the use of an appropriate structure, it may be possible for the interest to be deductible.

The “use” test is relatively easy to apply. In the Public Trustee case the issue related to funds borrowed to retain income earning assets. Money was borrowed to pay death duties so that income earning assets did not have to be sold to pay the duties. In this case, the necessary connection was not so easy to identify. In the example where a taxpayer borrows to pay a tax bill, you still need to look for a connection to the income earning process.

The analysis could be as follows:

- * A tax bill is a mandatory liability placed on a taxpayer.
- * If the taxpayer does not borrow to pay the taxes, he may have to sell income earning assets to fund the tax bill. Therefore to safeguard his ongoing income earning process the borrowing has to occur.
- * In addition, if the tax bill itself came from the use of those assets, it can be shown that the borrowings are being used to maintain the income earning assets and therefore, the link to the income earning process is established.

With a qualifying company that borrows funds to pay a dividend, the interest would not be deductible as it has not been incurred to derive income and is not in relation to acquiring or retaining income earning assets.

As the circumstances in every case can vary, we recommended that the “use” test be applied before including interest deductions in your tax return.

New Businesses to get Early Payment Discount



If you know anyone about to start in business, they might be glad to know the Government is prepared to reward them for paying their tax early. From 1 April 2005, new businesses will be able to claim a 6.7% discount for paying their tax early. Here are the rules:

1. The discount applies only to sole traders or partnerships;
2. The discount will not be taxable income;
3. The tax has to be paid by the last day of the taxpayer’s financial year;
4. The income must be predominantly from business;
5. The maximum amount on which the interest is paid is 105% of the final tax (known as Residual Income Tax);
6. Anyone restarting in business will not get the discount for a second time, unless there has been a gap of four years after the last year for which an interest payment was received;
7. Existing businesses can get the discount if they have never had to pay Provisional Tax.

Keep Your Personal Bank Records

Tax inspectors are entitled to investigate your personal transactions. You have no obligation to keep any records but you do have to prove you are innocent of any wrong-doing if called upon to do so.

We recommend people keep good records of personal income and expenditure so these could be produced if your business is ever subjected to a tax audit. If you do not keep this information, the Inland Revenue Department can get it from your bank **at your expense**. Bank services of this nature do not usually come cheaply!!

Stop and Ask



Don't rush into new projects without checking the tax implications. A client and his friend discovered a valuable property which was under-priced and bought it. The property has been registered in their names as partners. The client now wishes he had thought of putting it in a family trust.

A client bought a new home. He could have arranged for his company to borrow money, repay its debt to him, personally, and thus make the interest tax deductible. The cost of the oversight is several thousand dollars a year.

It pays to check with us before making major financial decisions.

Company Savings Accounts

If you keep your savings in your company, you risk losing them if your company fails.

The prime reason for having a company is to protect your wealth. So if the company has surplus cash, try to find a reason to transfer it to yourself. Once common way is to repay debt to you. The amount the company owes you at year end is shown in your company's Balance Sheet (Statement of Financial Position). If the company does not owe you much money, consult with us before withdrawing the funds.

IRD Cheques – There's a Sting in the Tale

IRD will penalise you with Use of Money Interest calculated at about 13% a year if you bank a cheque you are not entitled to. So if you receive a refund, check you are entitled to it before you bank it. A client recently received two refund cheques instead of one. Wisely, he tore up the second cheque. If the refund is paid into your bank account when it should not have been, be sure to check it out and refund the money as soon as possible after you discover the error.

What is a Work-Related Vehicle?

We thought it would be useful to remind clients what a work-related vehicle is. A vehicle qualifies for a work-related vehicle exemption so long as:

1. it is not designed for carrying passengers, unless it is a taxi;
2. the employer's business identification must be permanently and prominently displayed on the exterior of the vehicle. Removable signs are not sufficient and neither is signwriting on a removable part of the vehicle (such as a spare wheel cover).
3. the employer notifies the employee **in writing** that the private use of the vehicle is limited to travel between home and work. You can find a form in the FBT booklet – IR409, or call us for a copy.
4. the employer records checks carried out at least quarterly on each vehicle to ensure the restriction is being adhered to.



Partial Exemption

If a work-related vehicle meets these four conditions, is not available for private use most of the week, but some private use is allowed on certain days, such as weekends, you can have a partial exemption. You have to pay FBT for those days the vehicle is available for private use.

Why Trust a Trust?

Here is a list of reasons why you might want a family trust:

- To protect your personal wealth;
- To protect your partner if you need long-term care. Your assets could be sold to pay for this;
- To protect your children from the financial consequences of their forming a bad relationship;
- In case a government reintroduces estate duty;
- To allocate income to family members who are on low tax rates.

Beware of Business Life Cycles

All businesses have a life cycle – growth, maturity and decline. Telegrams and telex are dead.

When buying a business, consider where it lies in terms of its life cycle.

Be careful if you are considering buying into a dying industry. Printing is an example and so is the corner dairy. Some of the professions can also be included. E-commerce is young and

growing. There are high risks and high rewards. A maturing industry has more competition, usually lower profits and less risk. Expect it to be difficult to expand a business in its declining phase.

Little Snippets

Referral Card



Have you ever seen a business card which is also a referral card? The referrer writes the prospective customer's name, address and contact details on the back of the card, together with the referrer's name, and sends it to the supplier. The supplier gives a reward for each successful referral.

Signing Cheques

Be sure to have a way of accessing your bank account if you become incapacitated and unable to sign your name. Two old men were running a business. When we discussed their annual accounts, we asked about cheque signing authority. As expected, both had to sign every cheque. We suggested they get a third person able to sign with one of the partners in case the other became ill. This could be their lawyer or accountant. Within 12 months the inevitable happened. Our advice had not been taken and the surviving partner could not use the bank account.

We understand if you are using internet banking you can now arrange passwords so that they operate just like cheque signing.

Rates and Thresholds

A number of changes have been made to rates and thresholds, as follows:

1. Use of Money Interest charged by the IRD has increased from 11.93% to 13.08%, the interest rate paid by the IRD has increased from 4.83% to 5.71%, and the new rates will apply from 8 March 2005. Where the tax payable is significant, tax pooling should be considered to save use of money interest.
2. The changes effective from the 1st of April 2005, are as follows:
 - * Student loan threshold has risen from \$16,172 to \$16,588;
 - * The student loan interest rate has remained unchanged at 7%, although the base interest portion has decreased from 5.5% to 4.2%, accordingly the interest adjustment portion has increased from 1.5% to 2.8%;
 - * The maximum income level for a full interest write-off for part-time or part-year students has risen from \$26,140 to \$26,799;

- * ACC earners levy rate has been set at \$1.0667 per \$100 of earnings, exclusive of GST ie \$1.20 per \$100 of earnings (GST inclusive);
- * The maximum amount on which a self-employed person can be levied for ACC purposes has increased from \$88,728 to \$92,189. The maximum amount for any other person has increased from \$92,189 to \$94,226;
- * The level of earnings on which a levy is payable for a self employed person working more than 30 hours per week has increased to \$17,680 and \$14,144 for those aged 17 or under;
- * The FBT rate for low interest loans has risen from 8.52% to 8.76%.

Income Equalisation

A timely reminder to farmers that the income equalisation scheme is an option to consider especially when there has not been sufficient provisional tax paid on income earned. A deposit into the income equalisation scheme will defer the income tax liability to a future year, enabling farmers to "square up" their tax payments accordingly. The scheme is especially useful when there are unexpected income fluctuations. Operating like a bank account, the scheme allows farmers to make payments for a rainy day.

"Market" Salary

Trading trusts are coming under increasing scrutiny from the IRD if the trusts employ professionals to provide the services of their business. IRD has been targeting trading trusts that have been paying salaries to associated persons at what the department considers to be less than market salary, for what it considers to be the provision of personal services. In a recent media release, the Department indicated that the requirement to pay "market" salaries may not be restricted to trading trusts. IRD has indicated that companies may receive similar scrutiny if it believes "market" salaries have not been paid.

Easybooks Users

For clients using Easybooks, would you please use at least three disks for backing up purposes and a separate 4th disk for the End of Year Backup. The major reason is that if you only use one disk and this disk becomes corrupted all information is lost. Could you also please printout at least the Monthly Statement Report (just in case all of your disks become corrupt – any YES this has happened).

Vanburwray Team News

General Vanburwray News

We have had some alterations done to our Reception area. Our new Director of First Impressions, **Tracy McCurdy** joined us in March from Inglewood Pharmacy. Tracy has a twelve year old son, Blake and she has a great sense of humour too! Tracy enjoys going to her son's sporting events and cheering him on. As well as Tracy's friendly smile "at the frontline", you will also see a familiar face in Jocelyn Christiansen. Jocelyn will be providing backup assistance to Tracy whilst completing her usual daily routines.



Our firm was recently rocked by the sudden death in June of our long serving Office Manager, **Phyllis Trnjanin**. Phyllis had been a valued staff member with Vanburwray for 17 years and will be greatly missed by us all. Thank you to all those clients who sent flowers and sympathy cards. Your support at this difficult time was very much appreciated.

Eichstaedt Team

Sara Williams joined the Eichstaedt Team in May as a Senior Accountant. Sara has partially completed her Business Degree (majoring in Accounting) at the Open Polytechnic and will continue these studies. Welcome Sara.

Stephen's two daughters, **Hayley** (21) and **Nicole** (15) have been selected as part of the NZ Highland Dancing Team who will be participating in the Edinburgh Military Tattoo in mid-August 2005. They will be dancing each night in the booked-out tattoo show spanning two weeks.

Stephen is also heading over to join them and to attend the show.

Whitmore Team

Sylvia Ward joined the Whitmore Team in May 2005 after moving to New Plymouth with her partner and three young sons. She has nearly completed her Accounting Technicians' Diploma and has had previous experience in a Chartered Accountant's office in the Waikato. Her interests are the general outdoors, music and having "quality" family time.