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The official newsletter of NZ CA Limited

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AN ASSOCIATION OF INDEPENDENT CHARTERED ACCOUNTANTS

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In this Issue

Tax on CHRISTMAS parties and presents

It's coming up to that time of year when you might be planning a staff Christmas party. It's great for morale and a chance to mark the end of the year. But what are the tax considerations?

You may be able to claim as business expenses events such as Christmas functions or giving gifts to employees.

However, you may not be able to claim all of the costs, and they may also be subject to fringe benefit tax (FBT). FBT is a tax paid on benefits that workers receive as a result of their employment.

You may be able to claim 50% of your party expenses in your GST and income tax returns if the expenses are related to your business. But there's also a significant private element.

Party expenses you can claim 50% of can include:

- venue hire
- food and drink
- entertainment

You can generally claim 100% of the cost of gifts, such as food baskets or event tickets, as a business expense. But you may need to pay FBT on such gifts.

If you provide other types of goodies, like accommodation in a holiday home, use of a corporate yacht or lunch at a restaurant, then these come under entertainment expenses – and are 50% deductible as long as they're business expenses.

Business entertainment rules are outlined in the Inland Revenue's Entertainment expenses guide (IR268).

If you give your employees some sort of entertainment – like a voucher to use at any time – you may need to pay FBT.

There are detailed rules about FBT, including for entertainment expenses. There are some thresholds, so you may not always have to pay FBT if you only provide minimal fringe benefits. Check Inland Revenue's Fringe benefit guide (IR409) to be sure.

If you provide Christmas food and drinks at a local venue, the cost is not subject to FBT – because employees can't choose when and where to enjoy the benefit. However, the rules for entertainment expenses will apply. Inland Revenue's Entertainment expenses guide (IR268) will help.

If you give employees vouchers for entertainment, meals or gifts and the employee can choose when or where to enjoy the benefit – and you're not giving the benefit as a necessary part of their work duties – then these are subject to FBT.

Check out Business.govt.nz's new tax and finance section for more on FBT.

The Liquidator's Little Friend

Things are tough for liquidators these days. Voidable transactions are gone and the economy is bubbling along like a freshly popped bottle of cheap champagne. So we have to look a little harder for our daily bread.

It is in this spirit of desperation that we dusted off the case law around Section 161 of the Companies Act, blowing off the cobwebs and detritus that has settled onto this long overlooked piece of legislation.

Section 161 deals with payments to directors. Company directors may not receive a salary, dividends, or take a loan from the company without first obtaining a board resolution that authorizes any remuneration or the provision of any benefits to the director.

Not only must there be a board resolution but directors who vote for this remuneration must sign a certificate stating that the benefit is fair to the company and the grounds upon which they base that opinion.

Now. There might be the occasional small business or even medium business that complies with this requirement but the vast majority of firms don't. This is helpful for those of us in the insolvency industry because the case law is pretty consistent; that a failure to comply with this requirement will make a director who receives the benefits liable for money or benefit that they received, even if the company was solvent at the time.

In our experience most directors will, when asked, simply manufacture the documents after the event and fortunately for them the courts will happily accept obvious forgeries unless the liquidators can prove beyond all doubt that the documents are bogus.

Source: Waterstone Insolvency

Get ready for the CHRISTMAS CLOSEDOWN

Summer is coming, the pohutukawa is about to bloom, the beach beckons – but if you're shutting up shop for the Christmas holidays, make sure your business is also ready to take a break.

This checklist is a good place to start. You might find you have other tasks to check off for your own business. Print this out – or copy it into a new document – to tick off tasks as the festive season approaches.

✓Premises

- Check your insurance is up to date so it's valid over the holidays.
- Test smoke alarms and replace batteries if necessary.
- Let your landlord or property manager know when you'll be away.
- Turn off heating, lighting, appliances and computer equipment.
- Clean out perishable food from the fridge.
- Give indoor plants an extra good watering (or take them home if you've got green thumbs).
- Put the rubbish out.
- Notify businesses that regularly deliver to you of your closedown dates, eg the water cooler company and the sanitation equipment company.
- Put a hold on any newspaper deliveries.
- Notify the office cleaner of closure dates, and consider organising a thorough clean while the premises are empty.
- Order supplies needed in January in time, and ensure delivery isn't during your closedown.

✓Finances, leave and pay

- Make sure you have enough funds in your business account to cover automatic payments for salaries and other regular bills.
- Ensure all your tax requirements (GST, PAYE, student loans and other employer deductions) are in order if they have to be filed during your holiday.
- Calculate holiday pay ahead of time.
- Give employees 14 days' notice if you have an annual closedown, eg the office or workshop closes over Christmas and no one is to work.
- Clarify with staff what their leave breakdown is – what's compulsory leave and when they're due back at work.

✓Clients and suppliers

- Tell clients when you'll be closing and reopening – post this on your website, in out-of-office replies, on your answerphone, and if appropriate on the front door of your business premises.
- Pay your suppliers' invoices.
- Send out your own invoices.
- Share emergency contact details with staff and clients who might need them.

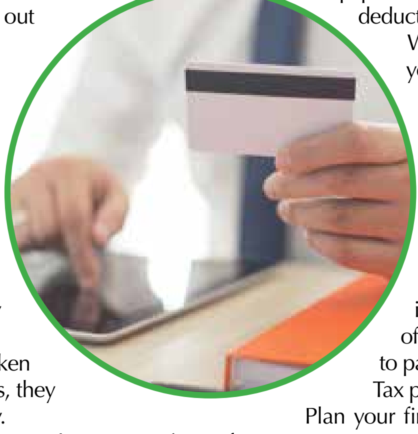
And here's a reminder of those upcoming public holidays:

25 December 2015: Christmas Day (Friday)
26 December 2015: Boxing Day (Saturday)
28 December 2015: Boxing Day observed for staff who don't usually work on Saturdays
1 January 2016: New Year's Day (Friday)
2 January 2016: The day after New Year's Day (Saturday)
4 January 2016: 2 January holiday observed for staff who don't usually work on Saturdays

For more information, check out the Business.govt.nz section on public holidays.

And finally, wish everyone a merry Christmas, and enjoy your break!

Tax on living expenses



Did you know, you're never taxed on the money you take out of your business for living expenses?

This applies even if your business is operated through a company. Therefore, it doesn't matter how much or how little you take out; it won't affect the tax you have to pay.

Some clients think if they haven't got much money left in the bank and have taken very little out for living costs, they won't have much tax to pay.

They often overlook substantial payments for equipment, which are not fully tax deductible costs.

When you buy equipment you're allowed to claim only a proportion of the cost each year, because the benefit the equipment bestows on your business is spread over several years.

If you keep an eye on your profit, you can get an idea from the IRD website of how much tax you'll have to pay.

Tax penalties are extremely high. Plan your finances well ahead to cater for your tax payments.

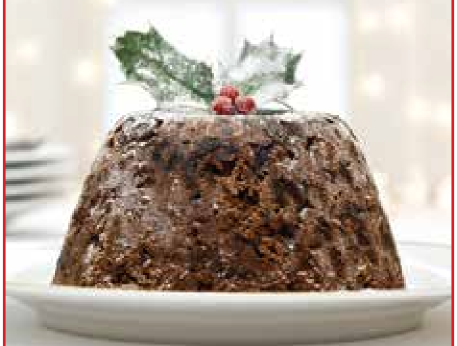
Cash back

Most people get their air points on personal purchases. However, some of us are in business and we like to slip in a business purchase when we can because we know IRD does not tax air points. What about the new "cash back" scheme? It's great news for those who don't want to fly. You can use it to repay your mortgage or how you like. However, if you're in business, we think "cash back" is taxable income where it results from business purchases.

Charity at Christmas

Are you thinking about some Christmas charity? You can deduct 100% of the cost of entertainment you give to the general public for charitable purposes. For example, if your company donates food for a Christmas party at a children's hospital, that expense is 100% deductible.

And if you or an employee plans to use a business vehicle for a private trip over the festive period, check to see if you have to pay FBT on this benefit.



Be different to get noticed

Soon after Donald Trump started his campaign to become the Republican candidate for the White House, he went straight to the top of the polls. Why? Because he was different.

He planned to build a wall to stop the Mexicans getting into the United States. He announced he was going to stop big American corporations from transferring their profits to tax havens. He responded with a sexist comment to a reporter which went viral.

Whether or not he's successful, he provides us with a good example of the importance of being different.

Remember Suzanne Paul? She sold her share in her business for $7 million! She was successful because she was different.

See if you can think of a way to be noticed and therefore remembered.

Incidentally, Mr Trump made his fortune by supplying something people wanted (NOT needed). He catered for those who wanted to be in classy buildings. He says you should start by getting your product right.

Can you find something special in your line of business?

BEWARE a sudden surge of income from currency fluctuations

The sudden drop in the New Zealand dollar will increase the value of money held in overseas bank accounts or overseas fixed interest investments. Most investors are what is termed a "cash basis person". This is someone (including a company or trust) who, roughly speaking, doesn't have more than a million dollars of money owing to them and by them, in total. You add the two together. There are other conditions but we are leaving them out to make this article readable. A cash basis person pays tax on their income received. It takes in currency gains only when the investment matures or is repaid. Larger investors have to also include income earned but not received by balance date (31 March for most of us) and currency gains made each year regardless of whether the investment has been repaid.

For example, you are **not** a cash basis person. You lent a bank $A100,000 on 1 June 2015 at 5% for one year. You have earned income at 31 March 2016 of 10/12 of 5% of $A100,000 = $A4167, but you won't get it until 1 June 2016. This is income earned but not received. Also if you purchased the $A100,000 for $NZ103,000 and it is worth $NZ108,000 at balance date, you would include the extra $NZ5,000 as income.

A currency surge affects income and if it is big, like $US, the impact on income can also be big. This can have a significant effect on the amount of provisional tax you should be paying. If your personal year-end tax bill, which is calculated on all your income, and called Residual Income Tax (RIT), climbs over $50,000, you'll be socked for backdated interest at 9.21%. RIT is what's left after deducting tax taken off at source. It's worse for companies and trusts. The interest kicks in if the RIT goes over $2,500. Therefore, if you think you may exceed either of these RIT thresholds, you should pay some more provisional tax, now.

There's another rule to catch you. Look at the sum of money owing to you and by you, again, in total. Calculate income calculated as a non cash basis person and deduct income calculated as a cash basis person. Call this total A. Now take expenditure (like interest expense and bank fees relating to a mortgage) calculated as a cash basis person and deduct expenditure calculated as a non cash basis person. Call this total B. Add A and B together and if the figure exceeds $40,000 you are now a non cash basis person. You have to include in your tax return your income earned but not received and the value of currency gains on your investments. You don't get taxed twice, but you could be paying tax on some of your income a year earlier than expected. If the amount is big enough you could exceed those RIT figures mentioned above and get caught for interest. What about shares in foreign countries? This has nothing to do with being a cash basis person or otherwise. A different formula is used to calculate income from foreign shareholdings (except most Australian shares) and this may not be affected by currency fluctuations to the same extent as fixed interest investments. The dividends from most Australian shares, when converted to $NZ may be higher than last year to the extent our exchange rate has fallen relative to the $A.

Monitor your investments right through to the end of the year in case the $NZ slips further.

BEWARE 15 January

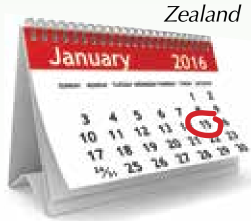
The date for payment of the second instalment of provisional tax for 31 March taxpayers should have been 28 December. However, as most people are on holiday at that time, it was changed to 15 January.

Annual leave was subsequently increased to four weeks but the date above was never reset to 22 January as it should have been, following the original reasoning for choosing 15 January. As a consequence the IRD is collecting more penalties and interest.

If you're taking a summer holiday break and have tax to pay while you're away, don't forget to set up the payment before you go.

Don't pay your tax late.

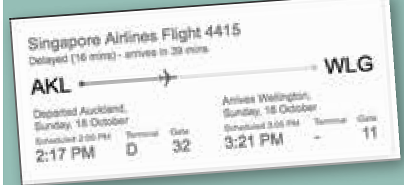
Source: RSM New Zealand



Google that flight

Time is money, and if you're spending too much time at the airport waiting for a delayed flight, you might not be as productive as you should be.

Fortunately, Google has come to the rescue. In one simple step on your computer or smartphone, simply type a flight number into Google and "bingo", it will tell you when the flight is due to leave or arrive.



For flights in, it saves time either phoning the airport or airline, or looking it up on their website. If you've left someone at the airport to board a flight out and find the flight's delayed, you might want to return and have that coffee you promised but thought you didn't have time for.

The example shown above is for a Singapore Airlines flight, SQ4415, coming in to Wellington from Auckland. It clearly shows in graphical form how much of the total journey it has covered, and tells you it's delayed by 16 minutes and arriving in 39 minutes. It even shows the gate number.

It works for both domestic and international flights. It's so simple. Give it a try!

Time to check your Prescribed Investor Rate (PIR)

What is a PIR? This is your Prescribed Investor Rate – the rate at which the IRD tax your returns on any investments in a PIE structure (Portfolio Investment Entity) you have.

Anyone who has a KiwiSaver has a PIE investment, therefore it is important to check that the PIR is correct. The last thing you want to be doing is paying more tax than you need to, or not paying enough and potentially risking the wrath of the IRD.

Below is a table you can use to work out which rate is correct for you this coming tax year. You take the lower of your taxable income + PIE income for the previous two tax years = PIR. Your PIR is not necessarily the same as your income tax rate.

If you are not sure what your rate is currently, please check with your normal accounting advisor.

Income tax rates and Prescribed Investor Rates - Individual & Joint

Taxable Income	Income Tax Tax Rate	Taxable Income + PIE Income	PIR
$0 to $14,000	10.5%	<$14,000 + PIE Income<$48,000	10.5%
$14,000 to $48,000	17.5%	$14,000 - $48,000 Taxable Income + PIE<$70,000	17.5%
$48,000 to $70,000	30.0%	>$48,000 combined Taxable + PIE Income	28%
$70,000 +	33.0%		

Criteria for PIR rate – income on either of the 2 previous income years and a valid IRD number has been provided.

Source: G3 www.g3freedom.co.nz

Casual workers:
Filling gaps at short notice

With the summer holidays approaching, now is the time to think about how you'll fill staffing gaps quickly. Casual employees could be the answer.

Unexpected events, such as a staff member calling in sick, can potentially derail your business day. So having casual staff available is very useful.

But tread carefully – if you treat casual workers like part-time staff, eg give them regular hours, this is a breach of employment law.

Casual work is intermittent or irregular, and casual employees don't have to accept every offer of work you make. To make sure you know the difference between casuals and part-timers, check out Business.govt.nz's visual guide to employee types.

Paperwork

Just like the rest of your employees, people who work casually for you need an employment agreement. MBIE's online employment agreement builder can guide you through the process.

The casual agreement should make it clear:

- There is no guarantee of work on a specific day.
- The amount of work they'll get will fluctuate.
- How you'll let them know when you would like them to work.
- They're not obliged to make themselves available for work if asked.

Don't get them confused with part-time workers – if the work is in a regular pattern, they're not casuals and should have a permanent part-time agreement.

As an employer, remember to keep records of the start and finish dates for workers, and make sure new staff complete a tax code declaration form (IR330).

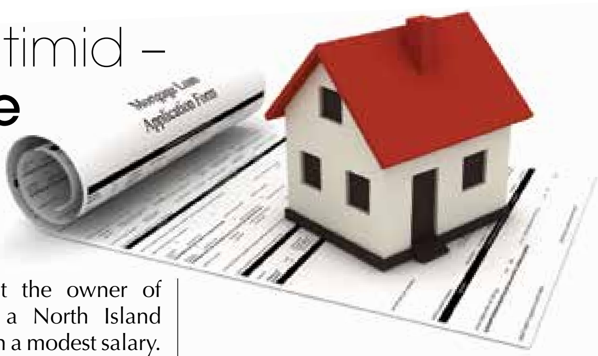
Time off

Casual employees are entitled to holidays. Because they don't have set hours, you can agree with them that instead of earning annual leave, you'll pay them an extra 8% of their salary or wage each pay day.

They're also entitled to sick leave and bereavement leave after six months of starting work with you if they fulfil certain criteria regarding their hours. Holidays and leave are explained on the Business.govt.nz website.

If you employ casual agricultural workers, then check out the Inland Revenue website for information on how to tax their pay.

Don't be timid – negotiate with the bank



Here's a story about the owner of a small house in a North Island provincial town who's on a modest salary.

He was paying interest on his mortgage at 6.2% and noticed he could borrow from the same bank at 4.9%. As he had enough equity in his home, he went to the bank and asked if he could get another mortgage at 4.9% so he could repay some of his 6.2% mortgage.

He negotiated the following:

- No bank charges
- Interest at 4.69% instead of 4.9%
- Repayment of 5% of the *original loan*, rather than 5% of the *existing loan* as the bank originally said was the maximum.

He did very well but he could have done even better. When he negotiated the original mortgage he might have been able to get an agreement to be able to repay a bigger lump sum, say 10%. He'll do that next time.

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	- Auckland Central	(09) 367 1656
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Vazey Child Limited	- Hamilton	(07) 838-2169
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Changes in Particulars

Please remember to let us know of any changes in:

• Physical address • E-mail address • Phone and/or fax numbers
• Shareholdings • Directorships • Trustees

Or anything else that may be relevant.