laydoddpartners
Chartered Accountants & Business Advisors

laydoddnews

Season's Greetings 2016

Our office will close on Thursday, 22 December 2016 and reopen on Monday, 9 January 2017.

Best wishes for a wonderful holiday season and a very happy New Year!

Planning for the Holiday Season

Public Holiday Dates

- Christmas and Boxing Day, Sunday 25th and Monday 26th December 2016.
- New Year's Day and the day after, Sunday 1st and Monday 2nd January 2017.

Because Christmas and New Year fall on the weekend, the public holiday is treated as falling on the following Tuesday, but only if Sunday is not normally a working day for the employee. If the employee would normally work on the Sunday, then the public holiday rules for Christmas and New Year are applied to the Sunday only.

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.

Paying Staff

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.

An employee is not entitled to more than 4 public holidays over the Christmas and New Year period, regardless of his or her work pattern.

Annual Holiday Pay

Employees are entitled to a minimum of 4 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 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 a 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.

Record Keeping

You should also ensure that the payroll records show correctly any leave taken, statutory days etc. for future reference.

PAYE on Holiday Pay

IRD has clarified how to calculate PAYE when a person takes leave and holiday pay is paid in a lump sum before their leave starts (i.e. the holiday pay is paid in an earlier pay period and not in the pay period to which the leave relates).

The regular pay has normal PAYE deducted as usual by applying the PAYE tables. However, the additional lump sum should have PAYE deducted using the deduction method for extra pay.

If you require any help with this, please ask or use the holiday PAYE calculator provided by IRD to calculate the correct PAYE. Note: Details are requested so you can print out the information for your records. The IRD does not retain any information provided. The calculator may be found at:

www.ird.govt.nz/calculators/keyword/paye/calculator-paye-holiday-pay-2016.html

Kiwis with Trusts who move abroad

New Zealand tax residents who have established a complying trust (i.e. most family or investment trusts) who move to another country, whether to retire or work may have tax issues.

Our tax laws were changed to allow such trusts to continue to be complying trusts for New Zealand tax purposes. That is, any income will still be subject to New Zealand tax. The potential trap, however, is that the trust may become a tax resident of the country that the individuals have moved to. Some countries do not recognise trusts or treat trust income as personal income.

Changes in Shareholding

Shareholder continuity is important for many reasons, but most importantly for preserving imputation credits and losses.

Changes in shareholding can also result in the loss of qualifying company (QC) or look-through company (LTC) status if the necessary elections are not made by new shareholders within the prescribed timeframe.

Often changes in shareholding arise from the implementation of sound estate planning or asset protection measures. Sometimes, however, advisers overlook the possible consequences of not looking at the "bigger picture".

If there have been changes to the shareholding structure of your company that we are not aware of, please let us know so that we can check on any issues that may arise.

AUTOMATIC TAX INFORMATION SHARING IS COMING

Important changes are coming in the world of international investment, and will affect individuals, trusts and companies who hold investments in countries outside their place of tax residence.

If you hold investments in a foreign country you should be aware of changes coming up that will increase the information available to Inland Revenue about those investments.

What is happening in New Zealand?

Inland Revenue published guidelines for financial institutions in July, setting out their requirements under both AEOI and the CRS. From 1 July 2017, New Zealand financial institutions will need to review the accounts held or (in some cases) controlled by non-residents and collect and report that information to Inland Revenue. Financial institutions will be requesting information from their account holders where they believe there is an international connection or, most likely, from all their clients. Where required, Inland Revenue will then share that information with other tax jurisdictions in the specific countries.

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