



## February 2016

### A ROUND UP OF LAW CHANGES TO OCCUR IN 2016

#### ACC LEVY CHANGES - 2016/17

The ACC portion of vehicle registration is due to again reduce by an average of \$130 per year. Last year ACC introduced a vehicle rating system, based on how well a vehicle protected passengers and others on the road if the vehicle were to be involved in an accident. As a result, a vehicle's levy is now based on an assessment of its risk.

At present, the Work, Earners' and Motor Vehicle levies are all made up of two parts:

- a 'current portion' (which changes year-on-year)
- a 'residual portion' (which is required to collect a fixed amount by 2019).

The current portion of the Work Levy funds the total cost of work injuries expected to occur between 1 April 2016 and March 2017. The current portion also includes a funding adjustment component. Each year ACC reviews the injuries and costs from previous years against what was expected. ACC also considers investment returns and other economic factors. Any shortfall or surplus relative to their full funding requirements is reflected in a funding adjustment.

The residual portion of the Work Levy covers the cost of claims made when ACC uses a 'pay-as-you-go' model. It also covers the ongoing cost of claims for work injuries that occurred before 1 July 1999 ('pre-1999'), and non-work injuries to earners that occurred before 1 July 1992. Before 1 July 1999 ACC only collected enough each year to cover that year's costs for all prior claims.

In short, ACC currently has sufficient monies to fund the lifetime cost of every current ACC claim. Therefore, in September last year, the Government announced that residual levies will be removed from 1 April 2016. This

means that most businesses will pay lower work levies with an average drop in the work levy rate. However, ACC has also signalled that this may mean an increase in the Work Levy for around 25% of business customers.

#### HEALTH & SAFETY AT WORK - 4 APRIL 2016

The new law coming into effect requires the employer to do what is 'reasonably practicable' to manage health and safety risks at work, so it is essentially about taking responsibility for what you, as an employer, can control.

#### ZERO HOUR CONTRACTS - 1 APRIL 2016

Planned changes will mean that when hiring workers, employers must guarantee to give employees an agreed number of hours of work. Also employers will not be able to:

- expect employees to be available to work without guaranteed hours without paying reasonable compensation
- cancel a shift without giving employees reasonable notice or reasonable compensation, the terms of both being required to be set out in an employment agreement
- make unreasonable deductions from wages

#### ENFORCEMENT OF EMPLOYMENT STANDARDS - 1 APRIL 2016

Law changes will strengthen the enforcement of minimum employment standards, namely minimum wage rates, especially where there is likely to be a seasonal averaging component involving long hours worked on salary, holiday entitlements and clear record-keeping requirements.

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## CHANGES TO VISAS FOR OVERSEAS WORKERS

If you hire non-New Zealanders you may already have noticed that many job applicants no longer have work visa labels in their passports.

This is because Immigration New Zealand (INZ25) has recently extended its use of eVisas, passport-free applications and label-less visas. For people who successfully apply for a work visa, this means they are sent an online visa approval notification, which can be printed off and shown to an employer to confirm they can work in New Zealand and sets out any conditions for working here.

From early December 2015, people who apply online for a work visa while in New Zealand will be eligible for an eVisa. The eVisas will also be issued to people from the 59 visa waiver countries who apply online from outside New Zealand. (People from visa-waiver countries do not normally need a visa to visit New Zealand as a tourist for less than three months.)

As an employer, it is your responsibility to check your staff can legally work in New Zealand. There are penalties if you employ someone who is not allowed to work for you.

You can use INZ's free visa view service, [www.immigration.govt.nz/employers/resources/visaview](http://www.immigration.govt.nz/employers/resources/visaview) to check a worker's visa conditions. INZ has guides and checklists for employers hiring overseas workers.

## HEALTH & SAFETY WHEN WORKING FROM HOME (OR ON HOLIDAY)

If you work from home you already know you are required by law to look after your own health and safety (H&S). But what will the upcoming April 2016 changes to the Health & Safety At Work Act mean for you?



If you run a business which has staff working from home, you are responsible for talking through and developing policies with them on how they'll manage their health and safety when working at home.

In a home office, you might, for example, require your staff member to use safe equipment, provide them with assistance to set up workstations ergonomically and make sure that the worker keeps in touch with the workplace base. However, keep things in proportion. Identify the likely risks in the workspace, do something about them 'as far as is reasonably practical', and as an employer you will be in good shape to meet the new laws.

**Case Study:** Annabelle and Bernard own ABC cake business. After getting council approval to do so, Annabelle bakes the cakes at her house, and Bernard handles all the orders from an office in town. They employ Charlie to do book keeping. They have received a lot of rush orders for Christmas parties so need to change how they work.

Who and Where	Must dos under new law	H&S steps
Annabelle, business owner, always works from home.	As a director, Annabelle must make sure ABC complies with its obligations.  As a worker, she'll also have to take reasonable care for the H&S of herself and others, and follow ABC's policies and instructions	Annabelle has been working from home for months, so she's aware of the risks - high temperature equipment and sharp utensils – and makes sure she sticks to ABC's policies about eliminating or minimising these.
Bernard is working from home during the holidays – orders are coming in, but he still wants to be near his family.	As a director and a worker, he'll have the same responsibilities as Annabelle.	Bernard takes regular breaks so he doesn't get fatigued, makes sure he's not going to trip over his computer cord, and keeps in touch with Annabelle to make sure she's handling the baking workload, and that Charlie is also set up well to work.
Charlie is working a day a week while on holiday at his remote bach to make sure there are no cash flow problems.	As a worker, Charlie has to take reasonable care to ensure the H&S of himself and others, and follow ABC'S policies and instructions.	Charlie sets up his computer at the suitable spot in the bach. He phones Bernard at the start and end of each workday to check in. One day he notices the extension cord looks a bit worn, so buys a new one.

## FARM EMPLOYEE HOUSING - SERVICE TENANCIES

Farm employees may be provided with accommodation while they are employed on the farm. It is advisable that where the employer provides such accommodation, it is covered by a specific type of tenancy document (a 'Service Tenancy' agreement) related to accommodation being provided as part of an employment relationship.

Under a service tenancy, the tenancy ends when the employment finishes and the employer gives the employee 14 days' notice to move out of the house. These 14 days can be reduced if the accommodation is needed by another employee and there is no alternative accommodation available.



Without a service tenancy agreement, problems can arise when the employment finishes as under a normal tenancy agreement, the landlord must give the tenant at least 90 days' notice to vacate and the

circumstances to reduce this notice period, such the pending sale of the property or the owner moving into the house, are unlikely to apply in a normal farming operation.

Federated Farmers advise that employees should be required to pay a bond for the accommodation so that, if the employee damages the property, the bond can be used to cover the costs of damage or outstanding expenses. This bond, provided by the employee as a cash payment and not as a deduction from their first pay unless otherwise agreed in writing (preferably as a clause included in the signed employment contract), will need to be formally receipted and lodged with the Department of Building and Housing. A formal property inspection with the new employee should also be completed to establish the condition of the house prior to the start of the occupancy.

### DOING YOUR OWN DUE DILIGENCE

When purchasing a business it is important to understand its value. The value of a business will ultimately determine whether to purchase it and, if so, how much to pay. A number of factors need to be considered when determining the value of a business, including:



- its financial position
- future forecasts
- existing customer relationships
- staff structure and relationships
- why the current owner is selling
- your future exit strategy
- and the list goes on

**Comment:** Ideally, advisors who specialise in completing due diligence and financial analysis should be used. However, if that is not possible or if a 'starting point' is required before a specialist team is brought in, here are four key areas to focus on:

- the recurring nature of revenue
- the quality of earnings
- what drives business growth, and
- the business cashflow

Firstly, understanding business revenue and what drives the recurring nature of this revenue is integral to understand the value of a business and what a new business owner will need to do to retain the same level of revenue. A key question is therefore, how is revenue secured going forward i.e. how does the company retain their customer base? If business sales are generated by long-term contracts this will greatly increase the value of the business when compared to unsecured business sales that are retained by customer loyalty alone. Further, if customer loyalty is attached directly to the existing business owner this can decrease the value of the business.

Secondly, the quality of earnings must be examined with the earnings you use to value a business being earnings that are maintainable into the future. Often with a company's financial results there are entries that distort a business' true earnings. These can be one-off events such as a large expense or sale that are attributable to unusual circumstances and will not re-occur in subsequent years. Staff and rent costs are often worth examining as it is common for these costs to not truly reflect their market price. All costs must be adjusted to market value to provide a fair reflection of profit.

If earnings are forecast to grow into the future, understanding what will drive that growth is paramount and it is useful to compare the historic accounts with the forecast accounts to analyse the key assumptions and key risks to achieve the growth.

Finally, the working capital requirements of a business should be examined. Every business has different cash flow requirements due to seasonal changes or supplier and customer relationships. Can future capital requirements be funded? Moreover, if the business is forecast to grow, what working capital is required to fund that growth? The answers to the above questions will help determine whether the business is worth purchasing and might save some money when negotiating the price with the vendor.

### NO ROOM FOR THE PASSIVE

The days of the passive company director are now well gone! From 4 April new Health and Safety rules will take effect and these rules expose all directors to a potential personal liability for a health and safety breach even if they are not aware of the issues.

The new rules make directors liable for failure to take responsibility for health and safety, and any director not actively involved in the business of a company is simply increasing their exposure and risk. Think the quarry company where the directors are "Mum and Dad" but "Mum" never goes near the quarry. Should she still be a director? What about "Dad" who is a director of Mum's catering business?

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**My boss said:**

**“Dress for the job you want, not the job you have.”**

**Now I’m sitting in a disciplinary meeting, dressed as Batman.**



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