



## MAY 2019 SNIPPETS

### MINIMUM WAGE INCREASED ON 1 APRIL

On 1 April 2019 the minimum hourly wage increased to \$17.70 plus holiday pay of \$1.41 per hour – a total of \$19.11 per hour - an increase of \$1.20 per hour.

The starting out and training wages also increased from \$13.20 to \$14.16 plus 8% holiday pay per hour from 1 April 2019.

The Government is moving towards its goal of a minimum wage of \$20 per hour by 2021 – however in accordance with the statutory process, the reviews in 2020 and 2021 will take into account the economic conditions at the time.

### ONE BILLION TREES - DIRECT LANDOWNER GRANTS

The Government is encouraging those who own land or have the right to plant on the land and who can commit to establishing and maintaining trees and/or native regeneration for at least a 10 year period to apply for support funding under the Te Uru Rakau scheme. The Fund aims to provide simple and accessible direct grants toward the cost of planting up to 300 ha per year and establishing trees and native regeneration, including riparian planting – with a target of two thirds of the trees funded through the grants programme being natives.

*Pinus radiata* is excluded from this scheme, thus reducing the likelihood that grant funding will be spent on commercial planting driven by incentives for timber and carbon.

By contrast, indigenous and exotic (other than *radiata*) tree planting for biodiversity, erosion control, water quality and other environmental benefits have more challenges and the Government is providing incentives to lower these challenges.

Land with high or very high erosion risk will be considered for a top-up to the basic grant rate. All information can be viewed online at <https://www.mpi.govt.nz/funding-and-programmes/forestry/planting-one-billion-trees/>

### KIWISAVER CHANGES

From 1 April 2019 KiwiSaver members have two new contribution rates to choose from: 6% or 10%. From 1 July 2019 those 65 years and over can opt into KiwiSaver.

### HEATING AND VENTILATION IN RENTAL PROPERTIES

If you are a landlord who provides heating and ventilation for your rental property, you are responsible for maintenance of these. If there is a useable fireplace, the chimney needs to be safe and regularly cleaned (a condition of insurance probably stated in your insurance policy). It is best to permanently block off unusable fireplaces to prevent tenants using them and to reduce draught. Landlords are also responsible for regularly servicing ducted heating and ventilation systems.

### LANDLORDS: DEDUCTING LOSSES

If you own investment property you should be aware of likely changes about deducting losses made from residential rental properties. The proposed legislation, which is still progressing through Parliament, intends to end landlords offsetting losses incurred on residential rental properties against other sources of income (for example wages or salary and investment income) which generally results in a reduced liability and, in many cases, an income tax refund. Instead residential rental losses will be ring-fenced and available to deduct from future rental profits. The rules, when enacted, will apply from 1 April 2019.

### READ YOUR ODOMETER

New mileage reimbursement rates apply from 1 April 2019 for those with standard balance dates. The tier one rate of 0.76 per km applies to the work related portion of the first 14,000km of combined business and private travel per annum, provided a log book or similar records are maintained by the employee. Tier two rates apply to travel exceeding this distance and depends on the specific vehicle being used. Make sure you take an odometer reading so you can comply with the new rules.

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## EMPLOYER VERSUS CONTRACTOR

With the Inland Revenue increasing its focus on the self-employed and that sector's tax compliance, it is important to be clear on an individual's contractual status as there are significant differences in the legislation that applies to employees and independent contractors.

If an individual is determined to be an employee under section 6 of the Employment Relations Act 2000 then the Holidays Act and other employment related legislation applies. The risks and costs may be substantial if any individual thought to be a contractor is found to be an employee as they are then able to raise a personal grievance and/or claim compensation for lost benefits along with penalties.

There are several tests which can be applied when determining the 'real nature of the relationship':

- One test is the intention of the parties – what is documented, the conduct of the parties and industry practice.
- The control test looks at the degree of control or supervision exercised over the individual by the employer. The more control the employer, such as specifying how and when work is to be done, the more likely the Courts would find it is an employment relationship.
- The independence test is the inverse of the control test. It looks at how much independence the individual has – e.g. whether they work for multiple clients or just one, whether they provide their own tools and whether they can hire or subcontract the work or are required to do it personally.
- Other tests include whether the worker is integrated into the employer's business and whether the individual is in business on their own account, taking on financial risk and responsibility for broad compliance matters.

Employers need to be aware that even if an individual is initially engaged on a contract for services, their status may evolve over time and therefore it is important to regularly review any independent contractors to ensure that they are not slipping into the definition of an employee.

## WORKING FOR ACCOMMODATION

A business owner (such as a farmer, restaurant owner or a businessman in the tourism industry) who provides accommodation to workers in return for them carrying out tasks should be aware that there could be income tax, GST and other implications of providing that accommodation - for both the provider and the worker.



seasonal workers and other casuals are often taken on to pick fruit, garden, paint, clean, look after children and work

Common situations include seasonal and casual labour in the farming, hospitality and tourism industries. In these industries, travellers from overseas, university students,

in bars. As part of the arrangement they get a place to sleep and may also get food instead or as well as payment for the work. It is also important to recognise that a worker does not have to be getting paid cash to be an employee.

Obviously, tax issues are not confined to these industries or situations. Potentially there will be tax to pay whenever a worker does work for someone else who gives them accommodation as "part of the deal". The value of the accommodation may have to be treated as salary or wages for the worker - the employer being responsible for coming up with a reasonable estimate of the market rental value of the accommodation.

### Comment:

**If you are thinking of providing accommodation as part of a 'work deal', please seek advice at Graham & Dobson as there could also be possible GST and expenses deductibility implications to consider.**

## GST ON LOW VALUE IMPORTED GOODS

GST is intended to be a broad-based tax applying to goods and services consumed in New Zealand. However, under the current system, not all goods and services are captured and specifically, GST is not currently collected on imported goods worth \$400 or less. Historically, it was thought that the administrative cost of collection would outweigh the tax revenue collected – however, the import market has grown, giving rise to increasing concerns NZ suppliers are disadvantaged in comparison to offshore suppliers.

Introduced in December 2018 and intended to be effective from 1 October 2019, the Bill proposes to apply GST to goods valued at \$1,000 or less (excluding tobacco and alcohol) that are delivered to a New Zealand address from overseas. Offshore suppliers will be required to return NZ GST if their total supplies to this country exceed \$60,000 in a 12 month period. The outcome for Kiwi consumers is that they will most likely have to pay GST on low-value goods imported from overseas, while businesses in New Zealand will be on a more level playing field with overseas competitors.

## WINDING UP A COMPANY

If a company does not file its annual return with the Companies Office, it may be struck off from the Companies Register. This is sometimes used as a 'short-cut' method, rather than completing the short-form company liquidation process.

However, this approach comes with some risks. For example, if a company is struck off the register whilst it has tax credits owed by Inland Revenue (IRD), the tax refund is effectively forfeited and will not be paid to the company nor its shareholder(s) unless the company is reinstated.

Similarly, if a struck off company is still named as the owner of land (on the title), the company has to be reinstated in order to transfer the land to its correct owners and then be wound up again.

Although the process of winding up a company can be lengthy, to minimise risk for both the business and its stakeholders, it is recommended the correct procedure is followed.

The process should always be commenced with a special shareholders' resolution, which provides legal evidence that the majority of shareholders agree to the wind-up. It represents the point from which capital gains may be distributed tax free and is a commonly requested document if the IRD happen to review the wind-up process.

Any outstanding company liabilities are then satisfied, including trade creditors and anything owed to related parties. Surplus assets are distributed to shareholders, ensuring any legal formalities are observed depending on the type of asset (e.g. updating the land registry for any land/buildings). For tax purposes, distributions to shareholders may be non-taxable to the extent they are comprised of share capital or capital gains – however, excess amounts may comprise taxable dividends to the shareholders.

A company should complete its final GST and income tax returns etc, pay any outstanding tax liabilities and then de-register with the IRD. A request is also made to the IRD to provide written approval for the company to be removed from the companies register. With no assets or liabilities, the company bank account can then be closed before the final stage of passing a further shareholders resolution resolving to make an application to the Companies Office to remove the company from the companies register. The Companies Office gives public notice in the New Zealand Gazette of its intention to strike the company off and provided there are no objections received within 20 working days from the date of the notice, the company is removed from the register.



#### **Comment:**

**Although the process sounds prescriptive, incurring the cost of having it done correctly could save money in the long run.**

## **TAX CHANGES FOR INDIVIDUALS**

Wage and salary earners – Welcome to a brand new world! A major part of Inland Revenue's transformation process is simplifying individual tax compliance processes and the new rules are now in force.

From the tax year ending 31 March 2019 individuals will fall into one of three groups to determine the level of information they are required to provide to the Inland Revenue.

The first group will generally include individuals who only earn salary and wages or investment income as reported to the Inland Revenue from employers and investment income payers throughout the year. The taxpayer will no longer have to request, or be provided, with a Personal Tax Summary and if the IRD judges the information to be correct it will automatically generate a tax refund or tax payment obligation. Refunds are intended to be paid by direct credit and individuals will just need to make sure their contact details and bank accounts are up to date with the Inland Revenue.

A key issue here is if there is other income to report for a particular year when an automatic tax refund is generated. Officials have recommended changes to the legislation for the year-end process so that taxpayers treated as solely earning reportable income have until terminal tax due date to make an amendment. Individuals will also be able to notify Inland Revenue via myIR, IRD's online portal, if they expect to begin earning other income so their tax position is not automatically calculated.

Based on figures released by the IRD, it is expected that approximately 1.67 million people will automatically receive a tax refund for the 2019 tax year – including 720,000 people who have not previously received a refund. It may be less agreeable if you are part of the estimated 115,000 that are expected to have additional tax to pay for the first time!

The other two groups of taxpayers will be required to provide additional information to Inland Revenue. Those taxpayers categorised in the second group will have to provide or confirm some additional information whereas those in the third group will have to provide income information similar to the current IR3 process. Taxpayers will have access to this information online via myIR.

Currently, an employer deducts PAYE based on the tax code provided by the employee. Under the new changes, IRD will notify taxpayers who earn PAYE income if there is a more suitable tax code but recognising that the ultimate decision rests with the taxpayers, the individual does not have to accept the suggested tax rate. The Inland Revenue will notify the employer only if they do.

The same monitoring will also apply to investment income. However Inland Revenue will instruct the payer to update the withholding tax rate applied to investment income where the individual accepts or does not respond to Inland Revenue's suggestion.

The administration of donation tax rebates is also changing. From April 2019 Inland Revenue will accept donation receipts uploaded electronically via myIR and the taxpayer may no longer have to file a tax credit claim if they upload donation receipts during the year, as the Inland Revenue will automatically issue a refund where they consider the person is entitled to the refund. Inland Revenue will consider things such as whether a valid donation has been made to a charitable organisation.

A person may still complete the donation section when providing other income information in myIR or otherwise complete a separate tax claim form either online or in paper form. If you have a tax agent, like Graham & Dobson, they will of course complete this for you.

#### **Comment:**

**Now that income tax is live in the new IRD online system, taxpayers who do not have a tax agent are encouraged to use myIR to check whether they will receive a refund or have tax to pay and update their details, rather than contact Inland Revenue. IRD acknowledges not all customers are able to, or want to, use its online services and has confirmed that it will keep mail and telephone means of communication open so taxpayers can meet their tax obligations.**

## All too True!

As you get older, you'll realise that a \$300 watch  
and a \$30 watch both tell the same time.

A Michael Kors wallet and a Forever 21 wallet  
hold the same amount of money.

A \$300,000 house and a \$100,000 house  
host the same loneliness.

A Ford will also drive you as far as a Bentley.

True happiness is not found in materialistic things.  
It comes from the love and laughter found with each other.

Stay humble. Because the holes dug for us in the ground  
are all the same size!

