



FEBRUARY 2011

USEFUL SNIPPETS

Student Loan Scheme Debt Collection

Changes announced recently will clarify Inland Revenue's power to recall a student loan in cases of serious non-compliance. Each year a number of borrowers default on making their student loan repayments. A defaulting borrower will be followed up by IRD and given the opportunity to remedy their defaults. However, for certain borrowers, the Commissioner of Inland Revenue will now have the ability to call up the entire loan – all student loan contracts contain a clause allowing the loan balance to be recalled in certain circumstances.

Entertainment Expenditure

Over the Christmas period just past, many businesses will have put on Christmas parties to celebrate the festive season. If food or beverages have been provided to staff to enjoy with other work colleagues or with clients, either at work or offsite, these costs should generally be treated as 'entertainment expenditure' and in most cases only 50% of these costs can be claimed for GST purposes.

'Family Income' Defined

A Bill passed into law in December amends the current definition of 'family income' for Working for Families tax credits from 1 April 2011 to include:-

- distributions of trustee income, including income from trust-owned companies;
- passive income over \$500 per child per annum;
- a non-resident spouse's worldwide income;
- tax-exempt salaries and wages of people working under specific international agreements (e.g. United Nations employee);
- 50% of non-taxable private pensions;

- deposits in a main income equalisation account – the scheme allows people carrying on an agricultural, fishing or forestry business whose income fluctuates to smooth their income for tax purposes over several years;
- significant fringe benefits that are easily substitutable for cash (e.g. motor vehicles, low-interest loans) received by shareholder-employees;
- other payments used to meet a family's living expenses if the total exceeds \$5,000 a year e.g. distributions of trustee income from family trusts where the person is not the settlor.

As the Community Services Card and the Student Allowances parent's income test use the same definition of income as that used for Working for Families tax credits, the changes also apply to these two types of social assistance.

Renewed appetite for credit?

Credit card applications rose 5.7 per cent in December 2010 compared to December 2009 and ahead of Christmas spending which has been interpreted as a sign of an improving economy. Greatest application interest is said to come from those born between 1946 and 1964, the first of whom are now reaching retiring age!!

Client Housekeeping Reminder

We remind clients who are accustomed to posting in or dropping off cheques to us that all such cheques need to have the payee line filled in and be stamped 'Not Transferable – a/c payee only'.

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EMPLOYMENT BEST PRACTICE

- **Make sure you always have an employment agreement in place.** This is a legal requirement whereby every employee is required to have a written employment agreement with all conditions of employment outlined, fully understood and signed by both parties **prior** to employment commencing. A new provision of the Employment Relations Act which will come into effect from 1 July 2011 requires employers to retain a signed copy of an individual's employment agreement or a **current** signed copy of the agreed amended terms and conditions.
- **Every employee needs an employment agreement:** regardless of whether they are permanent, casual, part-time or full time. Employment agreements can cover every situation and all your existing agreements should be kept up-to-date to cover all changes in employment legislation (e.g. minimum hourly rate payable, cashing in one week's leave – both to come into effect from 1 April 2011).
- **Legally an employment agreement must contain:**
 - the names of the employer and employee
 - a description of the work the position covers
 - an indication of where the work is to be done
 - an indication of the hours of work
 - the wages or salary to be paid
 - requirement to pay time and a half and day off in lieu if they work on a public holiday
 - any trial period agreed to must be written into the agreement
 - vulnerable employee clause which deals with negotiation, transfer and redundancy if the employer's business is sold
 - a plain English explanation of the processes available for the resolution of employment relation problems.
- **Additional information which should be included** in the agreement or as an attached policy manual to more clearly define your expectations:
 - Health and safety obligations
 - Leave entitlements
 - Policies e.g. smoking, conduct code
 - Employment termination processes
 - Deductions clause which allows deduction of overpayments, holidays taken in advance etc
 - Performance review policies
 - Policies and processes with regard to misconduct and serious misconduct
 - Accommodation provisions, including a Service Tenancy Agreement where the employee lives on site

A well drafted employment agreement, including a job description, sets out the employer's expectations for conduct and performance and is a document which should be used for many employment related decisions: - remuneration and performance reviews being two important ones. A good job description forms an integral part of the agreement, setting out a simple and concise description of tasks, responsibilities and accountabilities and, being clearly understood by both parties concerned, is a vital part of the agreement – make sure the job description contains a clause that it will be amended and reviewed as applicable as it is not a 'static' document given that duties and responsibilities will change.



Employment rights begin when the offer of employment is accepted. If this is a verbal offer made over the telephone which is immediately accepted, the candidate at this point becomes an employee – it can then be very difficult to negotiate an employment agreement. This situation is easily avoided in casual employment cases in particular by having to hand a short contract specific to the job.

Ideally you should only offer employment, in writing, by 'letter of offer' with an attached employment agreement so that the candidate can see in detail what you are offering. If you want to include a 90 day trial period, you must include this in the agreement and it is best to also refer to this as a condition in your letter of offer, thus ensuring from the outset the trial period is effective and agreed to. As from 1 April 2011, the current legislation has been amended to allow all employers to use the 90 day trial period clause but only if the candidate has not previously been employed by you. The employer must also carry out good faith communicative and constructive employment obligations. The letter of offer should advise the prospective employee that they are welcome to take advice (generally allowing three working days for this) and you will discuss the proposed terms if they wish. You are not obliged to modify the offer and any modifications must be in writing. The offer can be withdrawn if you have not heard from the candidate by a specified time and date. If and when they accept the offer however, they are accepting all the terms and conditions and do so by signing and returning the agreement.

The Department of Labour has an employment agreement 'builder' tool on its website www.ers.dol.govt.nz. We are also able to assist withdrawing up an employment agreement for you.

VISAVIEW CHECKS

With the hiring season in full swing, employers are reminded of the importance of checking that job applicants are entitled to work for them. The Immigration Act 2009, which came into effect from 29 November 2010, continues the principle that businesses must not employ a non New Zealander who is not entitled to work for them. Employers' obligations essentially remain the same as under the previous Act but there is a key change to the "reasonable excuse" provisions. Holding a Tax Code Declaration (IR330) is no longer a reasonable excuse for employing someone who is not entitled to work for you. Instead, an employer will have to show that they showed due diligence to check whether the foreign national was entitled to work in New Zealand.

There is available a free online tool VisaView to check information such as a passport number and surname against Immigration New Zealand's database for (in most cases) a quick online check as to whether a person is entitled to work here, together with any specific work condition. VisaView keeps track of employer enquiries so they can demonstrate they have taken 'reasonable precautions and exercised due diligence' when hiring new employees as required by the legislation. www.immigration.govt.nz

FORMAL WRITTEN AGREEMENTS FOR FAMILY ARRANGEMENTS

A recent High Court decision highlights the importance of having carefully worded signed agreements for family arrangements. In this case, a son allowed his mother to occupy a property of his. She did so for seven and a half years. No rent or outgoings were paid by the mother but she did purchase chattels and maintain the gardens. The son and mother fell out and the son served a Notice to Quit the property. The mother sued the son.

Since she had been given an 'indication' only from her son that she could live at the property for the rest of her life and did not have a legally binding agreement, the Court found it to be 'an unenforceable promise'. If the mother had had a formal written agreement setting out the basis on which she could occupy the property, no court case would have been required. An agreement of this nature would protect everyone involved and should include the basis of the right to occupy, i.e. temporary or permanent, whether there is a requirement to contribute to outgoings and maintenance and whether alterations are allowed to be made.

NATIONAL STANDARD COSTS FOR LIVESTOCK

The Inland Revenue has just released the National Standard Costs (NSC) for livestock for the 2011 income tax year. These record a significant increase in value for homebred hoggets of 16.5% and



16.8%. Those farmers who use the NSC scheme to value their immature livestock will have additional taxable income on the 'paper' value increase in stock valuation. For an average

5000su breeding property, this will add \$8,000 to taxable income in the 2010/2011 income year. Clients with livestock in the herd scheme will not be affected by the expected increase in Herd values as all increases are tax free income. The Herd values are announced in May each year. The following NSC values are for homebred livestock:

		2011	2010	2009
Sheep	< 1 year old	28.20	24.20	26.00
	> 1 year old	42.60	42.10	40.80
Beef	R1 yr – all classes	282.90	242.20	261.60
	R2 yr + heifers & cows	397.20	397.30	378.30
	R2 yr steers & bulls	397.20	397.30	378.30
	R3 yr steers & bulls	552.30	514.00	526.10

As a result of the significant increase in returns from sheep, cattle and wool, farmers can expect improvement in incomes for the 2010/11 year. If farmers require assistance to prepare an updated projection of 2010/11 year income and taxation, please do not hesitate to contact your principal at Graham & Dobson.

NEWSLETTERS VIA THE WEBSITE

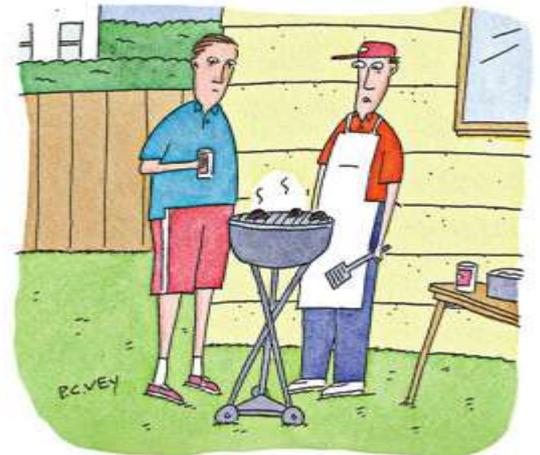
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Camping's Life Lessons



- The distance to a given camp site remains constant as twilight approaches.
- The number of mosquitoes at any given location is inversely proportional to the amount of repellent that remains.
- The area of level ground in the neighborhood tends to vanish as the need to make camp increases.
- Your side of the tent is the side that leaks.
- Waterproof clothing isn't. (However, it is 100% effective at containing sweat).
- The width of backpack straps decreases with the distance hiked. To compensate, the weight of the backpack increases.
- Average temperature increases with the amount of clothing brought.
- Tent poles come only in the quantity "N-1" where N is the number of poles necessary to put up a tent.
- Propane/butane tanks that are full when they are packed, will unexplainably empty themselves before you can reach the campsite.
- When reading the instructions of a pump-activated water filter, "hour" should be substituted for "minute" when reading the average quarts filtered per minute.
- The sun sets three-and-a-half times faster than normal when you're trying to set up camp.
- Tents never come apart as easily when you're leaving a site as when you're trying to get them set up in the first place.
- Given a chance, matches will find a way to get wet.
- The weight in a backpack can never remain uniformly distributed.
- Enough dirt will get tracked into the tent on the first day out, that you can grow the food you need for the rest of the trip in rows between sleeping bags.
- When planning to take time off work/school for your camping trip always add an extra week, because when you get home from your "holiday" you'll be too tired to go back for a week after.



And now I just step back and let the grilling process destroy any nutritional value it might have had.