



*Merry
Christmas*

The Principals & Staff at Graham & Dobson thank you for your continued support during 2014. We wish you a safe, happy and relaxing festive season.

The offices of Graham & Dobson will be closed from 4.00pm on Tuesday, 23 December and will reopen on Monday, 12 January 2015 at 8.00am.

USEFUL SNIPPETS PROPERTY REVALUATIONS!

Rating revaluation of all 23,208 properties in the Gisborne district were completed last month and by now property owners will have their revaluation notices to hand. The effective date of the valuation is 1 July 2014 and the new valuations come into effect for council rating purposes at the start of the 2015/16 financial year (1 July 2015).

The three-yearly valuation project for the Gisborne District Council was completed by independent property valuers, Landmass Technology Ltd. Values in the rural and commercial-industrial sectors have generally gone up a little, while the average movement in residential property values across the city is a 5% drop.

The economic performance of the pastoral sector has been positive for the past couple of years and this has translated into a total increase in the value of pastoral property in the district of nearly 7%. Horticultural and cropping values show similar trends to pastoral, but with the total increase for horticultural properties at 9% and cropping at 3%.

REMINDER REGARDING REVALUATION NOTICES

Please keep your copy handy to include with your papers at the end of your financial year.



ENTITLEMENT TO A PAID STATUTORY HOLIDAY

All employees for whom the day is otherwise a working day will be entitled to a paid statutory holiday or time and a half and an alternative holiday if they work on the day. Employers need to consider whether the day on which the statutory holiday falls is otherwise a working day for each employee in order to determine statutory holiday entitlements.

In most cases it will be very clear that the day on which the statutory holiday falls is otherwise a working day for an employee. Rosters and work patterns can help determine whether an employee would normally work on a particular day. If it is not clear whether the day would otherwise be a working day, an employer should consider the following factors:

- Whether the employee works for the employer only when work is available
- The reasonable expectation of the employer and the employee that the employee would work on the day concerned
- Whether, but for the day being a statutory holiday, the employee would have worked on the day concerned.

LIVING ON HIGH STREET!

If Auckland real estate seems overpriced, the latest UK figures from the property website Zoopla put things into perspective. They reveal that Britain has 12 streets where the average property value is more than £10 million (\$19.8million). Unsurprisingly, all are in London, from bargain priced Chester Square SW1 – average property value £10.2 million – to the stratospheric Kensington Palace Gardens W8, average property value £42.7 million!

NEWSLETTERS VIA THE WEBISTE

Newsletters are available by email – please go to our website at www.grahamdobson.co.nz, click on the “Register for Electronic Newsletter” icon and complete the registration screen.



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GISBORNE DISTRICT COUNCIL RATE REMISSION

GDC has a number of set policies where they will remit part of your rates if certain criteria are met. You can read them on the GDC website. Please Ctrl + click or copy the following link to read:

<http://www.gdc.govt.nz/assets/Files/Ten-Year-Plan/2012-2022/Rating-Remission-Postponement-and-Penalty-Policies.pdf>

For our rural clients we bring your attention to Policy 2.9 which remits the Uniform Annual General Charges "UAGC", water rates and refuse collection sticker rates where any of the following circumstances apply:

- Where multiple dwellings are on the rated property but which are not used as dwellings.
- Where a dwelling is derelict, uninhabitable condition.
- Where there are multiple dwellings but they are being used by members of the direct family of the ratepayer eg granny flat.
- Where an employee is required to live in the dwelling because it is essential to the ongoing operation of the business.

Each remission will be reviewed annually and will commence in the rating year in which the application is made.

DIRECTORS' RESPONSIBILITIES

The care with which company directors have exercised their duties and responsibilities is being examined by the courts more frequently. One such obligation is the need to maintain an interests' register.



It is becoming increasingly important therefore that directors are aware of their obligations and that they have been carried out dutifully.

Directors must disclose in this register, any interest they have in a company transaction. An interest includes situations which the director is:

- party to a transaction in which they will derive financial benefit from a transaction with the company
- director, officer or trustee of an entity deriving financial benefit from a company transaction
- parent, child or spouse of the party deriving such financial benefit from a transaction of the company.

If a disclosure of the interest is not made, the director could be in breach of his responsibilities and become liable for a fine.

Also, regardless of whether or not the interest is disclosed, the company can void the transaction at any time up to three months after the disclosure is made to all the shareholders in the event where the company does not receive fair value for a transaction in which the director had an interest. However, the transaction cannot be voided where the company receives fair value.

Comment:

It is important to note that all of the disclosure rules apply equally to someone who could be considered a "deemed director". This is a person who exercises powers as a director or is unwittingly treated as one by being involved with a

company or by sitting at the board table (e.g. a shareholder who is not a director).

WINDING UP SOLVENT COMPANIES

Some directors and shareholders seem to believe that once the business or assets of a company are sold and the company is no longer trading, that simply by not filing the annual return with the Companies Office, the company will automatically be struck off the companies register and the directors' responsibilities will have ended. The process, however, is not that simple.



In fact, not completing the further stages of the winding up process can prove to be costly. Notices requesting the lodgement of the annual return will continue to be sent to the responsible director/or nominated presenter. If the annual return is not filed, the Companies office will not remove the company from the company register but treat the non-filing as a breach of the Companies Act 1993 under which it can prosecute the directors. Not filing an annual return is an offence where each director of the company may be fined up to \$10,000 if prosecuted.

In practice, the Companies Office takes a more pragmatic approach and rather than prosecute it will instead send reminders to file the annual returns both before and after the month in which the return is due. If no response follows, it will send a notice of removal, contact any person with a financing statement registered against the company and publicly advertise its intention to remove the company. The public is given 20 working days to object to the removal of the company and if no objections are lodged, the company will be removed after that period.

It is important to note, however, that while the company may have been removed, the directors still remain exposed to prosecution. In addition, the company may be restored or brought back into existence after its removal on limited grounds by people with potential claims if left unaddressed.

Comment:

There are two ways to legally wind up a solvent company:

- Application for Removal: the shareholders can apply to the Registrar of Companies for removal of the company, either directly or through their advisers.

One criteria for the application is the requirement of a written notice from the IRD stating it has no objection to the company being removed. Before issuing this notice, the IRD will require certain information including Balance Sheet and Profit & Loss account up to the date of winding up. The removal of the company from the register is processed by issuing a public notice and removing it if no valid objections are received.

- Voluntary Liquidation: the shareholders appoint a liquidator who distributes the surplus company assets after all the creditors have been notified and all claims settled. The liquidator then provides a final report to the Registrar and requests it to remove the company from the register

EMPLOYERS' GOOD FAITH OBLIGATIONS

All employers will at some time be faced with the difficult task of terminating an employee's employment. There are a variety of reasons that an employer may seek to terminate the employment ranging from medical incapacity, the conclusion of trial period, to a redundancy situation. The most common issues affecting an employment relationship are instances of

poor performance or misconduct. However, regardless of the different processes to work with the employee, an employer must always adhere to its good faith obligations.

This important, but often misunderstood, principle is set out in Section 4 of the Employment Relations Act 2000. The duty requires both parties to an employment relationship to deal with each other in good faith (that is not do anything which will, or is likely to, mislead or deceive). Further, the parties must be active and constructive in establishing and maintaining a productive employment relationship and an employer who is proposing to make a decision that will, or is likely to have an adverse effect on the continuation of an employee's employment, must provide the affected employee with access to relevant information and an opportunity to comment on the information before a final decision is made.

There are no strict "one size fits all" rules or protocols to guide employers in exercising their duty of good faith. Rather, what is fair and reasonable in the circumstances will depend on the facts and, as such, employers need to ensure they are able to justify their actions and how they acted, against what a fair and reasonable employer could have done in all the circumstances at the time.

THINKING OF HIRING?

HERE'S THE CALCULATOR FOR YOU

A new Employee Cost Calculator is just the ticket for small businesses who want to employ someone but are unsure of the costs involved.

Now you can quickly estimate the fixed and discretionary costs when you take someone on.

The calculator was designed to help small to medium businesses make confident hiring decisions, and is part of a package of tools being developed by Business.govt.nz.

An example of the pros and cons of employing someone can be found on the website business.govt.nz/news-and-features.

How it Works:

Using data from government agencies and Trade Me Jobs, the calculator tailors employment costs to your industry and type of role you think your business might need.

You can find out what you're going to be paying straight away and get a breakdown of the compulsory costs like ACC Levies, KiwiSaver contributions and Fringe Benefit Tax. The tool also shows you the cost of employing someone in the first year, and a monthly ballpark for your budget. Try out different scenarios for your business and email your results or save them as a PDF or .csv file.



REFUND OF EXCISE DUTY AND ROAD USER CHARGES

The refund of excise duty on petrol purchased is a topical subject amongst our farming clients right now. As well as a refund of excise duty on petrol for off-road use you are also entitled to a refund of road user charges in respect of diesel vehicles in respect of any off-road travel a vehicle does.



However the best way to record the off road use for a diesel vehicle is by having an electronic recorder fitted to the vehicle that records the off-road use as to do it manually is a very disciplined and tiresome job. The cost of the equipment and ongoing charges is likely to exceed any benefit for a lot of diesel farm utes that are used both on and off the road.

For farm bikes and ATVs these tend to be not registered. However if you have registered to go down the road from one part of your farm to another you are still entitled to a refund excise duty on petrol in respect of the off-road travel as long as the bike is registered under Class EB.

The current rate of petrol refund is 66.424c a litre (including GST). There can be some worthwhile rebates to be had, but it does involve a fair level of paperwork and form filling as well as dipping your tank at the end of each quarter if you buy bulk petrol. You can do all this yourself or if you are over filling out anymore forms get Graham & Dobson to do it for you. There are also businesses that will do the job who charge a percentage of the refund as their fee. We think our fees are competitive with those companies as we charge based on time on the job.

A real sweetener when you first start is you are allowed to go back 2 years as part of your first claim. That involves a bit of searching through old accounts but will double as a good audit of your filing system. A word of warning – Don't claim on petrol used in cars, recreational boats or vehicles used off-road in sporting events. NZTA do carry out audits on claims. No doubt one of the triggers for an audit is if your usage appears excessive. The estimated use for each machine/vehicle is required to be stated on the MR70 claim form each quarter.

If you would like to know more about either completing the documentation yourself or getting Graham & Dobson to complete it for you we recommend you contact Connie Pierce at our office in the first instance. Phone 869 1234 or e-mail connie@grahamdobson.co.nz She will be happy to send you some more information.

As well you can go to the NZTA website www.nzta.govt.nz and search for and read Factsheet 14 and Factsheet 19.

JANUARY SALES - DON'T MISS OUT!

You might have the date of Smith & Caughey's or Farmers annual sale safely tucked away in your memory bank but what about Whitcoulls, Harvey Norman, Rebel Sports, Kirkcaldie's or Bunnings?

These form the pick of the retailers featured on Salefinder and Lasoo, two very similar apps that help you rope in the best deal from their database of retailers. Once you have found a deal you can save it to a shopping list and share with friends, or use your phone's GPS to track down the nearest store.

At Grandma's

Two young boys were spending the night at their grandparents. At bedtime, the two boys knelt beside their beds to say their prayers when the youngest one began praying at the top of his lungs.

"I PRAY FOR A NEW BICYCLE...

I PRAY FOR A NEW NINTENDO...

I PRAY FOR A NEW DVD..."

His older brother leaned over and nudged the younger brother and said, "Why are you shouting your prayers? God isn't deaf." To which the little brother replied, "No, but Gramma is!



A Sign of the Times

As a little girl climbed onto Santa's lap, Santa asked the usual,

"And what would you like for Christmas?"

The child stared at him open mouthed and horrified for a minute,

Then gasped: "Didn't you get my E-mail?"



NEWSLETTERS VIA THE WEBSITE

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