



End of Year Best Wishes

The Principals & Staff at Graham & Dobson Ltd thank you for your continued support during 2009. We wish you a safe, happy and relaxing festive season.

The offices of Graham & Dobson Ltd will be closed from 4.00pm on Wednesday 23 December and will reopen on Monday 11 January 2010 at 8.30am.

SNIPPETS

Tax Tip

Always give working directors one company share so that you have the option of paying PAYE-free remuneration.

Holiday pay on Top of Minimum Wage

Holiday pay for annual holidays is NOT included in the minimum wage and must be added on top of the minimum hourly rate. If an employee is being paid pay-as-you-go holiday pay, this arrangement must be agreed in the applicable employment agreement and must be a separate identifiable component of the employee's pay. Pay-as-you-go holiday pay arrangements are also only allowed for short term fixed term agreements of less than 12 months or for genuine casual employment (no longer than three months continuous employment) where work is so intermittent that it is impractical for the employer to provide annual holidays.



AUDITOR BLUES

If you feel business life is a paper war, you will empathise with the Duke of Wellington who is purported to have sent the following dispatch back to the British Foreign Office during his Iberian peninsular campaign against Napoleon in 1812.

Gentlemen,

Whilst marching from Portugal to a position which commands the approach to Madrid and the French forces, my officers have been diligently complying with your requests which regularly arrive by dispatch rider.

We have enumerated our saddles, bridles, tents and tent poles, and all manner of sundry items for which His Majesty's Government holds me accountable. Each item and every farthing has been accounted for, with one regrettable exception for which I beg your indulgence.

Unfortunately the sum of one shilling and ninepence remains unaccounted for in one infantry battalion's petty cash. This reprehensible carelessness may be related to the pressure of circumstance, since we are at war with France, a fact which may come as a bit of a surprise to you gentlemen at Whitehall.

This brings me to request elucidation of my instructions from his Majesty's Government so that I may better understand why I am dragging my army over these barren plains. I construe that perforce it must be one of two duties; I shall pursue either or to the best of my ability but I cannot do both:

- i To train an army of uniformed British clerks in Spain for the benefit of copyboys in London, or*
- ii To drive the forces of Napoleon out of Spain.*

Your most obedient servant, Wellington

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AVOIDING BAD CALLS

The dangers of using a mobile phone while driving have been widely reported. It is clearly a hazard. But until now, how many employers have overlooked the health and safety and employment law implications of cell phone use by their employees while driving?



Under the Health and Safety in Employment Act 1992 a "place of work" includes any vehicle in which the employee performs work. Employers have a statutory duty to take "all practicable steps" to ensure the safety of employees from known hazards while employees are at work.

However, the risks for both employer and employee have just got higher.

From November 1 it is unlawful to make or receive phone calls, texts or emails on hand held devices while driving. Getting caught breaching the new Land Transport (Road User) Amendment Rule 2009 will be expensive – a \$80 fine and 20 demerit points. It doesn't matter if you are driving a work vehicle or a private one. There are only limited exceptions to the ban – using hands free devices, two way radios and genuine 111 emergency calls but ONLY if it is impossible to stop the vehicle and dial. Otherwise cell phones can only be used when the driver has pulled over and stopped the vehicle.

Insurance policies could be voided and employers could be left liable for accidental damage to their vehicles and to third parties' vehicles caused by employees breaching the cell phone ban.

A wise employer will now take the time to ensure that employees who are required to drive as part of their duties are aware of these changes in the law from 1 November 2009. Employers will be expected to ensure employees comply with this new cell phone ban. A hands-free device should be provided where necessary. At the very least, employees should be made aware of the requirement to pull over and stop the vehicle. Ringing your employees who are known to be driving and do not have a handsfree

device should be also discouraged. It is also time for employers to set out their expectations of employees who drive during the course of their employment and to alert them to potential consequences on their employment of a breach of the new cell phone ban.

Will this be a disciplinary matter? Probably yes, especially where an accident is involved. Whether disciplinary action is justified will depend on what the fair and reasonable employer would have done in the circumstances. In any disciplinary investigation, it will be important for the employer to show that it had made its expectations clear around complying with the new law and that it had also made the employee aware of the consequences of breaching those expectations.

This might be a warning, or in serious cases, it could jeopardize the employment altogether. At the very least, it should be made clear that paying any fine is the employee's obligation and that the employee could be personally liable for damage caused to vehicles in breach of the ban. Loss of licence arising from demerit points reaching or exceeding 100 points may also affect employment where the holding of a valid licence is key to the employment.

Many employers have motor vehicle use policies in their HR manual. Now is the time to check that the policy covers the new law, with a specific prohibition on using a cell phone while driving. If your business doesn't have such a policy, or a clear position on the cell phone ban, now might be a good time to issue one.

Business use aside, note that the new rule applies to all vehicles and includes cyclists, motorcyclists and riders of mopeds!

MILEAGE RATE FOR BUSINESS USE OF MOTOR VEHICLES

The IRD mileage rate used to calculate motor vehicle expenditure for both self-employed persons and employee reimbursements has increased to 70cents/km. Even though the new increased rate was only published in May 2009, it is effective from the 2008/2009 income year, i.e. from 1 April 2008 for tax payers with a March balance date.

The IRD mileage rate is based on information collated from a survey on the running costs of a



range of vehicles with petrol and diesel engines of various sizes. It includes the cost of repairs and maintenance, fuel and other running costs. The IRD has said that changes to petrol prices only have a marginal effect on the overall mileage rate which applies regardless of the size of the engine or whether the vehicle uses petrol or diesel.

These are three methods for a self-employed person to calculate the expenditure on a motor vehicle that is deductible for business use:

- Actual records
- A detailed log book
- Mileage rate

Self-employed people can use the mileage rate to calculate their deduction up to maximum of 5,000km of work related travel each year. If their business travel exceeds 5,000kms then they must use one of the other two methods.



Where an employee incurs expenditure for the benefit of their employer, the expenditure can be reimbursed to the employee without being subject to PAYE. Employers can base the reimbursement on a reasonable estimate. Employers can use the mileage rate to calculate a reasonable estimate of the cost of using a private vehicle. However, if reimbursement of high mileage business travel occurs, the amount of the reimbursement may result in a monetary benefit being provided to the employee – i.e. the reimbursement could be more than a reasonable estimate – and the portion which represents a monetary benefit would then be subject to PAYE.

NEWSLETTERS VIA THE WEBSITE

Thank you for viewing our newsletter online. If you are not already a subscriber and would like to receive our bi-monthly newsletter via email please [click here](#).

PAYROLL GIVING

A voluntary workplace payroll giving scheme for charitable donations, which will operate through the tax PAYE system, will come into effect on 7 January 2010.

- Employers can choose whether to setup payroll giving in their workplace. Employee participation is voluntary.
- Your employees can make donations to approved donee organizations directly from their pay. They receive tax credits of 33 1/3 cents for each dollar donated for that pay period – e.g if they donate \$10.00, they will receive \$3.33.
- You deduct any donation(s) from the appropriate employees' pay, reduce your employees' PAYE by the appropriate tax credit, and then forward the donation to the chosen donee organisation.
- You advise the donee organization the donations are through payroll giving.
- Employees will receive the tax benefits of their donations each payday, without having to present donation receipts.

FROM KILOBYTES TO TERABYTES

A long time ago in computer time but not human time, we were concerned with the storage and capacity our computers had in terms of kilobytes, which is 1024 bytes. Although computer data is expressed as bytes, kilobytes (kb), megabytes (mb), gigabytes (gb) and terabytes (tb) as it is in the metric system, 1 kilobyte is 1024 bytes, not 1000 bytes, as 1 megabyte is 1024 kilobytes, not 1000 kilobytes. We have now moved on from the gigabyte (gb) level of storage to the terabyte (tb).

Computers store information in the form of a 1 or a 0 (zero) which is called a bit. All information, text, numbers, audio, video are converted to 1's and 0's. The most common form of storage is a byte which is 8 bits. How many bits or bytes are in a terabyte?

Bytes = 1 trillion, 99 billion, 511 million, 628 thousand and 244 (1,099,511,628,244)
 Bits = 8 trillion, 620 billion, 93 million, 25 thousand and 942 (8,620,093,025,942)

When we have filled our computer hard disk/backup with over terabytes, we will be looking for something that stores 1 petabyte!



The New Employee Bricks Test

Put 400 bricks in a closed room.

Put your new employee in the room and close the door.
Leave the employee alone and come back after six hours.
Then analyse the situation:

If they are counting the bricks, put them in the Accounting Department.

If they are recounting them, put them in Auditing.

If they have messed up the whole place with the bricks, put them in Engineering.

If they are arranging the bricks in some strange order, put them in Planning.

If they are throwing the bricks at each other, put them in Operations.

If they are sleeping, put them in Security.

If they have broken the bricks into pieces, put them in Information Technology.

If they are sitting idle, put them in Human Resources.

If they say they have tried different combinations, they are looking for more, yet not a brick has been moved, put them in Administration.

If they have already left for the day, put them in Marketing.

If they are staring out of the window, put them in Strategic Planning.

If they are talking to each other, and not a single brick has been moved, congratulate them and put them in Senior Management.

However, if they have surrounded themselves with bricks in such a way that they can neither be seen nor heard from, then put them in Government.

