

Newsletter - Summer 2014/2015

Risk and Reward: Christmas Cashflow Issues

The period after Christmas can be tough for many small and medium sized businesses.

According to more than half the respondents to a poll conducted by the Employers and Manufacturers Association, January to March is when they tend to experience cashflow constraints.

Its hardly surprising, really. The period after Christmas is traditionally slow business-wise. Consumers are either enjoying their holidays or getting their finances in order following their festive season spending. Earnings will be down if business shut during the break. Others may feel the pinch if they paid staff bonuses prior to the holiday season.

It is, therefore, understandable how having to make a provisional tax payment on 15 January might be a bit problematic for some.

Still, it does not change the fact that Inland Revenue (IRD) expects this payment to be made on time and will charge taxpayers late payment penalties of up to 20 per cent per annum and use of money interest (UOMI) of 8.4 per cent if the tax is not received on the due date.

However, those who wish to free up cash at a time when they need it most have an option.

Tax pooling is IRD approved and can be used to defer provisional tax payments to a time that suits them - without incurring late payment penalties and UOMI.

This method is cheaper than using many other traditional forms of finance - rates at Tax Management NZ (TMNZ) start from below six per cent - and does not affect existing lines of credit.

No credit check or security is required.

The full amount of finance does not need to be paid back if less tax is owed than first thought. The finance arrangement can be easily extended as well.

How it works

Say you wish to defer a \$5,000 provisional tax payment for six months. You would pay TMNZ a one-off tax-deductible interest amount and TMNZ would arrange the \$5,000 provisional tax payment on your behalf. The interest amount is based on the amount of tax financed and the period of maturity, so in this instance would be \$145.

The provisional tax payment is held in an IRD account administered by the Guardian Trust. Guardian Trust instructs the IRD to transfer the tax into your IRD account when you repay the \$5,000 principal in six months' time. IRD treats the \$5,000 provisional tax as being paid on time once the transfer is processed.



Mathieson Chartered Accountants would like to wish you a Merry Christmas and a happy New Year. Our office will close at midday on the 23rd of December 2014, and reopen in the New Year on the 5th of January 2015.

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Don't Forget

IRD have changed their policy on when payments will be considered to have been received on time. Payments made by post are now treated as made on the day Inland Revenue receives them; the date of the posting is irrelevant. It's therefore up to you to make sure you post your cheques in good time to reach IRD on time. There's no guarantee that a payment posted on the 18th will reach Inland Revenue by the 20th.

If you're sending a post-dated cheque, Inland Revenue will not bank it until the date specified. So even though it's physically received before the due date, it will still be treated as received late if the specified date is after the due date. You can also make payments in person, either at an Inland Revenue office or at a Westpac branch (note Westpac no longer accept cheques for tax payments) as long as you do so before close of business on the due date. Now might be a good time to think about making your payments online, if you don't already.

7 Jan	Terminal tax FBT	Taxpayers (where we prepare tax returns) on a December balance date Close companies paying FBT on an income year basis (where we prepare tax returns) with a December balance date
15 Jan	Provisional tax GST return and payment for period ended 30 November	Standard provisional taxpayers on March, November and July balance dates GST ratio method taxpayers on January, March, May, July, September, and November balance dates 6 monthly GST taxpayers on May and November balance dates Tax payers filing GST on a monthly basis AND taxpayers (with March, May, July, September, November and January balance dates) filing on a 2 monthly basis
20 Jan	FBT	Third quarter return (for the three month period ended December)
28 Jan	Provisional tax GST return and payment for period ended 31 December	GST ratio method taxpayers on February, April, June, August, October, and December balance dates 6 monthly GST taxpayers on June and December balance dates Tax payers filing GST on a monthly basis AND taxpayers (with February, April, June, August, October and December balance dates) filing on a two monthly basis
9 Feb (7th falls on a weekend)	Terminal tax FBT Terminal Student Loan Repayment	Taxpayers (where we prepare tax returns) with a January balance date Close companies paying FBT on an income year basis (where we prepare tax returns) with a January balance date For those (where we prepare tax returns) with a January balance date

Tis the season to be... on call

Do you have situations where some employees will be on call during a public holiday? If so, they are usually entitled to a contractual on call payment as well as at least time and a half rates if they are called out. Whether or not they are also entitled to an alternative holiday depends on whether the public holiday falls on what would normally be a working day. For more information, please contact our Employment Relations manager, Lynda Mathieson, HRINZ on **027 55 44 747**.

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Party, party, party!

Are you planning a Christmas function for special clients and/or suppliers and business contacts? Be aware that this will come under the entertainment regime for purposes of tax deductibility. Any expenditure on food and drink that your business provides off your business premises will be 50% deductible. This extends to any incidental expenditure on things like hireage of crockery, glassware or utensils, waiting staff, and music or other entertainment provided for the function you're planning.

If you're thinking of a more public event to promote the business during the festive season, expenditure on food, drink and all the necessary incidentals could be fully deductible. However, be aware that the event can't cater for your VIPs alone. It must be open to the public on the same footing as clients or business clients. Its primary purpose must be as a marketing event for the business.

If you're planning an event and you're not sure which tax regime it will fall under, please contact us for more information.

Employers could also be prosecuted if their staff drink and drive after office functions, such as Christmas parties. When new health and safety laws come into effect next year there would be a "positive duty" of managers to ensure they are aware of operational risks and hazards to do with their business.

This means that if you're going to have consumption of alcohol at your workplace, and drinking alcohol affects your driving judgement, and if you go out and drive, have a crash and are hurt, then your employer or business could be held liable under the Health and Safety Work Act. It is crucial that employers have a "good host responsibility" and have appropriate processes in place. Employers need to document these risks and implement steps to ensure that your employees know about these risks and how you're addressing them. The new lower drink drive limit was a good opportunity for employers to bring the issue to employers' attention to educate them about safe drinking in the workplace.

Health and Safety heads up

It's expected that the Health and Safety Reform Bill will be passed before the end of the year and that the resulting Health and Safety at Work Act will be implemented in stages, the first stage taking effect from 1st of April 2015. The legislation itself is part of a major reform of health and safety practice in New Zealand.

The new Act imposes a primary duty of employers, with a wide range of duties to ensure health and safety in the workplace. The definition of a 'workplace' includes any place where a worker goes, or is likely to be, while at work. The definition of a 'worker' is a person who carries out work in any capacity for 'a person conducting a business or undertaking' (PCBU). This concept of the PCBU is central to the reforms, placing responsibility on anyone who owns or controls a workplace and therefore on all links in the contracting chain from principal to all levels of contractor and sub-contract. Persons who are not necessarily visible at the workplace such as those who design, manufacture, import or supply plan, substances or structures can be PCBUs with responsibilities under the legislation for the health and safety of workers and others who use them in the workplace. Company directors and those in governance roles will have an explicit due diligence duty to ensure that workplace health and safety is managed proactively.

Workers and other people in workplaces will also have obligations to ensure care is taken for the health and safety of themselves and others. The changes will help everyone involved in the business to be clear on what they need to do to maintain sound health and safety practices in the workplace and ensure workers have the knowledge and ability to keep themselves and their colleagues safe. The regulator and the courts will have a wider range of enforcement tools, including increased penalties for breaches of duties.

It is envisaged that there will be an initial round of new regulations covering general risk and workplace management; worker participation, engagement and representation; major hazard facilities; asbestos; and work involving major hazards. More industry-specific regulations are intended to be developed over the following two years.

We'll keep you posted as to what these new measures will mean for your business.

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UNSIGNED FIXED TERM AGREEMENT NOT EFFECTIVE...

The Employment Relations Authority has upheld a personal grievance for unjustified dismissal.

The Employer sought to rely on a fixed term in the Employment Agreement. The ERA held that the Employee had never been provided with the Employment Agreement before he was dismissed and therefore the fixed term was not effective.

As a result there was no proper process followed, and the Employee was entitled to \$4,800 for lost wages, \$3,500 compensation and \$1,000 towards costs.

For a fixed term to be lawful the Employee must have agreed to it in writing before commencing work. The Employer's failure to get the paperwork in order will be an expensive lesson.

GETTING DISCIPLINARY PROCESS WRONG COSTS COMMUNITY EMPLOYER OVER \$27,000...

An employee's personal grievance for unjustified dismissal has been upheld by the Employment Relations Authority.

The Employee (an early childhood teacher) was dismissed for allegedly signing off incorrect time records which showed she was working with the children when she was not.

The ERA held the allegations had not fairly been put to the Employee, that her request to meet with her actual Employer to discuss the allegations should have been granted, and that the allegations had not been properly investigated and could not have amounted to serious misconduct justifying her dismissal.

The ERA awarded \$16,800 lost wages and \$10,800 compensation. The Employer was also liable to pay her costs.

FAILURE TO CONSULT ON REDUNDANCY COSTS EMPLOYER...

The Employment Relations Authority has upheld a personal grievance for unjustified dismissal from an Employee who was told there was not enough work for her and given her notice of redundancy at that time. There had been no prior process followed.

The ERA held that the redundancy was genuine due to declining sales and insufficient work for the three Employees who did the same work as the dismissed Employee. No lost wages could therefore be awarded.

It also concluded that she would have been the one made redundant, even if a proper process had been followed, because the other two Employees had been employed for 26 years and 16 years. She had only been employed three months.

However, the Employer was liable to pay compensation to the employee for the lack of proper process.

With our Employment Relations expertise we can help keep you up to date and protect your business for the future. We provide advice on anything from day to day Employment Relations matters, such as Recruitment, Employment Agreements and Compliance documentation, all the way through to representing you in an Employment dispute.

To find out more about how we can help you protect your business from Employment Relations issues, contact our Employment Relations Manager, Lynda Mathieson, HRINZ on **027 55 44 747**



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