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NEWSLETTER

Issue 3
Aug – Oct 2018

INSIDE THIS EDITION

Four-day working weeks

The idea of a four-day working week might previously have seemed like a dream, but one Kiwi company is looking to make it a reality. Perpetual Guardian recently concluded an eight-week trial of the shortened working week, with managing director Andrew Barnes, claiming it was a “massive success”, adding that he wants it to become a permanent fixture.

The trial began in March, with employees enjoying ongoing three-day weekends with no sacrifice to their salaries or adjustment to their normal daily working hours. To measure the results of the trial, Barnes invited academic researchers to observe the impact on staff productivity. The results found that staff stress levels dropped by 7%, work life balance improved by over 20%, and team engagement levels improved. The results disproved original suspicions that staff may become more stressed as they worked to achieve the same objectives in a shortened timeframe.

Christine Brotherton, head of people and capability for Perpetual Guardian, added that the trial allowed staff to bring a similar level of focus to home life as they did to work. With their extra day off, staff could complete their “life admin” tasks and were able to better engage in hobbies, meaning that they were often more energised upon their return to work.

Despite the idea being novel in New Zealand, similar trials conducted overseas generated comparable results. In Sweden, working hours for nurses were reduced to six-hour days with results showing increased job satisfaction and a drop in sick leave. Amazon is also trialling a reduced working week for a selection of employees. The employees working a 30-hour week are entitled to receive the same benefits as full-time employees, but only earn 75% of their salary.

Alternatively, an increasing number of companies have looked to introduce “compressed” working weeks. A “compressed” working week still requires employees to work 40 hours per week, but over just four days. Advocates of the “compressed” week argue that productivity is increased, while simultaneously decreasing overhead costs. However, critics consider that increasing the number of hours worked in a day could increase health and safety concerns. With a growing number of cases coming before the courts citing overwork as a cause of adverse health effects, increasing the number of hours worked per day may be met with resistance.

Employers looking to implement any changes will also need to consider the legal ramifications. Current employment law is very much focussed on the number of hours worked, hence for a 4 day week or compressed hours to become common place, legislation would need to change accordingly. Logistical issues are also likely to provide challenges in terms of when staff might choose to take their day off, particularly in manufacturing and service sectors.

While the results of the trial have no doubt got employees excited by the idea that a four-day week could become a reality, it is likely five-day weeks will persist until the legal fish hooks can be addressed. In the meantime, we can all look forward to our next long weekend in October.

Proposed tax changes

The Taxation (Annual Rates for 2018-19, Modernising Tax Administration, and Remedial Matters) Bill was introduced into Parliament in June 2018. The Bill seeks to improve tax administration and modernise the revenue system by making tax “simpler and easier” for individuals. However, the majority of the proposed improvements are heavily reliant on the success of the Inland Revenue’s shift toward increased automation.

The key proposals seek to help individuals pay and receive the right amount of tax during the year, for example by:

- enabling IRD to help individuals determine their appropriate tax rate or code;
- using tailored tax codes;
- automating tax refunds; and
- streamlining the administration of donation tax credits.

The proposals aim to minimise the need for tax adjustments at the end of each year. Current year-end processes, such as personal tax summaries and IR3 forms, will be replaced with pre-populated accounts based on information that is provided directly to IRD. Consequently, individuals who only earn “reportable income”, such as employment income and bank interest, should have the right amount of tax deducted throughout the year via a tailored tax code. This will be verified by an automatic tax calculation at year-end, with any refund automatically paid directly to a nominated bank account.

Taxpayers with additional income, such as self-employment or rental income, or those that want to claim deductions, will still need to disclose this to IRD via the existing IR3 process. The proposed changes are expected to come into force on 1 April 2019, and will be adopted for the 31 March 2019 year-end process.

For charitable donation rebates, the planned changes will allow donation receipts to be submitted electronically throughout the year. The current IR526 year-end return will remain in place for those preferring this method. The option to electronically submit receipts will offer individuals greater flexibility and reduces the risk of receipts being lost or forgotten.

In addition to streamlining year-end filing processes, the Bill also aims to make it more straightforward for taxpayers to correct errors in their prior year tax assessments. If a taxpayer discovers that they made a mistake in a previous tax return, they will simply be able to include the amendment in the current year tax return if the amount of the error is equal to, or less than, both $10,000 and two percent of either the taxpayer’s taxable income or GST output tax liability. This will be more practical than the current system where taxpayers are often required to make a separate voluntary disclosure.

A further welcome change is in respect of IRDs process governing private binding rulings. The binding ruling process allows taxpayers to seek confirmation from IRD of the stated tax consequences of specified commercial arrangements. However, the current process is costly and typically only used by large taxpayers. The Bill seeks to simplify the application process, and also reduce IRD’s fees for providing a ruling, with the hope that smaller entities and transactions will be encouraged to use the system. The changes being introduced by the Bill will result in fundamental changes to the way individuals are taxed.

Holiday pay

The MBIE Labour Inspectorate have recently announced that they are going to prioritise employer compliance with the Holiday Pay Act. They expect businesses to calculate leave and holiday pay entitlements accurately. However, a growing number of non-compliance cases suggest that this is easier said than done, with both small and large businesses finding the rules complex to tackle.

Over the past six years, MBIE has investigated 156 employers to measure their compliance with holiday pay rules, and every single employer was found to have some degree of non-compliance. In addition to financial loss, employers making mistakes also risk reputational damage and loss of employee trust.

There are many reasons behind the difficulties faced by employers in this area.

The Holiday Pay Act requires different rates to be used for the various types of payments made to employees. For example, a weekly rate must be applied to annual leave payments, however a daily rate should be applied to other employee entitlements such as sick leave and public holidays. There are also complex rules and methodologies that should be applied in special circumstances, for example when employment ends. The legislation often requires employers to compare two alternative calculation methods, so it is important that these are correctly understood.

Errors often occur in holiday pay calculations when payments other than salaries and wages need to be included. The average weekly and daily rates need to be calculated accurately; in addition to gross earnings the rates also needs to include allowances, overtime and incentives. If these are excluded, there is the risk entitlements are underpaid. However, employers also risk overpaying employees by unnecessarily including other amounts, such as bonuses, in the calculation.

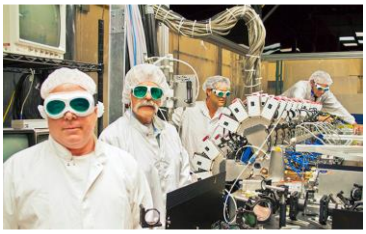
Variability of pay also introduces complexity. For salaried workers, the calculation process is often more straightforward as their ordinary and average pay is likely to be the same. However, for waged employees working variable hours, the average pay may vary over different periods of time. It is therefore crucial for employers to understand their full workforce and apply the rules accordingly.

As payroll functions become increasingly automated, many employers rely on payroll systems to perform holiday pay calculations. Here the flexibility and sophistication of the system becomes important. If the system is able to process multiple types of calculations and comparisons then errors are less likely to occur. However, less sophisticated systems risk calculating underpayments for employees working irregular hours. Most systems are unable to tackle all the various scenarios described under the legislation, running the risk of non-compliance.

To avoid non-compliance and resulting action by employees or regulators, it is vital that employers understand the provisions of the Holiday Pay Act and apply them correctly. Employees can legally request remediation for non-compliant payments up to six years after the payment, and in cases of serious non-compliance, employers may be taken to the Employment Relations Authority. The potential scale of non-compliance varies from organisation to organisation, depending on the mix of employees and the total wage bill, so it is vital that all employers consider their individual circumstances and take advice as appropriate to ensure compliance with the legislation.

Proposed R&D tax credit

The Labour-led Government recently released the Research and Development (R&D) Tax Incentive Discussion Document, which proposes a 12.5% R&D tax credit on eligible expenditure from 1 April 2019.



The Government believes R&D is key to building a better New Zealand through creating a diverse, sustainable and productive economy. R&D expenditure by businesses in New Zealand is currently 0.64% of GPD – compared with the OECD average of 1.65%. The Government aims to increase this to 2% of GDP over the next 10 years.

The proposed tax credit will apply to eligible R&D expenditure between $100,000 and $120 million, equating to a possible $15 million tax credit. All businesses, regardless of legal structure, will be eligible for the credit. So the key determinant for accessing the grant will be the definition of 'eligible' expenditure. Two approaches are being considered. The first based on the cost of labour directly incurred on R&D, and a second broader approach intended to capture both direct and indirect R&D costs.

The proposed definition of R&D necessitates the use of "scientific methods" and requires the resolving of "scientific or technological uncertainty". Although the regime is intended to have a broad reach, the draft definition maybe narrow and could limit the scope of eligible R&D activities. For example, it may not encompass software/app development if it doesn't involve traditional scientific methods, nor solve uncertainty (i.e. they are more targeted at a specific creation or result) or address a material problem.

There are also some taxpayers benefiting from the existing R&D tax credit regime that will lose out from the proposed change. Under the current regime, loss-making companies can cash-out a portion of their tax losses, providing valuable cash flow to start-up companies incurring losses in the early years of business. However, under the proposed new regime, the tax credit will not initially be refundable and the value of the tax credit will not crystallise until a business is in a tax paying position.

Furthermore, the Callaghan Innovation Growth Grants will be phased out over the next two years, with all grants ceasing on 31 March 2020. This is on the basis that the new tax incentive is funding "a similar type of activity and have a similar purpose".

The combination of the above could have a detrimental impact on the cash flow of R&D start-ups who may not have access to bank funding or may not want to dilute equity through additional capital investment. However, the Government has indicated that it will introduce changes to support R&D businesses in tax loss positions from April 2020, so we will need to wait and see what these changes bring.

Snippets

Takeaway?

New Zealand may be perceived as clean and green by the rest of the world, but we have a significant and growing problem. As a country we guzzle our way through approximately 295 million cups of takeaway coffee a year.

But coffee cups are recyclable, I hear you say. Unfortunately not; they're treated with something called polyacetylene (PE), which makes them coffee-proof, but extremely difficult to recycle. To be recycled the PE lining needs to be separated from the cardboard, which is extremely complex, and not many recycling plants have this capability meaning most cups go to landfill. This is an issue that is set to continue unless we change our habits. How can we fix it? By changing to a cup that is properly recyclable, or by investing in new specialized facilities.

Alternatively you could buy your own reusable cup, however, the energy and resources to manufacture these may outweigh the benefits. It has been said that in order to gain an environmental benefit over a takeaway cup you must reuse your cup until it reaches the end of its life, which could be between 1000-3000 washes. Are you ready to commit to using a single reusable cup for the next 8 years?

Something to be discussed at the water cooler…what type of cups does that have?

Parental leave

Until recently, new parents received paid parental leave for just 18 weeks, one of the lowest allowances in the OCED. Parliament originally voted to increase paid parental leave to 26 weeks back in 2016, however the previous Government vetoed the change. The increase will now take place incrementally, with the first increase from 18 to 22 weeks applicable to babies born or due from 1 July 2018, and a further extension to 26 weeks expected from 1 July 2020. The change also applies to those adopting, or becoming primary carer for a child.
The maximum payment has remained at $538.55 before tax, however it is hoped that the increased leave period will benefit families more than just financially. It is hoped there will be a positive impact on parental bonding with their newborn, and will also assist with the World Health Organisation's recommendation of breastfeeding up to six months of age.

The policy is set to cost approximately $325 million over four years. The Government believe it will give children the best start, whilst also reducing the level of stress on new parents.

Foreign Shares

The global economy is seeing New Zealand (NZ) taxpayers invest in overseas companies.

However, many people acquire foreign investments without understanding how they will be taxed. Taxpayers that purchase shares in a foreign company should ensure they are familiar with the Foreign Investment Fund (FIF) rules.

The FIF regime was introduced to prevent NZ taxpayers using offshore entities to avoid or defer their NZ tax obligations. The rules apply when less than 10% of the shares in a foreign company are held, or units of less than 10% in an overseas unit trust. Dividends/income received from such investments are not directly taxable. Instead, taxable FIF income is attributed to the taxpayer based on a number of calculation methods. This means that taxable FIF income can arise even if the investment does not generate a real cash return, and this is where uninformed taxpayers can be caught out.

The default calculation method is the fair dividend rate (FDR) method, which deems taxable income to arise based on 5% of the market value of an investment at the start of the financial year. Dividends received during the year are ignored. A quirk of this method means that no taxable income is derived during the tax year an investment is acquired, due to the nil value at the start of the year. Conversely, income is deemed to arise during the year an investment is sold. Complex adjustments apply when an investment is purchased and sold within the same year.

The FDR method provides certainty, and where returns on an investment exceed 5%, the excess return is effectively tax free. However, for a taxpayer with an underperforming investment, which may have fallen in value and paid no dividends, deemed income at 5% adds salt to the wound.

To deal with this scenario an alternative calculation method, the comparative value (CV) method, determines taxable FIF income based on the change in value of the investment during each tax year, with an adjustment for realised dividends and capital gains. This can result in lower taxable income than the FDR method when the return on an investment is below 5%.

In addition to FDR and CV there are other calculation methods available. Furthermore, whilst individuals and some trusts can freely switch between FDR and CV each income year to gain the best tax outcome, there is no such option for companies who are generally required to continue using the FDR method once it has been selected.

Australian listed shares are generally exempt from the FIF rules and are taxed in the same way as NZ investments, such that dividends are taxable when received and capital gains are tax free. However, the devil is in the detail and this exemption does not apply to all Australian shares, hence each investment must be considered separately.

Given the complexity of the regime, if you are evaluating an overseas investment, please do so with full knowledge of the appropriate tax rules, to avoid unexpected tax costs.

Payday Reporting

Further to articles in previous newsletters payday reporting of PAYE information will be compulsory from 1 April 2019 for employers paying more than $50,000 PAYE per annum. Essentially this means that employers will be required to file the PAYE information within 48 hours of making any wage payment.

Employers may voluntarily register for payday reporting prior to 1 April 2019 – please refer to the IRD website (www.ird.govt,nz) for details to do so.

Please note that payment of PAYE remains unchanged as being required to be paid by the 20th of the month following deduction along with the appropriate form.

For further information on payday re[porting we recommend that you either contact your payroll provider or refer to the IRD website (www.ird.govt.nz).

Domestic Violence Act

The Domestic Violence Bill was recently enacted and its provisions come into effect as from 1 April 2019.

In simplistic terms, as from 1 April 2019 any employee affected by domestic violence is entitled to 10 days paid leave per annum. This leave is in addition to any other leave entitlements.

For employers there is the potential for significant costs.

For further information refer to your employment adviser or solicitor.

Fringe Benefit Tax

We take this opportunity to remind all employers (including companies with shareholder employees) that any business asset used for private purposes is potentially subject to Fringe Benefit Tax (FBT).

In particular, we caution care be taken around the provision of motor vehicles. Please note that, in most cases, home to work and work to home travel is private use. There are some exemptions but care needs to be taken in their application.

Please note that it is not actual use that triggers a FBT liability but *availability*.

The IRD have not had an active FBT enforcement programme for FBT for a number of years. However this should not be taken as an indication that they are ignoring the issue. We have seen the IRD follow up individual cases and we suspect that they may well reinstitute a nationwide enforcement programme in the future. The penalties for non-compliance can be substantial and may be backdated, which can lead to a very significant liability.

We recommend that all employers read the IRD FBT guide available on the IRD website (www.ird.govt.nz).

Should you have any questions or concerns, please contact us.

Payments to Inland Revenue

Craig recently attended an IRD workshop on electronic payments. He was surprised to learn that the IRD still receive approximately 633,000 cheques per annum (approximately 4.5% of all payments) and are the only cheque processor outside of the banks.

The processing cost to the IRD is very significant and they are seeking ways to reduce this cost. A number of suggestions have been made including somehow preloading payments to a taxpayers' bank account for them to authorise.

We recommend that, where possible, clients consider making payments by way of internet banking or utilising the direct debit or credit card facilities offered by the IRD. These can save you time and ensure that payments are made by the due date.

Should you have any concerns about utilising these options please give us a call to discuss.

Email Scams

We have noticed that there have recently been a significant number of email scams. In particular, we have seen a number of emails that have purportedly come from the IRD.

You should note that neither the IRD nor any bank will ever ask you for details of your bank account and/or PIN numbers by email or telephone. Your PIN number should *never* be disclosed to anyone and your account number should only be disclosed where you are certain of the bona fides of the recipient.

Should you have any concerns regarding a suspicious email please contact us, your bank or, if appropriate, the IRD.

We recommend that suspicious emails not be replied to and that they be deleted and that any attachment not be opened as they may contain viruses.

If you have any questions about the newsletter items, please contact us, we are here to help.