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TAX AND BUSINESS ACCOUNTANTS

KiwiSaver Changes For Employers

Recent legislation changes have increased the minimum KiwiSaver contribution rates from 1 April 2013.

If you have employees who are contributing at 2% prior to 1 April 2013 you client will need to change the:

- employee contribution rate to 3%
- compulsory employer contribution to 3% for all eligible employees.

These changes must be made for the first full pay period commencing on or after 1 April 2013. If you or your clients make voluntary employer contributions, please make sure your total contributions are at least 3% from this date.

Remember, ESCT (employer superannuation contribution tax) must be deducted from all employer contributions.

Employees

The KiwiSaver rates change from the first full pay period commencing on or after 1 April 2013. If your employees are contributing the minimum 2%, the rate will need to change to 3%. They can still select a higher employee contribution rate of 4% or 8%.

Employers

There will be situations where an employee's pay will fall in-between these two tax years. You must make compulsory employer contributions at the rate that applies for the required tax year when the pay period starts:

The rate is 2% from the first full pay period starting on or after 1 April 2009 up to and including 31 March 2013.

The rate will change to 3% from the first full pay period starting on or after 1 April 2013.

Example

ABC Limited pays its employees on 8 April 2013. The pay period begins on 24 March 2013 and ends on 6 April 2013. ABC Limited should make compulsory employer contributions of 2% for the pay period.

ABC Limited pays its employees again on 22 April 2013. The pay period begins on 7 April 2013 and ends on 20 April 2013. ABC Limited should make compulsory employer contributions of 3% for the pay period.

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Lease Agreements

Over the years, leasing of assets have taken on many different names and forms – hire purchase agreements, lease to buy, operating lease, finance lease, multi-lease to name a few. Most times, the variations are used in relation to motor vehicles more than other assets.

Financing Options

Broadly speaking, there are three financing options when an asset is acquired in the course of a business:

1. Buying - purchase the asset outright from either cash available or by borrowing purchase funds from your bank;
2. Renting – the lessee agrees to pay regular (usually monthly) payments to the lessor for the use of the asset over the term of the lease. It is often referred to as an "operating lease" in the context of motor vehicles;
3. Financing – this option is by far the most common one since the purchase price of the asset is paid over the term of the lease while the asset is being used. Financing is usually provided by the lessor or a finance company simultaneous with the lease agreement

Tax Treatment

For tax purposes, substance overrides form so regardless of what the lease is called, the tax treatment of any lease agreement depends on the terms of the agreement entered into between the lessee and the lessor. These leases fall into two broad categories – operating leases and finance leases. Lease payments for operating leases are treated as expenses whereas finance lease payments are not.).

Any lease is a finance lease if one of the following applies:

- The term of the lease is greater than 75 per cent of its estimated useful life; or
- The asset is transferred to the lessee at the end of the lease term; or
- The lessee has the option to buy it at the end of the lease term.

Even when the lease is established as a finance lease, the GST treatment differs for finance leases where the ownership of the asset is transferred over to the lessee on the final lease payment. The following table sets out both, the tax and the accounting treatment of the three common types of leases available for any type of assets:

Operating Lease	Finance Lease	Lease to Buy
The term of the lease is less than 75 per cent of the useful life of the asset.	The lease term is greater than 75 per cent of the useful life of the asset.	The term of the lease can be flexible.
GST is claimed on the monthly instalments.	GST is not recoverable 'up front' but can be claimed on the monthly payment (net of interest).	GST can be claimed on the purchase price of the asset in the GST period in which the lease agreement begins.
The full monthly rental (net of GST) is treated as an expense.	Only the interest content of the monthly instalments is claimed as a business expense.	Only the interest content of the monthly instalments is claimed as a business expense.
No depreciation can be claimed on the asset.	Depreciation can be claimed on the cost of the asset.	Depreciation is claimed on the cost of the asset.
This has no effect on the Balance Sheet.	The asset is capitalised and the amount owing to the finance company is shown as a liability.	The asset is capitalised and the amount owing to the finance company is shown as a liability.
Legal ownership remains with the finance company at all times to the end of the lease term.	Legal ownership remains with the finance company but may pass to the lessee for a further nominal consideration at the end of the lease. Legally, this sale is a separate contract from the finance lease.	Legal ownership transfers to the lessee on repayment of the financed amount.

Taxing Cashed-up Annual Holidays

Employees are able to 'cash in' up to one week of their annual leave entitlement. If an employee and employer agree to cash up a weeks annual leave it should be treated as an extra pay or lump sum payment. As it's taxable income, PAYE should be calculated using the special rates for extra pays or lump sum payments. Your employee's child support liabilities and Work for Families Tax Credits entitlement may also need to be adjusted if their family income has changed.

New Starting-out Wage

A new starting-out wage has been introduced that will aim to help provide young New Zealanders with more opportunities to get into the workforce.

The Minimum Wage (Starting-out Wage) Amendment Bill provides for eligible 16 to 19-year-olds to be paid no less than 80 per cent of the minimum wage (currently $13.50) so this would equates currently to $10.80 providing they meet the following criteria.

Three groups will be eligible unless they are training or supervising others:

- 16 and 17-year-olds in their first six months of work with a new employer
- 18 and 19-year-olds entering the workforce after more than six months on benefit
- 16 to 19-year-old workers in a recognised industry training course involving at least 40 credits a year.

Those who are training or supervising other staff must be paid at least the adult minimum wage.

The starting-out wage will be simple for employers to implement, and will apply for a blanket six months after starting work with a new employer.

The starting-out wage is due to come into force from 1 April 2013.

Employing School Students?

As part of the Government's Budget this year, the tax credit for children has been repealed, which may change how you tax students. The new legislation affects the current tax year (1 April 2012 to 31 March 2013) so some transitional rules apply.

Children who earn less than $2,340 for a tax year and have no tax deducted from their wages can continue to have no tax deducted until 31 March 2013. From 1 April 2013 they will need to complete a Tax code declaration (IR330) and give it to their employer so tax can be deducted from their wages.

If your employees file a return or request a personal tax summary they may be assessed as having tax to pay, as the tax credit already received will no longer be taken into account. If they think they need to file a return we suggest they complete an IR330 now to change their tax code, so their employer can start deducting tax at the correct rate. This will help avoid or reduce any tax bill at the end of the year.

question time >>

Q: Do I need a marketing plan?

A: Yes, you do!

Every business needs a marketing plan. Every business needs to have a clear vision of who it's target market is, how you are going to attract your potential customers to buy from you, how much you are going to spend on advertising, how many sales you need to achieve to make a profit. Marketing is a specialised field and don't be afraid to ask for help in preparing your marketing plan. This is not something many business owners are good at and so they need to be prepared to ask for help.

Residence Rules Revised

The IRD have reviewed the rules surrounding residency, releasing draft Interpretation Statement INS0117 “Income Tax-Residence” for Consultation last week. The draft Interpretation Statement essentially updates the 1989 Public Information Bulletin on Residence Rules to reflect current legislation, case law, and present IRD views.

The Statement provides a three part analysis of our domestic legislation residence provisions. In the first part, natural residents and interaction with the Double Tax Agreements (DTAs) are considered. The second and third parts consider company and trust residence respectively. Transitional residence is also briefly covered.

Significant changes have been made to the permanent place of abode test, the centre of vital interest test, and DTA tiebreakers. The Interpretation Statement also makes changes to previous conclusions for scenarios in the 1989 Public Information Bulletin.

Previously considered just one factor in assessing a persons connection to New Zealand, an ‘available dwelling’ is now a crucial component in determining whether a taxpayer has a permanent place of abode.

“Available” has been given a wider meaning than mere occupation, which shows a considerable change in approach from the IRD’s 1989 position, which had stated that homes rented to non-related persons while taxpayers were overseas were not a permanent house available to them. Tiebreaker tests for DTAs have also been re-evaluated in the context of dual residency periods.

The ‘centre of vital interests’ concept which considers a persons personal and economic relations, has been clarified as being made up of a combination of factors, none of which can be weighed more heavily than the other. Again, in contrast to concepts from the 1989 Public Information Bulletin.

From an interpretation perspective, the draft Statement reaffirms that where a DTA article has been closely worded with the OECD model DTA, it can be assumed that the OECD commentary correctly explains the meaning of the terms intended by the parties.

How it affects you

If you own property in New Zealand but have been considered non-resident due to the application of the permanent place of abode test, we suggest you contact your advisor as your position could change in light of the policy changes highlighted above.

- From WHK’s Sharp-As Tax

Quick Quote

The point to remember is that what the government gives it must first take away.

~ John S. Coleman, address, Detroit Chamber of Commerce, 1956

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