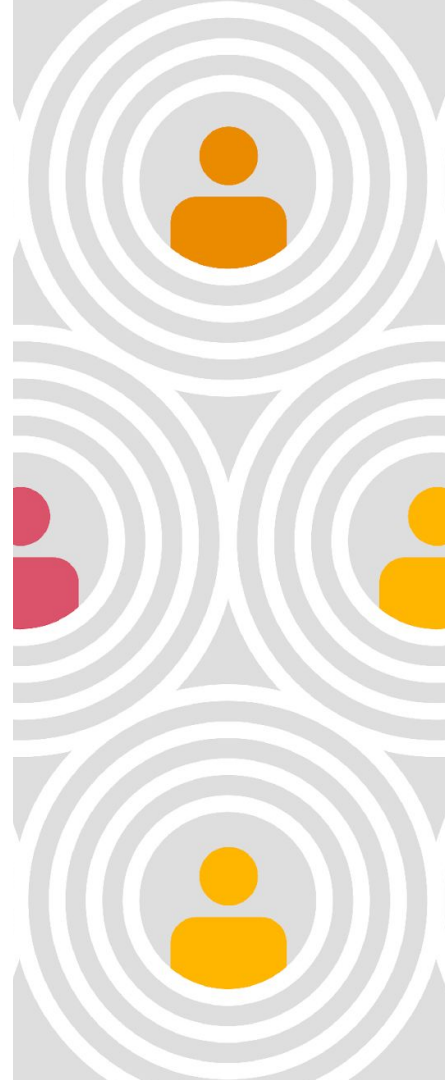


NZPPA

Tax and Employment Law Update

March 2023



Presenters



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Agenda

1

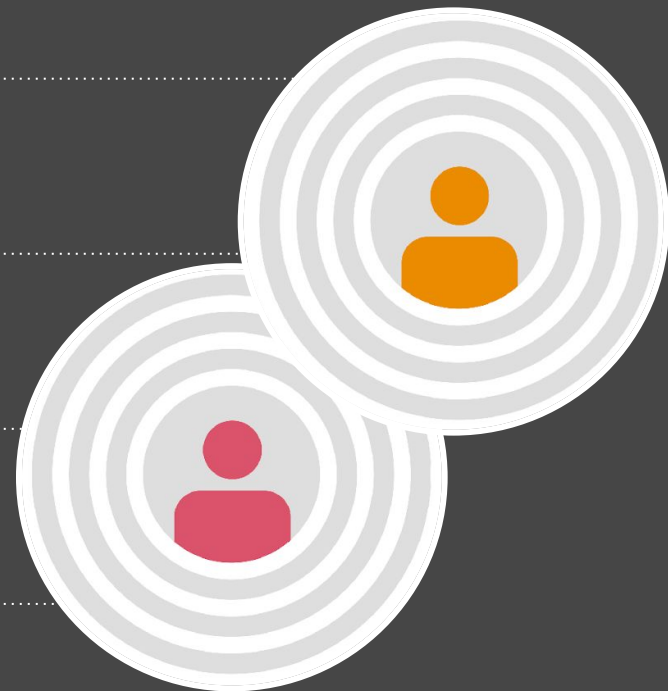
Recent weather events

2

Employment Law update

3

Employment Tax update





Recent weather
events

Recent weather events

Employment law



Employer obligations - pay and leave



Working from home



Health and safety



Business closures and redundancies

Recent weather events

Employment tax - Inland Revenue update

Use of money interest relief

- Three Tax Administration Orders
 - Cyclone Hale
 - January floods
 - Cyclone Gabrielle
- Adversely affected taxpayers may seek relief for failing to make interest payments by their due date

Determination DET EE 23/01

- The flood events and Cyclone Gabrielle are emergency events for the purposes of family scheme income
- **Can we expect anything else?**

Recent weather events

Supporting employees - tax implications



Cash
payments



Reimbursements,
e.g. commercial cleaning



Accommodation



Fringe benefits, e.g,
clothing, food,
transport



Fundraisers

2

Employment Law Update

Employment Law Update

Update on the *Uber* decision

Update on worker
status

Legislative developments

Update on the *Uber* decision

E Tū Inc & Anor v Rasier Operations BV & Ors [2022] NZEmpC 192

- Four Uber drivers found to be in an employment relationship while carrying out work for Uber.
- The key question considered by the Court - “in whose interests is the work done”?
- Unionised Uber drivers have initiated bargaining with Uber for a collective agreement.



Update on worker status

Gloriavale litigation continues

- 2023 will see the Employment Court determine whether six former Gloriavale women who carried out domestic duties during their time in the community were employees or volunteers.

Screen Industry Workers Act in force

- The Act establishes a new collective bargaining model for screen industry contractors at an occupation level, and creates new rights and protections.

Tripartite Working Group on Better Protections for Contractors

- The Government is due to consider potential policy changes to improve regulatory protections and clarify the scope of current worker statuses.

Key Takeaway: Uncertainty continues to surround the distinction between contractor/employee/volunteer and this area will be in the judicial and legislative spotlight in 2023.

Legislative developments



**Fair Pay
Agreements Act**



**Income
Insurance
Scheme on hold**



**Minimum wage
increase**



**Employment
Relations (Restraint
of Trade)
Amendment Act**



Holidays Act Reform

3

Employment Tax Update

Employment Tax Update



When it goes wrong



Technical updates

When it goes wrong - shortfall penalties

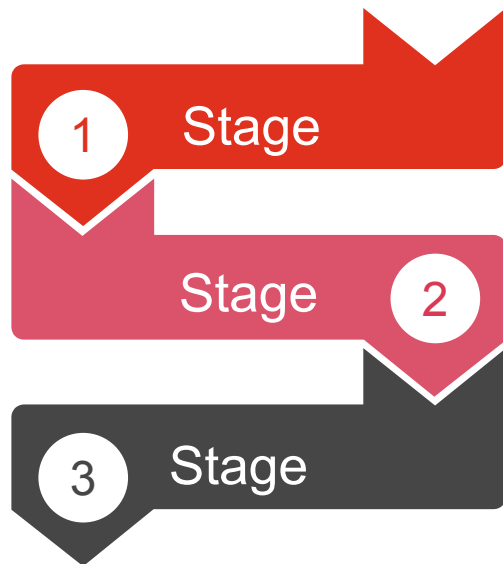
If the breach is...	Then the standard penalty (of tax shortfall) is...
Lack of reasonable care	20%
Unacceptable tax position	20%
Gross carelessness	40%
Abusive position	100%
Evasion	150%



When it goes wrong - late payment penalties

Penalties for late payments can be given in 3 stages:

Grace period



1% penalty on the day after payment due date

4% penalty for remaining tax including penalties on 7th day after payment due date

1% penalty every month the remaining tax including penalties is unpaid.

When it goes wrong - use of money interest

Period	Debit Rate	Credit Rate
8 May 2017 – 29 August 2019	8.22%	1.02%
29 August 2019 – 7 May 2020	8.35%	0.81%
8 May 2020 - 9 May 2022	7.00%	0.00%
10 May 2022 - 29 August 2022	7.28%	0.00%
30 August 2022 - 17 January 2023	7.96%	1.22%
17 January 2023 - present	9.21%	2.31%

When it goes wrong - some examples



Changing the
timing of
payments for tax
reasons



s123
payments



Non-taxable
allowances



Accommodation



Payment due
date missed



Recent tax developments

Determination EE004 - Tax treatment of reimbursing employees for work from home and telecommunication payments

From 1 April 2023, this determination replaces determination EE003.

- **No end date for this determination**
- **Exempt allowance payments**

From 1 April 2023:

- Reimbursing the employee for working from home, \$20pw (this was previously \$15pw)
- Reimbursing the employee for the use of personal telecommunications equipment and/or usage plans, \$7pw (this was previously \$5pw)
- \$400 one-off (no change) for new furniture and equipment
- \$400 one-off (no change) for new telecommunications equipment

Recent tax developments

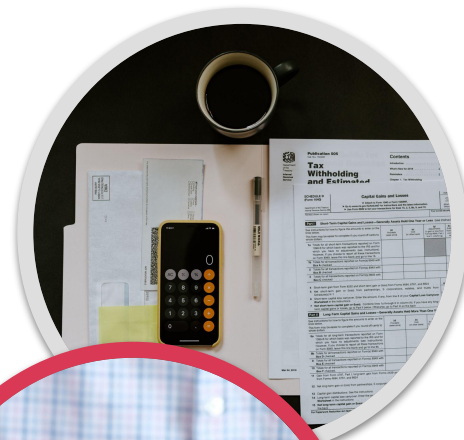
Other developments

TDS 23/01:

Whether settlement payments were taxable employment income

TDS 22/22:

Taxpayer not entitled to partial write-off of final tax liability



Thank you

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