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Employment taxes

Playing by the rules

NZPPA Conference – 21 July 2023

Listen up – Tax in the news!





Employers holding on to \$1 billion of worker money.

Rob Stock · 05:00, Jun 23 2023



TOM PULLAR-STRECKER/STUFF

Insolvency experts say the Inland Revenue has stepped up its enforcement action after a period in which it showed more forbearance.

← Media releases

Jailed for not passing on employees' tax deductions



22 May 2023

An Auckland company director has been jailed after he stopped paying tax deductions from his workers to Inland Revenue.

Latest media releases

18 JULY 2023
[Prisoner sentenced on tax fraud](#)

Woman who told employer to stop deducting ACC, PAYE levies has 'frivolous' ERA claim dismissed

Benn Bathgate · 15:35, Mar 29 2023



Agenda

- Importance of getting tax right
- Red flags
- What can I do?
- PAYE vs. FBT
- Employment tax updates
- What's on the horizon?
- Questions

Importance of getting tax right

The cost and reputational consequences of what happens when it goes wrong can be immense!

- Auto-assessments – staff rely on employers to get it right!
- Who pays the tax when it goes wrong?
 - Employer or employee
 - Can you get amounts back from employees?
- Flow on impacts
 - For example; KiwiSaver (employee and employer contributions), ACC levies, student loan repayments, employee benefit or leave entitlements



Potential red flags – stop and think

- Accommodation
- Meal allowances
- ESCT rates
- Union contracts / fair pay agreement negotiations
- Non-taxable payments
- Mismatches between income tax, KiwiSaver and ACC



- Hurt and humiliation payments
- Payments made to employees outside of payroll
- Pre-tax deductions
- Payments to contractors and directors – resident and non-resident
- Offshore managed payroll

What can I do?



- **Consistent and regular communication** between finance, HR and payroll teams on employee payments and benefits
- **Prevention measures**
 - Governance and reporting structures and processes
 - External payroll tax reviews
 - Systems health checks (e.g., data analytics to identify outliers, minimum wage breaches, undertake ESCT rate checks, identify potential fraud situations)
- **Be proactive and engage tax advisors early** when issues arise (or before payments are made)
- **Front-foot issues** with Inland Revenue and employees
 - Submit voluntary disclosures to correct errors
 - Use tax advisors/accountants to communicate with Inland Revenue
- **Keeping yourself up to date with tax developments and regular training**



PAYE vs. FBT

A fringe benefit exists where:

1. A benefit is provided to an employee in connection with their employment; and
2. The benefit is either a classified or an unclassified benefit; and
3. The benefit is not specifically excluded

A fringe benefit can be provided through an arrangement with a third party.

PAYE vs. FBT

Whether FBT or PAYE applies to a benefit depends on the legal form of how the benefit/value is provided to the employee.

- What does the contract say?
- Who incurred the costs?

Rule of thumb: If it is the employers liability, FBT applies; if it is an expense of an employee, PAYE applies.

Exceptions and inconsistencies:

- Accommodation is always subject to PAYE
- If you provide a fringe benefit rather than paying a tax exempt allowance, there is a FBT exemption BUT if you provide an allowance instead of providing a benefit which would be exempt from FBT, PAYE will still apply!!





PAYE or FBT?

Deloitte arranges for employees to attend a weekly yoga class. The class is paid for by Deloitte.

Should the class be treated as subject to FBT or PAYE?

PAYE or FBT?

Deloitte reimburses its employees for \$100 for the monthly cost of a gym membership.

Should the reimbursement be treated as subject to FBT or PAYE?



Employment tax updates

What's new?

- Determination EE004
- Sustainability focussed benefits
 - Shared vehicles / public transport
 - E-bikes / e-scooters
- Mileage rates



DET EE004 - Payments to employees WFH & using telco tools

Payments to employees working from home – equipment purchases

Where employees buy, and own, office and telecommunications equipment to use when working from home:

- **Safe harbour for reimbursements up to \$800** (\$400 for each item of equipment, furniture or telecommunication tool); or
- **Reimburse business portion** of actual equipment costs (max of asset cost)

Telecommunication payments

Three classes

- Class A: Telecommunication tools/usage plan **principally used for work purposes**: 75% exempt
- Class B: Telecommunication tools/usage plan **principally used for private purposes**: 25% exempt
- De minimis: Up to \$7/week

Can be used for employee allowances or reimbursements

Payments to employees working from home – general household costs

Businesses can pay employees an allowance of up to **\$20/week** tax free to cover general household expenses if the employee is **working from home on a more than minor basis**.

Sustainability

- New FBT exemptions from 1 April 2023
 - Public transport
 - Bikes, e-bikes, scooters, e-scooters
 - Shared travel services
- Other sustainability options
 - Install EV charging stations on business premises
 - Install EV chargers at employees' homes
- FBT v PAYE considerations
- Salary sacrifices



Talking about transport...

Kilometre rate

Current rates (issued 11 May 2023)

Vehicle type	Tier 1 rate	Tier 2 rate
Petrol or diesel	95 cents	34 cents
Petrol hybrid		20 cents
Electric		11 cents

- Employee transport allowances for additional transport costs for work to home travel are exempt from income tax (OS 23/01)



What's on the horizon?





Your presenters



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