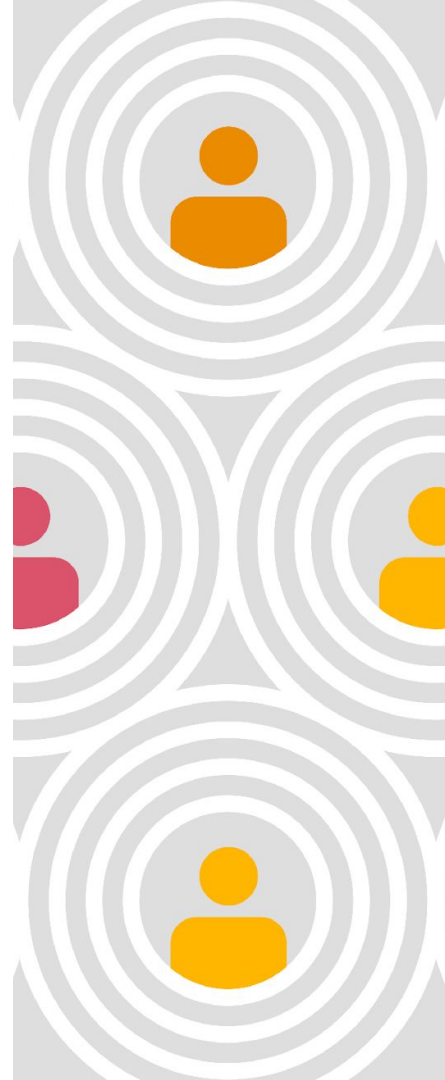


# NZPPA Payroll Summit

## Tax and Employment Law Update

July 2022



# Presenters



**Danielle Findlay**

**Senior Solicitor, PwC Legal**

Phone: +64 27 257 6248

Email: [danielle.k.findlay@pwc.com](mailto:danielle.k.findlay@pwc.com)



**Isaac Moffat-Young**

**Manager, PwC**

Phone: +64 21 114 0592

Email: [isaac.a.moffat-young@pwc.com](mailto:isaac.a.moffat-young@pwc.com)



# Employment Tax Update

# Employment Tax Update



Income Insurance  
Scheme

Remote  
working

Employee  
share scheme  
reporting

IR330's and  
Holiday Pay  
remediation  
payments

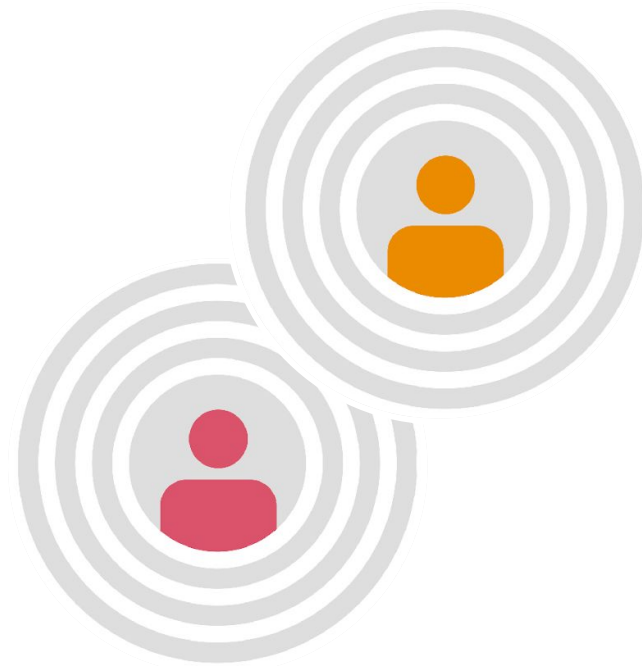
# Income Insurance Scheme (Enabling Development) Act 2022

This bill enables ACC to carry out work to bring an income insurance scheme into operation, should it be established under subsequent legislation.

Watch for developments throughout the year.

Likely to be collected in similar way to ACC levies.

Consider payroll system and process updates required.



The header features a decorative background with concentric circles in shades of grey and white. On the left, there are two orange circles. On the right, there are two red icons representing people, each with a red circle for a head and a red rounded rectangle for a torso.

# Domestic remote working

Remote working arrangements are becoming more common. It is also not uncommon for an employer to support an employee who works from home with certain payments.

The following statements/determinations provide useful guidance on certain payments made to employees under domestic remote working arrangements.

1. Determination EE003 - discusses certain payments to employees who work from home and/or use their own telecommunications tools in the course of their employment.
2. Operational Statement 19/05 - discusses employer provided travel from home to a distinct workplace.
3. Operational Statement 21/01 - discusses the tax treatment of accommodation provided to employees.
4. Determination 09/04 - discusses the tax treatment of payments / reimbursements for certain costs incurred in a work related relocation.

# Topical issue: domestic remote working

## Fact scenario and question

Tom is a new employee and started in January 2021. In January 2022, Tom negotiates a new contract. Tom now officially works three days a week (from Wednesday to Friday) from his home in Taranaki, and per his new contract, is expected to be in Wellington (where his employer's office is located) two days a week (on Monday and Tuesday).

Tom's employer:

- Pays Tom a \$15 weekly non-taxable allowance to reimburse Tom for any additional household costs that he incurs as a result of working from home.
- Reimburses Tom's flights to and from Wellington and Taranaki so that Tom can work in the office on Monday and Tuesday.
- Reimburses Tom for accommodation in a Wellington hotel every Monday night.
- Pays Tom a \$400 one off non-taxable payment to reimburse Tom for the costs of of acquiring new furniture and equipment so that he can work from home.

**Question:** What is the employment tax treatment of each payment?



# International Remote working

Whilst less common, we are encountering a number of organisations who are considering international remote working arrangements. An organisation needs to have a good understanding of the potential risks and costs arising from having an international remote workforce.

Some key factors to be aware of include:

1. What systems do you have in place to track mobile employees? Can you record where they are working and monitor the days they spend in a specific country?
2. Will the employees presence in another country trigger employer reporting and withholding obligations there? Will social security, pension contributions or payroll taxes be payable?
3. Could an employee's presence in a country trigger a PE risk there which could expose the NZ organisation to corporate filings and a tax exposure?
4. What impact will this arrangement have on the employee's personal tax position?
5. Do your employees have a legal right to work in the country that they are travelling to?
6. Does the employment relationship become subject to the employment laws of the overseas country?
7. Ensuring compliance with Health and Safety at Work Act?
8. Policy decisions to need to be considered e.g. who will cover costs of travel overseas, what hours will the employees work - will they have to coincide with NZ working hours etc?

# Employee share scheme reporting

**From 1 April 2017, employers have a compulsory reporting requirement in New Zealand in respect of employee share scheme taxable income, however PAYE withholding is voluntary and needs to be considered carefully.**



# Tax code declaration forms

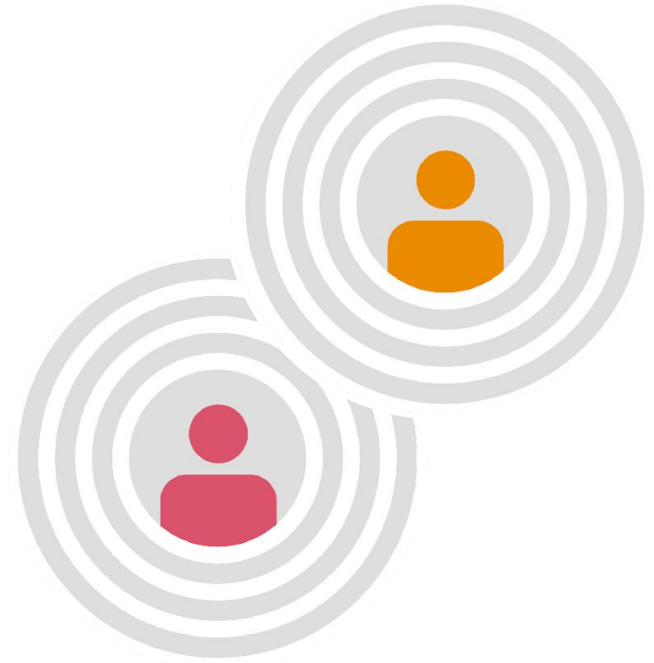
- Pursuant to section 24C(1) of the Tax Administration Act 1994 the notification must be in a form authorised by the Commissioner (i.e. IR330)
- However, pursuant to section 13B of the Tax Administration Act 1994 the use of electronic signatures for tax administration purposes is generally acceptable



# Holiday pay remediation payments

Things to think about from an Employment Tax perspective:

- Tax treatment of payments to current and former employees
- KiwiSaver treatment (inc ESCT) of payments to current and former employees
- Documentation from former employees
- Payments to deceased employees
- Reporting the payments to Inland Revenue



# 2

Employment Law  
Update

# Employment Law Update

Incorrect leave calculations  
and deductions from wages

Holidays Act  
reform

Other  
Upcoming  
Changes

# Incorrect leave calculations

## Recovery of overpayments

### Before making a deduction from salary/wages:

1. **Check whether limited circumstances under Wages Protection Act apply**
2. **Check employment agreement for deductions clause**
3. **Consultation / seek written consent**





# Incorrect leave calculations

## Time period for remediation of under payments

- An employer must remediate any arrears owing to employees **at least six years** from the time at which non-compliance **first became known (or should reasonably have been known)**
- The employer's **duty of good faith** towards all affected employees is triggered

## Off-setting under payments against any over payments

- Employers must comply with the **Wages Protection Act 1983**
- An employer must not offset the value of any underpayment against any overpayment without **first obtaining written consent from the affected employee**

# Deductions from wages

## Soapi case







### Three seasonal workers allege breaches of the WPA, MWA and ERA for deductions from wages

- The workers were employed under the Recognised Seasonal Employer scheme
- They argued wage deductions (some of which were approved by Immigration NZ) did not comply with NZ law, including for:
  - Gear supplied, airfares, travel insurance, accommodation, and wage advancements
- The case may set precedent for all workers employed under the RSE scheme and others minimum wage workers.



# Holidays Act reform

## A refresh

-  **Calculating leave entitlements simplified**
-  **Annual leave in advance on a pro rata basis**
-  **Pay-as-you-go method clarified**
-  **Annual leave after parental leave available at full rate**
-  **Bereavement and family violence leave from the start of employment**
-  **Sick leave from the start of employment**
-  **Incremental leave (i.e. part days for sick leave etc)**

# Other Upcoming Changes



**Fair Pay  
Agreements**



**Income Insurance  
Scheme**



**Living wage  
increase**



**Accredited Employer  
Work Visa (AEWV)**



**Updated COVID-19  
re-infection advice**

# Thank you

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