



Christmas Closing Period

Our offices will be closed from Wednesday 21 December, until Monday 9 January 2012...

To all of our wonderful clients, business associates and supporters, we wish you a wonderful Christmas and an exciting and successful 2012.

From all of us at Nisbett Fleming, Tony, Sue, Andrea, Annette, Brenda, Catherine, Justine, Gabriela, Geraldine, Peter, Raelene, and Sue H

Benefits after gift duty is abolished

Gifts can have implications for future eligibility for the Residential Care Subsidy

Word on the street is that, when gift duty was abolished on 1 October this year, people were able to gift off anything they own, without any problem.

Well, people are able to gift as much as they want to family and trusts without paying gift duty to Inland Revenue (IR). But gifting everything in one year may be a problem if people want to receive the Residential Care Subsidy (RCS) in later years. Gifting away assets may still affect eligibility for general benefits and people need to know this before they start a gifting rampage!

To provide a bit of background, gift duty is a charge under the Estate and Gift Duties Act, which IR looks after. The government has a bill before Parliament to remove the gift duty charge on

total gifts of more than \$27,000 in any one year. (Inland Revenue advises that gifts may still attract a charge in some circumstances).

The Ministry of Social Development (MSC) looks after the benefit system, which comes under the Social Security Act (the Act). Different acts have very different rules in many cases - the matter of gifting is a perfect example.

So, what do people need to know?

On 1 October 2011, the gifting rules for benefits and for the RCS did not change.

The act does not allow any amount of gifting when applying for general benefits and other extra help. When it comes to the RCS, the Act does allow a certain amount for gifting. The amounts allowed within the last five years of applying for RCS and outside five years are different.

If people give away or reduce their income, or any assets that could earn them an income, that is deprivation. For general benefits, the result can be that any income that would otherwise have been able to be earned on that asset can be included in their income assessment

If a person moves their assets into a family trust, the income earned in that trust may be, and usually is, included in the person's income assessment.

There is no income test for New Zealand Superannuation when it is paid only to someone who meets the age and residency tests and is entitled to receive it. But New Zealand Superannuation for non-qualified spouse is income tested.

In summary you need to take care when gifting, professional advice is important, not just from your solicitor. Contact us to discuss your personal circumstance.

The Cross-Eyed Rottweiler

A man takes his Rottweiler to the vet and says, "My dog's cross-eyed, is there anything you can do for him?"

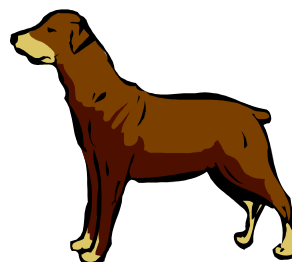
"Well," says the vet, "let's have a look at him."

SO he picks the dog up and examines his eyes, then checks his teeth.

Finally, he says, "I'm going to have to put him down."

"What? Because he's cross-eyed?"

"No, because he's really heavy"



Calculating Pays over the Holiday period

Calculating annual holiday pay - if your employees are eligible for a stat then you need to read below:

Whichever of the following is the larger becomes the rate of the weekly holiday pay:

‘Average weekly earnings’: Calculate ‘total gross earnings’ for the 12 months before the end of the last pay period before the annual holiday, then divide this figure by 52.

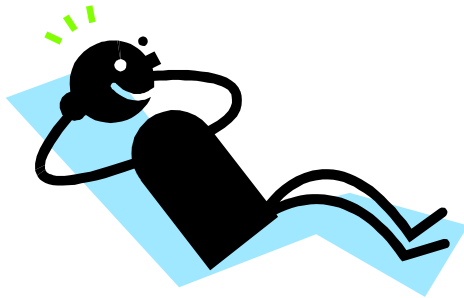
‘Ordinary weekly pay’: Multiply the ordinary hourly rate of the employee’s pay as at the start of the holiday by the number of hours worked in a ‘normal’ week.

Calculating pay for statutory (public) holidays

‘Relevant daily pay’: Find the amount of pay that the employee would have received if he or she had worked on the day concerned.

‘Average daily pay’ is used when using relevant daily pay is not possible or practicable or there is variation in the daily pay during the pay period when the holiday occurs. Calculate gross earnings for the 52 weeks before the end of the immediately preceding pay period and divide by the number of whole or part days during which the employee earned those earnings including days of paid holiday or leave.

In the case of employees who have commenced employment during the year, their average weekly earnings are calculated by taking the amount of their gross earnings from starting work until the last pay period before the holiday and dividing that amount by the number of weeks worked. For examples of the holiday pay please visit the Department of Labour’s website: www.dol.govt.nz



Any calculations cannot give a rate less than the minimum pay rate of **\$13.00 per hour** for employees over 16 years of age.

Pay calculations can be complex especially when employees receive allowances (e.g. travel) and have deductions made (e.g. Kiwisaver, student loan) so contact us if you need assistance in getting these important calculations right.

No Name Toilet Paper

A little old lady goes into the store to do some shopping. She is bewildered over the large selection of toilet paper. “Pardon me, sir,” she says to the store manager, “but can you explain the differences in all these toilet papers?”

“Well,” he replies pointing out one brand, “this is as soft as a baby’s kiss. It’s \$1.50 per roll.” He grabs another and says, “This is nice and soft as a bunny strong but gentle, and it’s \$1.00 a roll”

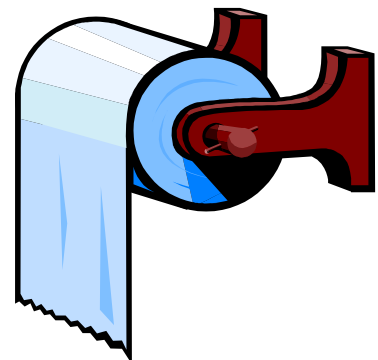
Pointing to the bottom shelf he tells her, “We call that our No-Name Brand, and it’s 20 cents per roll.”

“Give me the No-Name,” she says.

She comes back about a week later, seeks out the manager and says, “Hey, I’ve got a name for your No-Name toilet paper. I call it John Wayne.”

“Why?” He asks.

“Because it’s rough, it’s tough and it don’t take crap off anybody!”



Book Out Your Bach: Avoid the Tax Headache

Recent years have seen a surge in popularity in the short-stay rental of holiday homes. The internet has made it easier to list, book and review baches and cribs which are available when owners aren't in residence.

Inland Revenue have recently issued a paper proposing new rules on mixed-use assets (including holiday homes) where there is a mixture of business and personal use, with revised criteria that should be adhered to when booking out the bach. But until the rules are formally changed, the current policies still apply.

Firstly, it's vital that your intentions are bona fide. You must market the holiday home in a commercial manner such as setting up and using a website for the property, registering the property with a reputable holiday home website or listing the property for short stay rental with local real estate agencies. These efforts cannot be seen to be 'token'; you should be accepting offers from suitable renters.

Secondly, your own (plus family and friends) use of the property must be diarised so you can determine the days in a year that the property was available for renting out.

If the property is owned by an individual or family trust the expenses relating to the property including the utilities (power, rates, insurance), maintenance

and interest on debt will be apportioned according to the number of days in a year the house was available for rent.

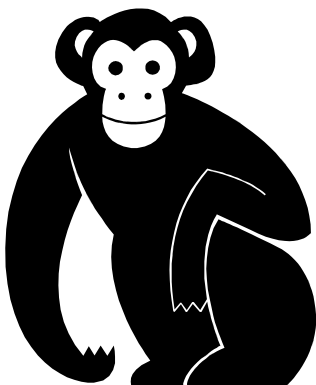
There are GST issues too. Short-stay accommodation is a taxable supply for GST purposes so if the annual rent you are receiving exceeds \$60,000 the owning entity (individual, partnership, company or trust) is required to register for GST and return GST on the outputs (rent) and inputs (expenses and improvements) made and received.

This threshold may seem high but some do have more than one holiday home in the same entity! This threshold includes the market value of free or cheap use of the bach by persons associated to the owner.

The value of the property becomes a taxable supply when registration occurs and when the property is sold or the entity de-registered. Both the income tax and GST issues can be quite tricky so we recommend consulting us to make sure all the tax bases are covered correctly.



Another 'Best' Blonde



A blonde lady motorist was about two hours from the Gold Coast when she was flagged down by a man whose truck had broken down. The man walked up to the car and asked, 'Are you going to the Gold Coast?'

'Sure,' answered the blonde, 'do you need a lift?'

'Not for me, I'll be spending the next three hours fixing my truck. My problem is I've got two chimpanzees in the back which have to be taken to the Gold Coast Zoo. They're a bit stressed already so I don't want to keep them on the road all day. Could you possibly take them to the zoo for me? I'll give you \$100 for your trouble...'

'I'd be happy to,' said the blonde. So the two chimpanzees were ushered into the back seat of the blonde's car and carefully strapped into their seat belts.

Off they went.

Five hours later, the truck driver was driving through the heart of the Gold Coast when suddenly he was horrified! There was the blonde walking down the street and holding hands with the two chimps, much to the amusement of a big crowd. With a screech of brakes he pulled off the road and ran over to the blonde. 'What the heck are you doing here?' he demanded, 'I gave you \$100 to take these chimpanzees to the zoo'.

'Yes, I know you did,' said the blonde, 'but we had money left over, so now we're going to Sea World.....'

Let us Entertain You

Let's look at the tax treatment of saying thanks to customers and staff typically with gifts, wining and dining.

Inland Revenue's IR268 guide gives the following examples of where entertainment expenses are 50% deductible:

- Taking customers, suppliers and business associates out for dinner or putting on a function for them
- The traditional Christmas party for staff
- Shouting customers, suppliers and staff to an event, e.g. a rugby game or show
- Taking them on a jaunt in your launch (running/hireage costs and food and alcohol)
- Giving them the use of your bach or time share apartment as a thank you gesture (the occupancy costs)

We've been asked 'why only 50% deductible?' Apparently it's because we get some personal enjoyment of benefit from quaffing a wine and tucking to a steak (too right!).

In lieu of a Christmas party you may give your employees restaurant vouchers to use at their discretion. This cost is fully deductible but is subject

to fringe benefit tax (FBT), although there is an exemption of \$300 per employee per quarter (a maximum exemption can apply).

The same treatment applies to staff gifts, again fully deductible but subject to FBT under the 'other benefits' category.

As a thank you gesture many firms give their customers gifts during the festive season. The costs of the gifts are fully tax deductible as marketing and promotion expenditure.

Many firms pay their staff a Christmas cash bonus. These payments are classed as 'extra emoluments' and are fully deductible but have PAYE deducted at the employee's marginal tax rate e.g. 33% if earning over \$70,000 per annum.

If in doubt about where you stand tax deductibility-wise with your generosity to customers and staff, check with us and we'll help you get it right.



Something to Smile About

- I always try to go the extra mile at work but my Boss always finds me and brings me back
- At the end of money, I always have some month left
- You're only young once – That is all society can stand
- I hate repeating gossip – but really what else can you do with it?
- As you get older, your secrets are safe with your friends because they can't remember them either
- My wild oats have turned to prunes and All Bran
- Forget health food. I'm at an age where I need all the preservatives I can get.
- Middle age is when we can just do as much as ever, but would rather not.



Please contact us if you have any questions regarding this newsletter:

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