

The Informer

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Income protection insurance deductibility

Premiums on income protection insurance policies are a deductible expense and any income from claims is assessable. However, the scope of what is considered income protection insurance is narrower than most people think. A common error is mistaking personal sickness or accident insurance for income protection insurance.

Premiums paid under personal sickness or accident insurance policies, are not deductible and income is not assessable.

If the benefit payable under an insurance policy is tied to a person's pre-disability income it is likely the policy will qualify as an income protection policy. However, if a policy provides that the recipient will receive a fixed amount upon injury, it is unlikely to qualify as an income protection policy.

Often policies are referred to as income protection even though they do not meet the requirement above, leading to deductions being incorrectly claimed.

To rely on the title of the policy alone is not sufficient to determine if the premiums are deductible. It is the detail within the policy that determines the nature of the insurance.

FBT rate on low interest loans

The rate to calculate fringe benefit tax on low interest, employment related loans went down to 6.41% from 1 July 2009. The previous rate was 8.05%.

Use of money interest rates

Inland Revenue Department use of money interest rates, for unpaid and overpaid tax, decreased from 29 June 2009. The rate for unpaid tax decreased from 9.73% to 8.91% and the rate for overpaid tax decreased from 4.23% to 1.82%.

Gilmore Brown Ltd services update

Business planning

A business plan is an analysis of the fundamental structure of the business. The planning process identifies how a business can achieve the owner's goals and objectives.

We offer an in-depth business planning service tailored to the specific needs of individual businesses.

Tax refunds on-line

There are currently on-line companies offering a service for New Zealanders to check if they are owed a tax refund.

By agreeing to file your tax return with one of these companies, you will be deleted from your current agency listing with the Inland Revenue Department and linked to the on-line company's agency listing going forward. This means your existing accountant or agent will no longer be filing your tax return or have access to any of your information held by the Inland Revenue Department.

Our clients and their family should be aware, there may be tax structures in place that could be affected by individuals being delinked from our Gilmore Brown tax agency listing.

For example, children who are shareholders of the family company may be allocated income of which they will be unaware of until the annual financial statements have been prepared. If a refund has already been received we would be unable to allocate income unless the tax return was reassessed and amended. This may result in the tax refund having to be paid back.

Disputes Tribunal changes

Recent changes have increased the limit of claims which can be made through the Disputes Tribunal. Effective from 1 August 2009, the claim limit has increased to \$15,000 (from \$7,500) or, if both parties consent, \$20,000 (from \$12,000).

Livestock draw winners

Congratulations to the winners of our recent livestock draws:

Harvey Ross Limited

R J and E M McLean

As an incentive to our farming clients to send us accurate and timely closing livestock numbers we offer the chance to go in a prize draw for a gift hamper if we receive their stock numbers by a specified date.

Our people

Directors

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Chantal Gilmore

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Employment Special

Features

- **Keep your hands on the wheel**
- **Review of the Holidays Act 2003**
- **90 day trial period**
- **Fixed term agreements**
- **Personal grievances**

Keep your hands on the wheel

From 1 November 2009 it will be against the law for drivers to text or talk on a handheld cell phone while driving.

Health and safety obligations require employers to ensure the safety of their employees while at work and an employee's place of work includes any vehicle in which they perform their work. An employment agreement should clearly state the rules and regulations of the New Zealand Police are to be obeyed at all times.

Employers should ensure their employees are aware of the change to the law.

Review of the Holidays Act 2003

The Minister of Labour has announced that a working group has been formed to review the Holidays Act 2003. The Act consistently rates as one of the most problematic areas of employment.

The intention of the working group is to include a review of the following;

- relevant daily pay calculations
- trading in annual leave for cash
- transferring of public holidays or trading alternative days for cash
- leave entitlements for casual employees
- making the Act easier to understand and less costly for businesses to apply.



90 day trial period

The 90 day trial period introduced this year, where an employer (of no more than 19 staff) has the right to terminate within that time without the employee being able to raise a personal grievance, only covers unjustified dismissal.

When dismissing an employee during the 90 day trial period, if the employer gives reasons for terminating the employment relationship they can be exposed to claims such as disadvantage or discrimination. It is not necessary to provide a reason for the termination of employment during the 90 day trial period.

Before dismissing an employee during the trial period check the employment agreement. The trial period must be agreed in writing and signed off by both parties. The law requires at least one weeks notice (in relation to the trial period), however if the agreement suggests more notice then it will be binding.

We suggest you take advice before terminating an employee during the trial period, we can provide a letter template for use in this situation.

Fixed term employment

Fixed term employment is a legitimate and versatile option that can be used in employment situations.

Fixed term employment may be full time or part time, but it is not permanent. It is not lawful to use a fixed term employment to establish suitability for permanent employment. Fixed term employment is employment that will end:

- on a specified date or at the end of a specified period; or
- on the occurrence of a specified event; or
- on the conclusion of a specified project.

The fixed term nature should be consistent throughout the agreement. The agreement must reflect the intentions and obligations that parties have agreed to and the fixed term employment agreement **must be in writing**. The agreement should not limit your ability to bring the agreement to an end for unforeseen circumstances before the expiry date.

The agreed term of employment should end at the expiry date. If a new agreement is entered into after the expiry, a separate document should be created for the agreed new term.

An understanding of the limitations of fixed term employment is important. We can assist you with an agreement that will suit your requirements.

Personal grievances

Last year a record number of personal grievances were lodged with the Employment Relations Authority and the trend was steeply in favour of employees, 67% of all decisions reached favoured the employees.

Redundancy seems to be one of the hardest area for employers to get it right, while constructive dismissal claims were the hardest for an employee to justify. The most common claim was unjustified disadvantage.

Reinstatement as the primary remedy seems to have no appeal to employees with only 3% of employees claiming reinstatement of their employment.

49% of personal grievances are taken by employees in their first year of employment.

At the first sign of a likely personal grievance being raised by your employee, you should get our advice and get it early!



Our people

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The information contained in this newsletter is of a general nature and should be used as a guide only. A senior representative of Gilmore Brown Ltd should be consulted for specific advice before action on any matters herein.