



TIME FOR A BREAK! BUXTON 5 DECEMBER 2016

Robin Whalley Associates

Summer Newsletter

Risk and Reward

Buying off the plan? The Bright-line test and you

Now that the bright line test is in operation and being applied to determine tax liability, an issue highlighted only recently might leave you exposed.

As we've discussed before, people who buy or sell a property within two years of acquiring it must pay tax on the gain. The main home is exempt and there are other exceptions such as inheritance and relationship break-ups.

However, what happens when you have bought a house/land package off the plan but titles haven't been issued yet and settlement is still 12 months off or more? Do you intend to move the asset into your family trust on settlement? If you have signed the purchase agreement in your own name but want to have the family trust settle the deal, it looks like you may be caught under the bright line test. IRD may deem your interest to have been disposed of within two years, in which case if there is a gain it will be taxable.

A spokesperson for IRD has commented that 'in the case of a purchase off the plans, the house has never been used as the main home and therefore cannot qualify for the main

home exemption.' IRD currently have no plans to review their position on this.

Filling Employment Gaps over Summer

If you need extra employees over the holidays, think carefully about the kind of help you need and what kind of employment contract is best suited. It's important to **comply with current employment law and have it right from the start.**

Casuals

- Casual work is intermittent or irregular, casual employees don't have to accept every offer of work you make so it may not fit the situation you have in mind
- People who work casually for you need an employment agreement
- You can offer casual employees annual holiday pay on a 'paid as you earn' basis. If your casuals agree, this must be stated in their employment agreements, and payment must be recorded

separately in wage records at a rate of at least 8%.

Fixed-term employees

It might suit your needs better to employ someone on a fixed-term agreement, particularly if working hours are going to be regular and predictable. But the law is strict about the form of such agreements, if it is not complied with, you may find yourself with a permanent employee.

A fixed-term agreement is intended for a limited time, therefore must state the means of ending the employment relationship. EG, a specific date or the last day of the Boxing Day Sales, etc. Or when a specific project is completed, EG, roofing the new hay barn.

You must have genuine reasons for the employment period to be fixed-term and you must advise your prospective employee of when/how the employment term will end and the reasons. Make sure the employment agreement backs this up clearly.

Be aware of the rules around holiday pay. Employees on a fixed-term agreement of under one year can agree to receive 8% added to their gross weekly earnings (paid-as-you-earn) instead of annual holidays or getting paid out the 8% at the end. **State this clearly in the employment agreement,** it can't be less than 8% of the hourly rate, and it **must** be shown separately in the employee's pay slip and wage/time records.

"4 Handy Seasonal Tips"

- 1) Cash flow – check what tax payments are coming up in January/February and make sure you are prepared
- 2) Are you sending gifts to top clients? Splashing out on an event? What about presents or bonuses for your staff? See the attached guide – *'Christmas cheer' is obviously not the IRD's middle name*
- 3) If your business is shutting down, make sure your voicemail message and website mention closing date information and emergency contact details. Also, who will be responding to work related emails?
- 4) Find time to **Relax & Enjoy ... cross fingers it doesn't rain!**



(continuing from above ...) Seasonal Workers

If you employ seasonal workers it could be an option to employ overseas workers (if you cannot find Kiwis to do the job). Make sure you follow these steps:

- When advertising, state that applicants must be entitled to work here
- When applicants contact you, ask for evidence they are entitled to work here
- Check their Visa/Passport details at VisaView (Immigration NZ online tool)

Remember Seasonal workers have rights as employees (written agreements/wages/holidays)! The RSE Scheme could be useful for those in horticulture or viticulture.

IRD Protecting its Position

(Tax & More, December 2016)

We urge caution to those of you who have current instalment or settlement arrangements in place for overdue tax with IRD, and particularly where you might think you might have a good, open and communicative relationship with them.

A recent case we (Tax & More) were asked to assist with involved a pharmacist who had entered into an arrangement to repay outstanding income tax, all penalties, and interest. He had never missed a payment.

He was late in filing his GST return last month, and almost immediately was served a statutory demand for the full amount of tax outstanding on the basis that the Commissioner was merely protecting her position.

The threat of legal action then rendered the settlement agreement void and without any communication. Also, the Commissioner's care and management duties had hardly been appropriately exercised.

This overly assertive approach from IRD certainly signals to us that there is some concern within the ranks that IRD does not intend to be last in the queue any longer when it comes to collecting debt. The trick is to keep up to date with all your tax filing obligations and current tax payments!

Reminder For those who use Banklink

For those of you who use Banklink **please remember to backup** remotely (ie to another server or to disk/memory stick). We know of a case recently when a client's computer crashed and they lost everything, including all their Banklink data/coding! Nightmare stuff. The whole year (and beyond) had to be coded again.

Banklink can now be used online. Hooray! This is very handy for those who want to avoid the computer crashing scenario above and, also for those who use MAC and iPhone devices. Those who travel a lot can now code their bank statements anywhere there is the internet (not relying on getting back to their computer with Banklink on it). Plus it is cheaper. It is called, Essentials **Connected Ledger**. If you are interested in swapping from Banklink to Essentials or to start using Essentials or just to find out more about it, please contact us in the New Year and we would love to help you! *It is very handy at our end too*



"This is Tina. As an IT guy I recognize the need for backup if things don't go well."

HAVE YOU GIVEN ANY THOUGHT TO WHAT YOU'RE GOING TO DO WITH YOUR LIFE AFTER SUMMER VACATION?



Christmas closedown

Wishing you a safe and happy holiday from all of us here.

Our office will **close on 5pm Wednesday 21st December** and **reopen** in the New Year at **8.30am Monday 9th January 2017**.

Thank you for all your support this year. We wish you a safe and happy Christmas and a profitable 2017!

Shelter Box in Haiti – bringing some Christmas Cheer

Business Perspective



Our very own Jimmy Griffith (front left) doing his thing with Shelter Box this Christmas

Shelter Box has been busy this year ... earthquake in Ecuador, cyclone in Fiji, Syria, Nepal one year on, war in Mosul Iraq, Hurricane Matthew in the Caribbean (Haiti) are just a few examples of where ShelterBox has been involved.

ShelterBox provides emergency shelter and lifesaving supplies for families around the world who are affected by disasters, at a time when they need it the most. ShelterBox deliver the essentials a family needs to survive in the immediate aftermath of a disaster. In the 15 years since ShelterBox was founded, they have responded to over 200 natural or manmade disasters in almost 90 different countries and provided lifesaving aid for well over one million people.

If you would like to know more about ShelterBox or support it in any way please go to the following website:
www.shelterbox.org.nz

Excerpts from: Imperial Acts in Force in New Zealand, 1881 – A selection from the Acts of the Imperial Parliament apparently in Force in New Zealand and of General Interest and Importance (revision of the statutes Act, 1879)

Pg 491/492, SUNDAY

An Act for punishing of divers Abuses committed on the Lord's Day, called Sunday.

FORASMUCH as there is nothing more acceptable to God than the true and sincere service and worship of Him according to His holy will, and that the holy keeping of the Lord's Day is a principal part of the true service of God, which in very many places of this realm hath been and now is profaned and neglected by a disorderly sort of people in exercising and frequently bear-baiting, bull-baiting, interludes, common plays, and other unlawful exercises and pastimes upon the Lord's Day; and for that many quarrels, bloodsheds, and other great inconveniences have grown by the resort and concourse of people going out of their own parishes to such disordered and unlawful exercises and pastimes, neglecting divine service both in their own parishes and elsewhere: ...

There shall be no meetings, assemblies, or concourse of people out of their own parishes on the Lord's Day, within this realm of England or any the dominions thereof, for any sports or pastimes whatsoever; nor any bear-baiting, bull-baiting, interludes, common plays, or other unlawful exercises or pastimes, used by any person or persons within their own parishes ...

Every person or persons offending in any the premises shall forfeit for every offence three shillings fourpence, the same to be employed and converted to the use of the poor of the parish where such offence shall be committed.

Pg 501 (18) ... Every will made by a man or woman shall be revoked by his or her marriage

Pg 47 (10,1) A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject:

Pg 216 (4) Provided always that no order shall be made by virtue of this Act whereby any mother against who adultery shall be established, by judgement in an action for criminal conversation at the suit of her husband, or by the sentence of an Ecclesiastical Court, shall have the custody of any infant or access to any infant, anything herein contained to the contrary notwithstanding.

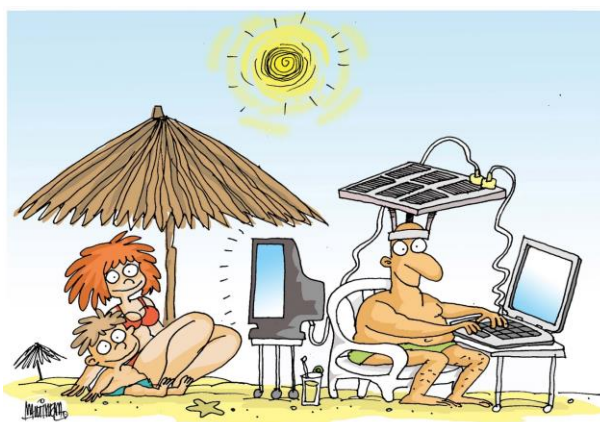
Pg 219 (7) None of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed; and also no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed: and

No female maternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male maternal ancestors and their descendants shall have failed.





Robin & Max 2016



Happy Holidays

Disclaimer

This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation.

**robinwhalley
associates**

PO Box 1307, Nelson 7040