

Johnston Associates Chartered Accountants Limited

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ACCIDENT COMPENSATION LEVIES

Over the last 18 months, one of the most consistent themes being raised by our clients, is their uneasiness about the way in which they are being levied for ACC.

ACC now send their invoices directly to you. This means that in most cases we don't get to see the invoices until well after payment has been made.

The types of errors that we are finding are:

- Wrong classification rates used, resulting in incorrect charging
- Incorrect liable earnings information
- Incorrect charging of levies where changes have been made to the business structure

We are also finding that where a recommendation has been made to clients to consider alternative ACC products, some of those clients have not followed up on that advice and are therefore not maximising the opportunities offered by the ACC legislation.

We have therefore decided to extend the services we offer. We would like to act as your agent for all your ACC related matters. The advantages to you are:

- All ACC related information will come to us
- We will review the invoices and ensure they are correct
- We will advise you immediately of payments due
- You can rest assured in the knowledge that your levies are correct, and have been minimised
- We will advise you on the best options available to you for your ACC Cover
- We will keep you up to date with any changes in ACC legislation that may affect you

We will be charging a fixed annual fee for each entity. This means that two partners in partnership are classed as one entity. There will be an extra charge if the entity is also an employer.

The charges will be:

- \$295 plus GST for each entity
- \$345 plus GST for each entity if you are also an employer

If you would like to take advantage of this service, please go to the Forms page on our website www.jacal.co.nz and complete the ACC Authorisation Form and return it to us as soon as possible.

We will then advise ACC to change your address details so that all mail is sent to our offices.

On the Authority Form, we need you to provide your individual ACC numbers and dates of birth. If you are an employer or a company, we will also need the ACC number that relates to that entity.

If you would like further information on this service or would like to discuss it in detail, please give Rick, Willy, Logan or Angie a call.

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Small Asset Purchase Write Off Value Lifted

The value at which small assets can be written off rather than capitalised and depreciated has been lifted from \$200 to \$500. The provisions and rules remain the same. Please ensure you expense assets below this level to Repairs and Maintenance rather than capitalising them to fixed assets. The change is effective from 1 April 2005.

Depreciation rate changes

Buildings bought after 19 May 2005 will be subject to the new lower depreciation rates. The Commissioner will apply the double diminishing value method to most assets other than buildings. This will lead to higher claims on short life assets such as computers, where depreciation rates will effectively increase from 48% DV to 60% DV. The new rates will not apply to assets bought prior to 1 April 2005.

Managing Risk

If you're self-employed or your household is heavily reliant on one income, it's worth considering income protection insurance. And if you have dependents, you should consider life insurance. To work out if you need income protection or life insurance, check out www.consumer.org.nz

Please contact us if you need to be referred to an Insurance Broker.

RECENT EMPLOYMENT LAW CHANGES

Set out below is a reminder of the key changes. We recommend all businesses ensure that they are compliant with these new legal requirements.

Employment Relations Act

Employment agreements for all employees hired from 1 December 2004 must contain an Employment Protection Provision ("EPP" clause) which details an employee's entitlements in the event of a sale, transfer, or contracting out of a business. For all employees hired before 1 December 2004, their contracts must be updated to include an EPP clause by the earlier of 1 December 2005 or when the business is next restructured. This EPP clause is different to existing technical redundancy clauses.

Holidays Act

By 1 April 2005 all employment agreements must contain a provision advising employees of their rights to higher rates of pay (time and a half) for working on a public holiday, in accordance with the Holidays Act 2003.

Parental Leave Amendments

The Parental Leave and Employment Protection Amendment Act 2004 came into force on 1 December 2004.

From 1 December 2004 to 30 November 2005, employees who have worked for their employer for at least an average of 10 hours a week for the immediately preceding **six months** are entitled to:

- 13 weeks of Government paid parental leave. Before this change, an employee had to have 12 months prior service to qualify;
- one week of unpaid partner's/paternity leave;
- extended partner's/paternity leave for the period of parental leave.

Smoke-free Environments Amendment Act

The Smoke-free Environments Amendment Act 2003 came into force on 10 December 2004:

- Smoking is prohibited in the workplace and every employer is now required to take "all reasonably practicable steps" to ensure that no person smokes at any time in its workplace.
- A workplace includes any internal area which is attached to, forms part of, or is in an area frequented by employees during the course of their employment. (This means that even a dedicated smoking room won't comply under the Amendment Act – apart from one exception).
- An internal area is an area within or on the premises or vehicle that, when all its doors, windows and other closable openings are closed, is completely or substantially enclosed by a ceiling, roof or similar overhead surface, walls, sides, screens or other similar surfaces, and those openings. It is important to note that this includes vehicles, as well as cafeterias, lifts, stairwells, bathrooms and other common internal areas.
- Any person, who believes on reasonable grounds that an employer has breached any part of the legislation, may make a complaint to the employer of that workplace or to the Director-General.
- An employer, who fails to take all reasonably practicable steps to ensure that no person smokes at any time in its workplace, commits an offence. Every employer who commits an offence will be liable for a fine (\$4,000 for a body corporate, \$400 for an individual).

The Department of Labour website is www.dol.govt.nz has a very user friendly employment contract builder.

"There is no try, only do" - Yoda

Annual Accounts and taxation return completion for 2005

We would like to remind you that we need your Year End information to complete your accounts work as soon as possible. This is especially important if you need to review your 2006 provisional tax position before the 7 November payment is due.

All clients must fill out our annual questionnaire and sign the engagement and declaration page before we start work.

If you do not have a copy please download one from our website www.jacal.co.nz or call Amanda on 361 6701 or email Amanda asashman@jacal.co.nz and we will forward a replacement to you.

Restructuring

When forming a new company to take over the operations of an existing company for whatever reasons, remember the transfer will need to be at market value.

In addition, capital gains from transactions made with a related party, eg. the new company, (with similar or same shareholding, including related persons) are taxable on winding up the old company.

If the old company is a qualifying company, the capital gains could be distributed to shareholders tax free, subject to there being no surplus ICA credits to use up.

CLIENTS UNDERTAKING MAJOR TRANSACTIONS

Companies

We have seen several clients completing transactions of this nature without having completed the required documentation at the time of the transaction being entered into.

Under The Companies Act 1993, a company must not enter into a major transaction unless the transaction is approved by special resolution or it is contingent on approval by special resolution.

A Major transaction in relation to a company is defined and applies to both tangible and intangible property as:

(a) The acquisition of, or an agreement to acquire, whether contingent or not, assets the value of which is more than half the value of the company's assets before the acquisition; or

(b) The disposition of, or an agreement to dispose of, whether contingent or not, assets of the company the value of which is more than half the value of the company's assets before the disposition; or

(c) A transaction that has or is likely to have the effect of the company acquiring rights or interests or incurring obligations or liabilities the value of which is more than half the value of the company's assets before the transaction.

Therefore when dealing with a major asset in the name of a company please consider the legally required steps you are required to complete well before you enter into the transaction or commit yourself to the transaction. It is not desirable to retrospectively approve the transaction when completing the annual accounts many months or in some cases years after the transaction occurred.

Note if the company asset base is small, it will not take a very large transaction to breach this provision.

General Issues

We have seen several instances where non incorporated and incorporated entities have purchased major assets either by definition, value or have refinanced debt, without consulting with us first, resulting in a loss of tax deductible interest or a purchase structure which is not optimal in the use of debt.

It is prudent to remember the person selling you the asset is not an expert in the deductibility of the cost associated with the asset, if finance is involved it is more than likely to be on terms more favourable to the vendor than you. We note a case where a client purchased a vehicle on finance at a discount, only to note later that the discount merely involved swapping the GST claim from the client to the vendor, in effect the client was just paying the net price for the goods, and not able to claim the GST back.

If the asset has significant debt attached to it with long term debt repayment obligations you may want to investigate the cash flow affects with us before you commit to purchasing it.

We have also been asked at very short notice to provide financial information and analysis in support of a major asset purchase, backed by debt finance. If you require us to do this type of work or anticipate that the lender will require it please advise us well in advance. Three to four days notice is not adequate if the work required is extensive, and is not fair to clients with existing work booked into the system.

If you are in any doubt when purchasing or disposing of an asset please give us a call as early as possible in the process.

Secure Log In Areas

We now have clients successfully using the Secure Log In Area on our interactive website for coding Banklink files.

The Secure Area enables us to put client files and documents in a place where you can Log In with your own username and password to view them.

Please contact our office if you would like more information or go to our website www.jacal.co.nz

TAX OPTION

Uncertain about your 2006 taxable income, or unable to pay the full provisional tax amount in the next instalment?

Consider purchasing an IRD approved tax option for a fraction of the tax due. The total payment can be deferred for up to 11 months.

Please check www.taxmanagement.co.nz for more details. If you require this service please contact us.

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COMPANIES OFFICE ISSUES

Company Administration and Annual Return Filing

During the year we maintain the statutory records file for those of you with a company as required under The Companies Act 1993. This includes regular review for required updates and changes to the various registers during the year, and monitoring of compliance. Please ensure all required information which must be in these files is supplied to us if we are your registered office. A range of documents must be available for inspection at the registered office, so it is important that the file is complete.

Our standard charge for this service is \$165.00 plus GST per annum, whether or not we file your annual return. There is no longer any charge by The Companies Office for processing your annual return. Our preference is for our office to file your annual return as you have already paid for this service. Our billing cycle for this starts with the filing of the annual return and covers the 12 month period forward to the next filing date. A very small number of clients file their own annual returns. Most of which have not included the required or correct information and have in some instances not filed at all resulting in the company being unintentionally struck off the register.

Unless you specifically advise otherwise we will be filing all annual returns where our office is the registered office as standard policy. Having us maintain this record will ensure that the compliance level is maintained in the correct order and that no important records are misplaced.

PROPOSED CHANGES TO GST, FBT, PROVISIONAL TAX AND WAGE COST SUBSIDY

The proposals involve the alignment of payment dates for provisional tax and GST, allowing businesses to elect to base provisional tax payments on GST turnover, and a subsidy to payroll agents for meeting PAYE-related compliance costs imposed on small employers with up to 5 employees on the payroll.

With respect to Fringe Benefit Tax, the valuation rate for motor vehicles will be cut. Taxpayers can elect to calculate motor vehicle FBT on a vehicle's book value as an alternative to using the cost price. Thresholds applying to unclassified fringe benefits will be raised, for employers it will be raised from \$450 a quarter to \$15,000 a year. Private use of employer owned or leased business tools will be exempted from FBT if primarily used for business purposes and cost less than \$5,000 each.

As the government is still to be confirmed by the forthcoming general election we will keep you posted, regarding confirmation of these policy changes.



"We cannot solve problems with the same kind of thinking used when creating them". – Albert Einstein