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Annual Accounts: things to do before the end of March

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• **Bad Debts** – Write off bad debts before 31 March. Record the date so you can demonstrate to the IRD when you did the write off, note this does not prohibit you from continuing to pursue the debt, nor does it let the debtor off paying.

• **Stock on Hand** – if your stock on hand is worth more than \$5,000 you will need to count it at balance date, ensure you get rid of dead or obsolete stock before this date otherwise you will need to include it at cost, resulting in an increase in your reported taxable profit.

• **Fixed Assets** – Sell equipment likely to make a loss, before balance date rather than after, this way you realise the tax deduction this year rather than next year. Scrap any other assets no longer able to be used or of no value as you can claim the remaining book value as a deduction in the current year.

• **Provisional tax** – Have you paid enough? Review your final March year end management reports. You may want to top up your 2005 tax now if profit has increased substantially, rather than leave the tax until 7 April 2006, and incur use of money interest on the outstanding balance. Companies and trusts always incur use of money interest on terminal tax amounts, individuals are only subject to it if they are over the \$35,000 provisional tax threshold.

• **Company Terminal Tax** - those of you with the payment due on 7 April may wish to consider paying the tax before the 31st of March. The imputation credits this converts to will allow for a potential increased dividend distribution. This gives greater flexibility in dealing with tax paid company profits. It also reduces the risk of not having sufficient tax credits to pay a dividend if required.

• **Bonuses** – Calculate any staff bonus for the financial year as soon as possible after 31 March, you have 63 working days from balance date to pay them out and still claim the deduction. Also ensure where possible that holiday pay not paid out at 31 March is cleared within 63 working days in order to claim the deduction.

• **Expenditure** – if you have any major maintenance or other tax deductible expense that you are likely to incur over the next few months you may wish to consider paying for it before the end of March in order to claim the tax deduction in the current tax year rather than the next.

• **Reports** – if you run any kind of accounting system at all, please balance any required reports as soon as possible after 31 March 2005, including all reconciliations such as bank debtors, creditors or any others. Then do a back up on disk for our records. If you have balances rolling forward from last year do they match our closing balances per the year-end accounts we prepared for you? Please call us early if you are having problems with this. Start collecting all the records we need in one file.

"To give anything less than your best is to sacrifice the Gift."-Steve Prefontaine – distance running legend

Risk Management Options

If you have any concerns or questions in regard to your personal or business circumstances relating to the risk management article please contact your Johnston Associates adviser to discuss your options.

Advance Account Drawings

Check your level of drawings for the financial year. Do they exceed the cash introduced and any salary credited from 2004? If so you may be overdrawn and exposed to use of money interest charged by IRD. If you have available funds consider depositing some to limit or clear the overdrawn amount prior to 31 March 2005.

Tax Return Filing Deadline

The deadline for filing all 2004 tax returns on our agency list is 31 March 2005. If we have your work underway and are waiting on you to provide final information we suggest you do this now to give you the best possible chance of meeting the deadline. Any returns not filed by this date risk losing their extension of time for filing and will revert to having to file the 2005 return by 7 July 2005. You will also incur late filing penalties of between \$50-\$250 for filing the returns after 31 March 2005.

If you cannot file your return by the deadline please contact us to make alternative arrangements with IRD.

Risk Management and Insurance

Unpredictable events can radically change our lifestyle in an instance, and it is essential to have a risk management plan in place to ensure in an unforeseen event, and the adverse affects of this event are kept to a minimum.

Done properly, risk management and business risk management provides a number of benefits. Risk management will protect personal wealth, provide financial independence and security. A person who is financially stable, and not solely reliant on the state, friends and family after a major event, has a greater chance of maintaining a sense of self worth and self purpose.

The Companies Act requires all directors of a company to be accountable for sound governance and to safeguard the viability of the organisation. Directors of companies cannot place the company at a level of risk, which expose creditors and shareholders unduly. Directors are accountable for effective risk management to ensure the organisation can survive or exit acceptability from credible and foreseeable crisis.

Failure to perform the tasks required resulting in a loss to others can give rise to civil and criminal action to recover distributions that shareholders or directors may have received from the company in the past seven years.

Most small to medium business (SME) depend on the key person, normally the owner for ongoing solvency. About one in five businesses have to be wound up if an event occurs which incapacitates the key person. Those who managed to survive often see deterioration in value due to a loss of revenues and an increase in costs.

SME owners should assess the affect death or disablement of a key person would have on the business, and in particular, need to consider the ability of the business to meet its obligations, repayment of debt and the ongoing income to its owner/s.

Many people implement a risk management strategy involving insurance, but do not review it regularly despite business structure, lifestyle and family environment changes resulting in a risk profile completely different to that when it was initiated. As a consequence, from both product and remedy perspective, it becomes ineffective.

There are four main areas of Business risk insurance that need to be looked at when creating a plan.

Shareholder/Partnership Protection - Creating a strategy to ensure the ownership of the company or business can be transferred to the surviving owners, if one of its owners dies prematurely.

Key Person Protection - Creating a strategy to ensure the business can meet its ongoing obligations to creditors and stakeholders until such time as the key person can return or the business can be sold as a going concern.

Debt Protection - Business owners may have entered into debt arrangements to fund the business. In the event the owner or a key person suffers a major event, personal guarantees may be called up. Ability to repay debt ensures the estate is not eroded in value.

Income Protection - If the business cannot survive the loss of a key person, the individual owner/s have ongoing income protection to maintain their own lifestyle.

Risk management is about creating certain outcomes from unforeseen events. Achieving this requires identifying the risks your business is exposed to including the human risks and to implement appropriate strategies to ensure your business and yourself are protected from any events which may occur.

IRD – Use of Money Interest Rate Change

The IRD has changed the interest rates charged/Paid on under and overpaid tax effective from 8 March 2005:

13.08% for Underpaid Tax
5.71% for Overpaid Tax

GST and Commercial Property Transactions

Reminder: For those registered on a payments basis, claims for input tax on the purchase of a commercial property should only be made when the money has been paid out of the solicitor's trust account. Get confirmation of payment before claiming GST. Preferably examine the bank and settlement statements, keep these as support for your Claim.

Transfer of second hand goods between associated people

The associated person must have paid GST for there to be a claim. If your mother sells you her car, you must enquire where she bought it. If it came from a dealer, GST would have been paid but if it was a private purchase, no GST would have been paid and therefore you cannot make a claim. Incidentally, if the car was bought when GST was 10% then your claim is limited to the 10%.

GST claims between associated people are also limited to the lesser of the amount paid by the seller or buyer.

Planning Ahead to get Payment on Time

No amount of sales will contribute to your bottom line if you do not get paid on time.

Use the following strategies to stay on top of your debtors:

1. **Check out your customers** – Get Credit Reports on your customers from firms like Baycorp and Dun & Bradstreet.
2. **Make a Connection** – Establish a good working relationship with the customers accounts payable department. Find out who is in charge and how the process works. It will be easier to get answers when your not getting paid.
3. **Deliver what you Promise** – Don't give customers any excuse to delay payment. Make sure your employees have done their jobs. Follow up with customers to ensure you have provided what they asked for.

Trust Issues – Legal and Liability

Trusts have become very popular vehicles over recent years to hold family assets, investments, and for asset protection purposes.

Unfortunately forming a trust and dumping your assets in the trust and doing nothing further, does not mean you have extinguished all your obligations to the trust, and protected your assets or provided for their distribution as you may have intended.

The trust deed will have provisions requiring that the trust is adequately and competently managed in an active fashion (See Jacal Newsletter No 1 for further details).

As a trustee you will be required to adequately demonstrate if called upon that you have acted in a prudent manner, using due care, skill and diligence.

You may have seen recent articles in the press and news covering trusts lack of standing, purporting that some are "Shams" and legal proceedings being brought against Settlor's and Trustees by potential beneficiaries of trusts.

Often while the settlor is still living no one wants to be seen taking action, though after their death disputes arise. Potentially the last Trustee left standing may face claims from the settlor's family in regard to years of trust administration.

Courts to date though have not accepted lightly allegations of a breach of trust made against trustees, without some form of evidential support for the allegation, and have not tended to second guess trustee decisions in the absence of bad faith actions.

Clearly due to the increased numbers of trusts having been formed in recent years, we are going to see a far greater number of litigations in this area.

Johnston Associates are at present considering the wider implications of managing trusts and trust assets and the duties of trustees associated with this. Consideration is being given to the development of a workable trustee administration package for trustees to follow, in order to mitigate disputes arising and to ensure where possible evidence exists that the trustee has carried out their duties as required. We will keep you posted in regard to developments with this.

"There's no business like show business, but there are several businesses like accounting" - David Letterman - US comedian & television host

WEBSITE

The JACAL website is available for further updates. Be sure to check it out at

www.jacal.co.nz

Below is just some of the information accessible on our website:

- **Forms** – Including our Annual Client Questionnaire; Engagement letter and Privacy Authorisation
- **Client Resources** – information for you regarding trusts, buying a business, travel expense claims and more
- **Useful Links** to IRD, Banks, Software Partners and more.

CONTACT DETAILS

Please remember to inform us of any changes to your contact details.

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Management by Delegation

Stress results, not details. Make it clear to staff you're more concerned about the final outcome of the projects, not the day to day details.

Don't be sucked in by giving solutions to employees' problems. Teach staff how to solve problems themselves. This can be frustrating, but in the long run, you'll save time and money.

Establish measurable and concrete objectives. Once this is done, staff will feel more comfortable acting on their own.

Develop reporting systems. Consider monthly reports, statistical data or samplings. Or consider weekly meetings with staff.

Keep a delegation log. When you delegate an assignment, jot it down. You'll be able to monitor progress.

Recognise the talents and personalities of your staff. You have to know what projects each employee can handle, and what projects they can't.

Understanding the Employment Relations Act

Pursuant to the Employment Relations Act, all individual employment agreements must be in writing. The Act also specifies the minimum contents of those agreements. Under the Act, the Employment Relations Authority (ERA) may impose a penalty for any breach of the Act.

Since the introduction of the Act, there have been decisions of the ERA imposing penalties upon employers who fail to have written employment agreements with their employees.

In 2001, an employer was fined \$250 for failing to have a written employment agreement. In 2002, the fine in a similar case increased to \$500. In a recent decision of the ERA, the penalty had increased to \$750.

In one of those cases, the employee was unsuccessful in their personal grievance claim but nonetheless the ERA held failure to provide a written agreement had prejudiced the employee and the penalty was imposed.

Go to www.ers.dol.govt.nz or contact us if you need any advice in this area.

