

health adviser

Grant Thornton 

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Hooray Hooray - it's a **happy Holidays Act 2003**

Well at least for employees! The new Holidays Act 2003 was passed just on Christmas and will come into force on the 1st April 2004. This is designed to improve employees' entitlement to leave, make it easier to calculate holiday and leave entitlements and pay, and make the rules more consistent. However, this may have ramifications for those clients who are involved in industries requiring staff to work on public holidays such as tourism or hospitality.

The main points for you to know are:

Public Holidays

As in the past, employees qualify for paid public holidays if the holiday falls on a day that they would have ordinarily worked. The major change here is that payment must be based on "relevant daily pay". Relevant daily pay is based on the amount the employee would have received had they worked including commissions, incentives and overtime. The other major change is all employees, including salaried and casual workers, required to work on a public holiday, must be paid at time and a half and also be given a whole day off in lieu. (This includes employees who are working on an "on-call" basis even if they are not called out).

Sick and Bereavement Leave

The entitlements to sick and bereavement leave have been separated under the new Act. The term "special leave" is no longer used. From 1st April 2004, all employees who have worked for their employer for a continuous period of at least six months, or for an average of at least 10 hours per week or 40 hours per month for the past six months, are entitled to a minimum of five days of paid sick leave a year. This can be taken if they are sick or injured or if one of their dependants is sick or injured.

The new Act allows unused sick leave to be carried over to the next year up to a maximum of twenty days entitlement in any one year. Unused sick leave however does not have to be paid out at the end of employment.

After six months continuous employment, employees are entitled to three days of paid bereavement leave on the death of their spouse/ partner, parent, child, sibling, grandparent, grandchild or spouse's/ partner's parent and one day of paid bereavement leave on the death of anyone else who the employer accepts in good faith, the employee had a close association with.

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To lease or not to lease, that is the question...

Together with the commercial considerations that require thought when entering into a lease, the income tax effects must be thought through before signing on the dotted line.

Many taxpayers assume that, as the leases they have entered into are not "lease to own" agreements, an immediate income tax deduction can be obtained for each lease payment made. This is not always the case.

The Income Tax Act differentiates between what are defined as "operating" leases and "finance" leases. This, in turn, affects the income tax treatment of such payments. The definition of a finance lease is where:

- ◀ The ownership of the lease asset is transferred to the lessee or an associate of the lessee at the end of the lease term; or
- ◀ The lessee or an associate of the lessee has the option of acquiring the lease asset for an amount that is likely to be substantially lower than the lease asset's market value on the date of acquisition; or
- ◀ The lease term is more than 75% of the lease asset's estimated useful life.

Only one of these conditions needs to be met in order for the lease to qualify as a finance lease and, therefore, affecting the tax deductibility of the associated payments. The most common criteria that trigger leases to become "finance" leases is the final one.

When a lease agreement is entered into where the term exceeds 75% of the lease's estimated useful life, the lease is treated as a finance lease for income tax purposes. The flow-on implications of this to an unsuspecting person can be quite severe.

For income tax purposes, if a taxpayer enters into a lease agreement that is classed as a finance lease, they are deemed to have bought the asset on the day the agreement was signed. That is, the lessor is deemed to have sold the lease asset and to have made a loan to the lessee and the lessee is treated as using the loan to purchase the lease asset. The main issue here is that lessees who are unaware that the lease agreement meets the definition of a finance lease, would have been claiming each lease payment as immediately deductible when it is in fact a capital payment. Only depreciation on the lease asset and the interest component of each installment can be claimed by the lessee.

This difference in treatment from an income tax versus practical perspective can create much confusion, not to mention potential exposure to Inland Revenue's rigorous penalty regime.

Marketing and management tips to help your practice succeed

1. Remember that patients are the main asset of your practice. Every decision should consider how the patient would react and what effect the decision will have on them.
2. Ask employees every month what prevents them from doing their jobs well. Document what they say and try and fix problems that they have. Happy employees = happy patients.
3. Continually search for potential employees to build a reservoir of skilled people. You may not need extra employees now, but with natural attrition you may in the near future.
4. Set high standards, document them and be sure that all management insist that these standards are met.
5. Chart progress of the practice by quality of work and results achieved, rather than just the hours worked.
6. Involve employees in developing strategic plans, solving problems and working with patients. You will find that people who deal with your patients on a regular basis have valuable input to offer.
7. Communicate the message that everyone represents your practice from the receptionist to the doctors.

You think business is tough, try being 'Not for Profit'

Useful tips for managing your club or association

In late 2003, Grant Thornton surveyed the Not for Profit sector on issues which are important to them. Funding, governance and regulatory issues, retaining and managing staff are the most pressing issues for New Zealand's Not-for-Profit sector.

Donations, grants and contracts are subject to constant fluctuation and renewal and this coupled with the disappointing performances of investment portfolios, for those Not for Profit investors, compounded the issue.

Over half of the New Zealand respondents believe that donations to the sector would increase if the Government were to lift taxation incentives and over 80 percent thought the Government was not doing enough.

Half the respondents in New Zealand were worried about the calibre of their trustees, who usually work for little or no financial gain. They devote the necessary time and effort, but also accept the financial risks of the boards they serve.

Many in the sector are concerned that some trustees have insufficient knowledge of relevant regulations and legislation and that training needed to remedy this may be unavailable or inadequate; perhaps this survey shows a cry for help.

Not for Profits found the management of staff and volunteers and the need to comply with the many regulations impacting on the sector, in areas such as financial reporting and health and safety, were imposing a burden.

It is apparent that Not for Profit organisation's suffer from many issues of concern to business. They operate in a competitive environment subject to constant change - if you think business is tough, try not-for-profits.

It was pleasing to see that 85 percent of the respondents offer regular staff training, 77 percent operate with formal business plans, 66 percent have an audit and finance committee, and only 3 percent expect to downsize in 2004.

How does New Zealand compare to the United Kingdom?

Grant Thornton in the United Kingdom conducted a similar survey of the Not for Profit sector in 2002.

Not for Profits in both countries share the same leading concerns.

However, one striking difference is that 79% of UK charities believe their Government is doing enough for the sector.

Key findings from the Grant Thornton Survey of New Zealand Not for Profits include...

- ◀ Dealing with business risks such as fraud does not rate as a major concern
- ◀ 77% of respondents have a formal business plan
- ◀ 66% of respondents have an audit/finance committee
- ◀ 8% of respondents were victims of fraud during the last year
- ◀ 36% of respondents operate without a formal health and safety programme
- ◀ 46% of respondents consider the greatest impact of e-commerce has been to make delivery of information more efficient

If you would like a copy of the report, it can be downloaded from our website:

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Time to forecast income, expenditure and cashflow

You should be planning for the next financial year and updating your business plan.

It is important to translate your business plans into financial forecasts to see the possible implications for profitability and cashflow.

You should test your forecasts by asking some key questions:

- Are the revenue forecasts soundly based, seasonally adjusted and realistic?
- What will be the effect of a change in the exchange rate?
- What will be the effect of a change in interest rates?
- Have you accounted for any changes in personnel?
- Is the rate of collection from customer accounts expected to change?
- Will there be any major changes in occupancy costs?
- What are the implications for income tax and GST payments?

You should consult your Grant Thornton advisor when preparing your budget and cashflow forecasts as you will learn:

- How to avoid an increase profitability but a reduction in the cashflow in your business
- How to calculate your breakeven level of revenue
- What financial ratios are important to you banker and why
- The effect of a small change in a key factor will have on your forecasts

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Annual Holidays

One of the more controversial changes is the increase in minimum annual leave entitlements from three weeks to four weeks. However, the increase does not come into effect until 1st April 2007. Annual holidays must be paid for at their higher of an employee's average weekly earnings or their ordinary weekly pay, at the time they go on leave unless there is agreement to pay the employee in the usual pay cycle. Ordinary pay includes all incentive based payments as well as overtime and allowances if these are a regular part of an employee's pay.

Other issues

- The Act imposes strict obligations on employers to keep very detailed holiday and leave records. You should review the way you compile holiday and leave records to comply with the requirements of the Act. The Department of Labour provides examples of the new holiday and leave records.
- While you have until 1 April 2005 to update your employment agreements (yes, these are compulsory), all employees must be informed of the new entitlements and all new agreements after 1 April 2004 should reflect the changes.

This article is in brief summary form only and should not be relied upon. We recommend you seek specialist advice.

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