



Contacting Us

Ian Malcolm 917-2893
Aaron Neels 917-2897

Main Line (09) 379-8011
Frances Fu 917-2895
Lewis Chen 917-2896
Shirley Cheng 917-2894



SUMMER

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UPDATE ON XMAS GIFTS TO EMPLOYEES

In December 2016 the IRD published an article reminding employers about their obligations on the tax treatment of gifts provided by an employer to staff.

“Non-monetary gifts to employees at Christmas may be unclassified fringe benefits (UFBs) and could be subject to fringe benefit tax (FBT).”

“UFBs include all benefits provided by employers to employees in connection with their employment that aren’t classified or excluded in subpart CX of the Income Tax Act 2007 (“ITA”).”

MHK published a comment recently covering the deductibility of many types of gifts of food and drink, and have listed a table of these on our website:

https://aucklandaccountant.net.nz/wp-content/uploads/2016/12/Deductibility-of-food-drink-November-2016.pdf

However, this list did not cover free or discounted goods or services provided or given to employees, which the IRD are now clarifying.

The IRD continue:

“Most commonly, these benefits are free or discounted goods and services provided by employers to employees. Employers must pay FBT on UFB when the total value of:

- unclassified benefits provided to an individual employee in a quarter exceeds \$300 (GST inclusive). The threshold is \$1,200 for filing on annual/income year basis, or
• all UFB provided to employees in the 12 months before the end of the current FBT filing period exceeds \$22,500 (GST inclusive).”

The IRD do note that if the total value of benefits for all employees exceeds \$22,500 for the current quarter and the three previous quarters, the employer must pay FBT on the total value of the goods and services benefits in the current quarter.

These tax rules are fair to all, and should be followed. With the IRD having clarified this point, it can be expected that they will focus some attention on this particular matter when reviewing records for a taxpayer in the course of a Risk Review. All too often we see these matters being ignored or overlooked, the dollars of tax involved are relatively immaterial and all employers have now been given fair warning to pay attention to this matter. Failure to do so points to an oversight that could lead the IRD to investigate other tax matters in detail by escalating what starts as a simple risk review, to be a full-blown tax audit.

There are de minimus levels below which FBT is not payable, that being \$300 including GST per employee per quarter that a FBT Return is filed, or \$1,200 if annual FBT returns are filed. That’s unless the amount of benefits in total exceeds \$22,500 in any rolling 12-month period, in which case FBT is payable on all benefits – that’s a trap for the unwary, but really only applies for employers with more than about 18 staff.

If you have any concerns or need clarifications on any particular circumstance or concerns you may have please contact Ian or Aaron.

WHAT DOES THE IRD THINK ABOUT YOU TAKING STOCK?

The IRD have released a statement answering this.

Consider the situation where trading stock is taken. If an employer were to provide trading stock for free or at a subsidised rate to an employee for the employee’s own use or consumption, then FBT issues could arise.



You are required to account for any items of trading stock taken for own use or consumption at the market value of the trading stock.

But the market value can change depending on the circumstances. Examples are:

- Good stock that could be sold in the open market, such as a cow slaughtered by a farmer for a family function: The sale price that would normally have been realised.
• Raw ingredients taken from a restaurant kitchen: Cost.
• Unsold finished goods that cannot be sold by any other means eg expiry date expired: \$nil

This is a summary only and each case may well be different.

## Parental Leave Changes

From 1 July 2016 the maximum rate of paid parental leave for eligible employees and self-employed parents increased from \$516 to \$527 gross per week.

It is important that employers are aware of this increase so they can correctly advise their employees as to their parental leave entitlements.

In other news, employers may be pleased to note that the Government has recently vetoed a proposal to further extend paid parental leave. Finance Minister exercised his power of Financial Veto ahead of the third reading of the Bill which would have extended paid parental leave to 26 weeks. The Government determined that the 'costs of extending the leave to 26 weeks were simply too high'. Earlier this year the length of payments was increased from 16 to 18 weeks.

For more information on what employers obligations are in respect to parental leave contact us or Employers Assist if you are a subscriber.

## Health & Safety—Fire Drill Tips

Businesses have a legal responsibility to have emergency procedures in place and one of the most common emergencies is fire.



A fire procedure is only as good as the staff's familiarity with it. Fire drills are necessary.

Fire procedures need to be carefully considered for the businesses individual needs and the following should be taken into consideration;

- How to raise an alarm
- Who are the fire wardens
- Where are the assembly points
- Where's the staff list
- Building assistance register
- Utility shut offs
- Fire control doors
- Important phone numbers
- Who is trained in First Aid
- Emergency supplies (extinguisher, first aid kit)

Like any risk assessment your fire evacuation procedure should be practiced and reviewed regularly. It is also important to document this review process as you may be required to prove you have done so after an incident.

## 4 Tips—Ensnare the Online Shoppers

Once shoppers have found your site, make it stand out in their minds:



- Make it easy to use, find products and information;
- Make it easy to purchase from (don't impose need to register to purchase), minimise the number of key-clicks;
- Incentivise customers to leave their email address and sign up to your database.
- Use clever e-marketing techniques to bring in new and repeat business

## Warning - Misleading IP invoices

We have noticed an increasing amount of unsolicited or fraudulent IP protection, promotion or advertising services being offered to IP holders.

If you receive any communication about your IP case from anyone other than:

1. Intellectual Property Office of New Zealand (IPONZ),
2. [World Intellectual Property Organization \(WIPO\)](#),
3. Your appointed IP professional

Treat them with caution! Particularly if they are preparing to charge you a fee for the service.

The [Commerce Commission](#) has investigated a recent misleading invoice incident from March 2016, resulting in an interim agreement with the originator of the invoices. If you have paid a similar invoice, please contact the Commerce Commission for further assistance. More details are available via their [media release](#).

## Types of requests

If you have applied in New Zealand for - or own - a registered trade mark, patent, design or PVR, you may receive letters inviting you to pay fees to publish your IP registration in publications which appear to be of an official nature. You may also find yourself the target of offers to protect your rights overseas.

Letters from unfamiliar organisations, especially letters requesting payment for unsolicited services, should be treated with caution, these companies try to create the false impression that they are genuine. Many are not.

## Part Day Sick Leave

The Holidays Act 2003 describes the sick leave entitlement in terms of days, and does not make provision for dividing it into smaller units, such as part days or hours. This means that if an employee works for part of the day and then goes home sick, this will be counted as using a whole day of sick leave, no matter how much of the day the employee has worked prior to going home.

However an employee and employer can agree to express the entitlement in terms such as hours or part days if this results in providing the employee with a greater entitlement than the minimum set out in the Act. Payment of this sick leave day would be based on their relevant daily pay. Check your Employment Agreements and confirm you are happy with the treatment of this for your employees.

Attending a Doctor's appointment is not a matter of sickness in most cases. It is up to the parties to agree how such an appointment should be treated—an annual holiday, a sick day or unpaid leave.

## Logicians' Lines

Driving down a remote road, a logician sees a sign that says: "Watch For Fallen Rocks."



A couple of miles of careful driving later, he spots some pebbles and stops to pick a few up.



Arriving in the next town, the logician carries the stones into the highway maintenance office.

Placing them on the counter, he says to an official: "Here are your fallen rocks. Now where's my watch?"

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*I used to be indecisive. Now I'm not so sure...*