

mackay bailey butchard

Summer 2011

Christmas closing period



Our offices will be closed from 1.00pm Friday 23rd of December until 8.30am Monday 9th of January.

To our wonderful clients and associates, we thank you for your support during a very trying year for everyone.

We wish you a joyful Christmas and a successful 2012.



Risk and Reward

Holiday pay - best practice

Kiwi businesses, especially those involved in contracting and service industries, often close for annual holidays just prior to Christmas and re-open in the New Year. Many businesses encourage their staff to take leave over the festive season 'when things are quiet'. Staff employment agreements will include provision for staff to take at least part of their annual leave during this close-down period. The calculation of holiday pay is an integral part of employees' final pay for the calendar year.

Employees are entitled to receive their pay for annual leave before they commence their leave. This provision provides an employee with money to pay for travel and accommodation.

The employer and employee can agree to leave the normal pay cycle undisturbed by the time off work. If so, it's recommended that the employees' employment agreements reflect this.

Calculating annual holiday pay

Whichever of the following is the larger becomes the rate of the weekly holiday pay:

'Average weekly earnings': Calculate 'total gross earnings' for the 12 months before the end of the last pay period before the annual holiday and divide this figure by 52.

'Ordinary weekly pay': Multiply the ordinary hourly rate of the employee's pay as at the start of the holiday by the number of hours worked in a 'normal' week.

Calculating pay for statutory (public) holidays

'Relevant daily pay': Find the amount of pay that the employee would have received if he or she had worked on the day concerned.

'Average daily pay' is used when using relevant daily pay is not possible or practicable or there is variation in the daily pay during the pay period when the holiday occurs. Calculate gross earnings for the 52 weeks before the end of the immediately preceding pay period and divide by the number of whole or part days during which the employee earned those earnings including days of paid holiday or leave.

In the case of employees who have commenced employment during the year, their average weekly earnings are calculated by taking the amount of their gross earnings from starting work until the last pay period before the holiday and dividing that amount by the number of weeks worked. For examples on holiday pay please visit the Department of Labour's website: <http://www.dol.govt.nz/>

Pay calculations can be complex especially when employees receive allowances, (e.g. travel) and have deductions made (e.g. KiwiSaver, student loan) so contact us if you need assistance in getting these important calculations right.

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.

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Tax Talk

Let us entertain you

Let's look at the tax treatment of saying thanks to customers and staff typically with gifts, wining and dining.

Inland Revenue's IR268 guide gives the following examples of where entertainment expenses are 50% deductible:

- Taking customers, suppliers and business associates out for dinner or putting on a function for them
- The traditional Christmas party for staff
- Shouting customers, suppliers and staff to an event, e.g. a rugby game or a show
- Taking them on a jaunt in your launch (running/hireage costs and food and alcohol)
- Giving them the use of your bach or time share apartment as a thank you gesture (the occupancy costs)

We've been asked 'why only 50% deductible?' Apparently it's because we get some personal enjoyment or benefit from quaffing a wine and tucking into a steak (too right!).

In lieu of a Christmas party you may give your employees restaurant vouchers to use at their discretion. This cost is fully deductible but is subject to fringe benefit tax (FBT), although there is an exemption of \$300 per employee per quarter (a maximum exemption can apply).

The same treatment applies to staff gifts, again fully deductible but subject to FBT under the 'other benefits' category.

As a thank you gesture many firms give their customers gifts during the festive season. The cost of the gifts is fully tax deductible as marketing and promotion expenditure.



Many firms pay their staff a Christmas cash bonus. These payments are classed as 'extra emoluments' and are fully deductible but have PAYE deducted at the employee's marginal tax rate e.g. 33% if earning over \$70,000 per annum.

If in doubt about where you stand tax deductibility-wise with your generosity to customers and staff, check with us and we'll help you get it right.

Book out your bach: avoid the tax headache

Recent years have seen a surge in popularity in the short-stay rental of holiday homes. The internet has made it easier to list, book and review baches and cribs which are available when owners aren't in residence.

Inland Revenue have recently issued a paper proposing new rules on mixed-use assets (including holiday homes) where there is a mixture of business and personal use, with revised criteria that should be adhered to when booking out the bach. But until the rules are formally changed, the current policies still apply.

Firstly, it's vital that your intentions are bona fide. You must market the holiday home in a commercial manner such as setting up and using a website for the property, registering the property with a reputable holiday home website or listing the property for short stay rental with local real estate agencies. These efforts cannot be seen to be 'token', you should be

accepting offers from suitable renters.

Secondly, your own (plus family and friends') use of the property must be diarised so you can determine the days in a year that the property was available for renting out.

If the property is owned by an individual or a family trust the expenses relating to the property including the utilities (power, rates, insurance), maintenance and interest on debt will be apportioned according to the number of days in a year the house was available for rent.

There are GST issues too. Short stay accommodation is a taxable supply for GST purposes so if the annual rent you are receiving exceeds \$60,000, the owning entity (individual, partnership, company or trust) is required to register for GST and return GST on the outputs (rent) and inputs (expenses and improvements) made and received.



This threshold may seem high but some do have more than one holiday home in the same entity! This threshold includes the market value of free or cheap use of the bach by persons associated to the owner.

The value of the property becomes a taxable supply when registration occurs and when the property is sold or the entity de-registered. Both the income tax and GST issues can be quite tricky so we recommend consulting us to make sure all the tax bases are covered correctly.