MONEY MATTERS

YEAR END STRATEGIES

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LEADING CHARTERED ACCOUNTANTS AND BUSINESS ADVISERS

Employee vs contractor

Employers who incorrectly or deliberately treat employees as contractors risk facing hefty penalties and charges as well as claims for employment entitlements.

Sham contracting arrangements, where an employer deliberately attempts to disguise an employment relationship as an independent contracting arrangement are illegal.

Employers who engage in sham contracting arrangements may be liable to pay additional costs such as unpaid minimum wages, holidays and leave entitlements and unpaid PAYE tax. These businesses also risk receiving penalties from Inland Revenue and/or the Employment Relations Authority and may be declined approval to bring in workers from overseas.

The Ministry of Business, Innovation and Employment provides guidance to determine whether a worker is an employee or contractor for tax and super purposes. Here are the key differences between employees and contractors:

Employees

An employee is a person employed to do any work for hire or reward under a contract of services (employment agreement). The employee is paid in salary or wages, and the employer pays PAYE tax and ACC levies on the employee's behalf.

Employees have all the minimum employment rights under employment laws, for example, at least the minimum wage, holiday and leave entitlements, and a written employment agreement. In addition, they have the right to take a personal grievance.

The worker is fully integrated into the business and usually has little or no control over the work to be completed. The employer usually provides all the tools and equipment to do the work.

Contractors

Contractors, on the other hand, are engaged by a principal (the other party) to perform services under a contract for services (independent contractor agreement). A contractor is self-employed and earns income by invoicing the principal for their services and pays their own tax and ACC levies.

A contractor is not entitled to employment rights such as annual or sick leave and holidays, and they cannot bring personal grievances.

A contractor is a person in business on their own account and, therefore, carries financial risk. For example, they may not profit from a job and may give guarantees to cover breaches of their responsibilities.

Generally, contractors have more discretion regarding when and how much time is spent at work compared to an employee who will likely have set times and days. A contractor has their own flexibility and independence over their own availability to provide services and what work they do and where they do it.

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Tips for improving cash flow

Maintaining appropriate cash flow is a critical component of running a successful business.

Despite this, running out of liquid capital is one of the most common reasons that small businesses fail. Monitoring cash flow and planning accordingly is important at every stage of the business lifecycle; however, it is especially critical that businesses experiencing rapid growth remain acutely aware of their cash availability.

Maintaining positive cash flow can be a struggle for many businesses, but setting realistic goals for cash flow management can help make a business profitable and generate enough cash to offset monthly expenses.

Make it easy

Making it easy for customers to pay you on time is one of the best ways to ensure they do. Whether that involves investing in some new technology, taking your invoicing online or implementing some new payment methods, making sure it is easy for customers to pay you on time can pay off in the long term.

Use an automated follow-up system

An automated follow-up system will send recurring reminders to your accounts receivable at pre-set dates. This helps to keep track of the status of your accounts and can reduce time and human error.

Invoice quickly

You need to invoice your clients quickly, as there will already be a delay between them receiving the invoice and making the payment. Many businesses inadvertently shoot themselves in the foot by failing to invoice in a timely manner.

Building a loyal workforce

Quite often, loyal employees are the secret behind a business' success. Yet, many business owners and managers fail to make the effort to encourage employee loyalty.

Gone are the days where people lived their lives working at the same company until retirement, which is why businesses need to go the extra mile to attract and keep the right kind of workers and avoid costly staff turnover.

Having a loyal workforce of staff can be a powerful asset for business owners. Not only do loyal workers avoid the problem of having to re-hire new staff, they also can help a business continue to grow and improve.

Loyal workers go the extra mile for customers and will do all they can to convince others, including clients, customers, potential employees and families how great the business they work for is.

Here are three ways to build loyal and high-performing employees:

Value and encourage contributions

Employees are more likely to be loyal to your business if they feel appreciated and are recognised when they make a meaningful contribution. Empower employees by allowing them to make decisions autonomously and encouraging them to share ideas.

Provide opportunities for career advancement

Invest in career opportunities, such as education and training, to help your staff work towards their short and long-term career goals. Dedicate time to working out the career goals and skills of your employees, and consider internal recruiting before filling a role with an external candidate.

Focus on teamwork

Workplaces with teams and team-building activities help create a culture of loyalty, as they can foster a sense of belonging and commitment to a shared goal/vision. Individuals are more likely to perform better if they are part of a cohesive team. Good teamwork helps to create synergy to generate new ideas and solve complex problems.

Changes to Easter trading rules

Changes to the Shop Trading Hours Act 1990 will allow local authorities to let shops in their area, or parts of it, trade on Easter Sunday.

These changes reflect growing public demand for businesses to open on Easter Sunday.

All shop employees have the right to refuse work on Easter Sunday without providing a reason to their employer. Employers who plan to open on Easter Sunday must tell staff of their right to refuse to work, i.e. by group email.

Notice must be given between eight and four weeks before Easter Sunday, or as soon as possible if new staff join the business less than four weeks before Easter Sunday. Employers must complete this process each year if they wish to trade on Easter Sunday; it cannot be written into the employment agreement.

If employers do not follow the notice requirements and require employees to work on Easter Sunday, the employee can raise a personal grievance if they think they have been compelled to work or treated adversely because they refused to work on Easter Sunday.

For employees who refuse to work on Easter Sunday, they must notify their employer in writing no later than 14 days from the date they receive their employer's notice and deliver their notice by letter or email.

2017 Year end tax tips

With the end of financial year fast approaching, now is the time to start planning and reviewing your business records to maximise tax deductions.

Here are our seven top tips for year-end tax planning:

Trading stock valuation

Trading stock must be valued using a cost valuation method, unless the market selling value is lower than the cost and can be substantiated. Therefore, in order to lower the value of your stock before the end of financial year you should either physically dispose of it or sell it at market price (if market price is lower than cost). If using the market selling value method, stock must be calculated on an item by item basis.

Review fixed assets

Review your fixed assets before balance date to ensure assets are correctly classified and the correct tax depreciation rates are being applied. Sell any surplus assets that can be sold and write off any assets no longer in use.

Holiday pay and bonuses

Amounts payable to employees at balance date, including holiday pay, bonuses, long service leave or redundancy payments are deductible in the current year to 31 March if paid to the employee within 63 days of balance date. If amounts are paid more than 63 days from the balance date they will not be able to be claimed until the following financial year.

Bad debts

To claim a deduction for a bad debt, you must have formally written the debt off in your accounts prior to 31 March. In addition, you must be able to provide evidence to Inland Revenue that you have taken reasonable steps to recover the amount.

Business owners can claim GST back as an input tax deduction on any bad debts written off. They can do this by including the GST component of any bad debts written off in the credit adjustment box of their GST return.

Prepaid expenses

Certain incurred prepaid expenditure can be claimed as a tax deduction in the current income year, provided it has not been capitalised to the balance sheet as a prepayment.

Some categories of business expenses can be prepaid without any limitations, meaning that you can claim as much as you like. Examples include subscriptions, rates, stationery, vehicle registration and road user charges, postal charges, and accounting and auditing fees. Most other expense categories have caps that limit the amount that can be claimed in a year.

Donations

Companies can claim a deduction for donations made up to a maximum of the company's net income for the year. Donations must be made to a charity on IRD's donee organisation list or a charity which carries out its charitable, philanthropic or cultural purpose within New Zealand.

Home office expenses

If you are self-employed and run your business from home, you can claim for any space you use primarily for your business. Expenses, such as insurance, rates, power, rent, and mortgage interest can be claimed based on the proportion of the home being used for business purposes.

Intellectual property law basics

Intellectual property can be a valuable business asset for business owners, but only if it is legally protected.

Most businesses will have some form of intellectual property that derives commercial value. Intellectual property is the collection of ideas and creations of your mind or intellect such as trademarks, logos, concepts, designs, computer programs and so on. It can add further value to a business, which can be a bonus for owners when the time comes to sell.

There are several types of legal ownership available depending on the nature of the intellectual property. The most commonly used types are trademarks, patents, design rights, domain names and copyright.

Trademarks

A trademark is a right granted to a sign or device used by a business to distinguish its goods and services from other businesses. They can take the form of a letter, number, word, phrase, sound, smell, shape, logo or picture.

Although it is not compulsory to register a trademark, registering is the best way to protect your name and brand. Register your trademark with IPONZ to receive protection that lasts forever (providing you renew every 10 years).

Design rights

A design can refer to the new or original features of shape, configuration, pattern or ornament applied to an article by any industrial process or means. Examples of a design include a logo, branding, packaging and so on. A registered design gives the owner exclusive rights to commercially use, sell or licence it for up to 15 years. Remember, you must register your design before you go public with your product.

Patents

A patent is a right granted for any device, substance, method or process which is new, innovative and useful. If you have developed a new product or process, you may consider applying for a patent.

A New Zealand patent gives protection within New Zealand for up to 20 years. To obtain patent protection in another country, a patent application needs to be filed in that country, or in a region including that country.

Copyright

Copyright is a free and automatic legal right applied to any original work such as art, literature, music, films and so forth. Copyrights do not have to be registered for ownership. You cannot copyright ideas, the works must be tangible.

Domain names

A domain name is your website address on the internet. It helps to form your business' identity and allows your customers to find your business online. To register a domain name it must be unique and cannot be almost identical to another company name or offensive.

Changes to KiwiSaver annual statements

In December 2016, Cabinet announced that the requirements have changed for the information disclosed by KiwiSaver providers in their annual statements.

KiwiSaver providers will need to include the following information to investors:

- total fees paid that year (in dollar values);
- the total amount that the investor's account grew by over the year; and
- summary transaction figures detailing the money that has gone in and out of the investor's account during the year.

The changes come as an increasing amount of investors demand easy access to an accurate statement of the fees charged by their provider. Requiring a minimum standard for information in annual statements should ensure that all investors are given information that helps them make more-informed investment decisions.

A transitional arrangement is underway for 2017, which allows those providers who cannot disclose fees in dollar values to include the "total fund charges" in percentage form, and the membership fee in dollars, as they appear in the most recent Quarterly Fund Update.

The full set of changes will be required in 2018 KiwiSaver annual statements.

These improvements are intended to give KiwiSaver investors more of the information they need to positively influence their retirement savings outcomes in KiwiSaver.

Simpler business tax on the way

The Taxation (Business Tax, Exchange of Information, and Remedial Matters) Bill recently took a step closer to enactment with the Finance and Expenditure Committee (FEC) reporting back its recommended changes.

In August 2016, the Bill was released aimed at implementing the business tax simplification measures announced as part of the 2016 budget.

The Bill includes changes to increase and expand the current safe harbour threshold regarding use of money interest applying for provisional taxpayers.

Use of Money Interest (UOMI) will be removed for the first two instalments for standard uplift taxpayers. The safe harbour threshold will be extended to non-individuals and increased from $50,000 to $60,000 so anyone with residual income tax of less than $60,000 will not be subject to UOMI.

Businesses may be able to choose to pay provisional tax based on a calculation prepared by their accounting software. This is intended to align tax payments with when income is earned and is called the Accounting Income Method (AIM method).

In addition, new withholding tax rules for labour-hire firms to elect their own withholding rate and the removal of the 1 per cent incremental late payment penalty, plus various other measures were added to simplify the tax rules for small to medium businesses.

The Finance and Expenditure Select Committee (FEC) reported back on the Bill in November 2016 with a number of changes:

- clarify the ability of taxpayers using the standard uplift method to "square up" their provisional tax at the third payment date;
- simplify the design of the provisional tax attribution rule;
- provide an extension of time for labour-hire firms to implement the withholding tax changes.

Most of the business tax measures will apply from the beginning of the 2018 income year. The AIM method is set to take effect in the 2019 income year. The Bill is expected to be enacted early in 2017.

Important tax dates

February 28

GST returns and payments due

28

Provisional tax instalments due for people and organisations who use the ratio method

March 6

Employer deductions form and payment and employer monthly schedule due

28

GST returns and payments due

31

2016 income tax return due for clients of tax agents (with a valid extension of time)