



The Entertainment tax

Taxing the Festive Season



What is often described as a tax is not a tax. It is a limitation on the deductibility of expenditure for taxation purposes and at this time of year the rule bites into the festive joy.

So as you prepare for Christmas fare you should be aware that certain expenditure on 'entertainment' will only qualify for a deduction of 50%.

To even get a deduction for 50% you must first pass a test which is that any entertainment must be in relation to the running of your business. The rule does not allow an automatic deduction for all such costs.

If your entertainment expenditure passes the test and relates to your business the next step is to determine whether the entertainment will be 50% or 100% tax deductible.

If you put on a barbeque and drinks for customers or staff as a Xmas shout only 50% of the cost can be claimed as an expense for income tax purposes. The rule also applies to the costs of hiring the BBQ, crockery and glasses, waiting staff and cook and not just the food and drink. The same applies if you put on a function at a pub or restaurant including non-food items such as the cost of the band and transport.

It is not uncommon for the Christmas function to be organised by the Staff Social Club where the cost is subsidised, by the business. Again the rules around entertainment apply so that only 50% of the cost of the employer's contribution to the Social Club is deductible.

And then there is the traditional Christmas gift to staff or customers.

If the gift includes food or drink the rule will not apply unless you share the gift. So the cost of the gift that includes food and or drink will be

100% deductible but if you eat or drink any of it will be 50% deductible. On the other hand, give a gift of gardening tools and you borrow then the cost will be 100% deductible.

To complicate matters, give a gift of a book/meal/petrol voucher to staff (past, present or future), while the costs will be 100% deductible fringe benefit tax may apply (subject to a complex and limited exemption). Give the same gift to a customer and the cost will be 100% deductible.

Finally, if you give an employee cash it will have to suffer PAYE and KiwiSaver.

And then there is GST....

While you can claim GST on most costs relating to Christmas entertainment you will have to make an adjustment and pay back 50% of the GST once a year on entertainment that is limited to 50%. We generally advise you of this annual adjustment we complete your annual financial statements.

The entertainment rules also extend to Corporate boxes, marquees and tents, holiday accommodation and pleasure craft. So, if you take your staff to the races and you hire a tent with a tote in it and take them there on a boat the 50% limitation rule applies to all costs.

If you're looking for Christmas entertainment that is 100% tax deductible, you could always take the staff to the Islands as entertainment overseas is fully deductible – but fringe benefit tax may apply.

The above is a mere general overview. Talk to us if you are contemplating any expenditure that may be entertainment. As with most tax related matters the rules are not simple. Inland Revenue takes an active interest in such spending.

How safety conscious are you?

New Zealand is unique in the world in having a no fault Accident Compensation scheme. The scheme (despite it being controversial) is the envy of other countries.

If you have an accident in (say) the USA you would need to sue to obtain compensation. On the other hand, if a customer injures themselves they can sue whereas in New Zealand your customer can only sue you if they can prove that you meant to harm them or you were reckless.

We recently read of a café in the USA that was successfully sued by a mother who tripped and injured herself on a pram – the pram was hers and had her baby in it and she had left the pram where she tripped on it!

Under the Health and Safety in Employment Act 1992 however, employers are required to identify existing or potential hazards and to eliminate or isolate the hazards where possible.

The Act also imposes a responsibility to try and prevent harm to the public.

Recently, a large retailer was charged with failing to ensure a hazard that arose in the workplace did not harm the victim. The retailer was fined \$75,000 and ordered to pay \$4,000 to a customer who was injured when they tripped and fell over a box of stock that was in the aisle of the shop waiting to be put on the shelves.

The retailer had also made a \$5,000 voluntary payment to the customer.

This case is a salutary reminder of a businesses responsibilities and risks.

We recommend that you regularly review your health and safety policies and procedures. An injury to a staff member or customer could prove a costly experience.

You could also chat to your insurance broker about options for cover against such events.

Taxing loans

It is not unusual for business owners to borrow money from their company. Inland Revenue may however consider such a loan a dividend and tax it.

If you borrow money from your company it is important to document the transaction as a loan.

This can be a formal Deed of Debt or a minute of the directors agreeing to make the loan and the terms (repayment, interest rate etc.).

It is necessary to pay interest on any loan your company makes to you. If interest is not paid to the company it will be required to pay fringe benefit tax on the value of interest not charged.

These rules also apply to loans made to associated entities such as a family trust or another company.

The rules are complex so please talk to us before any loan is made.



To all our valued clients

THANK YOU

Trading Hours over the Holiday Season:

The office will close on

THE LAST WORD

US Congresswoman Sandy Adams said “The road to recovery is to stimulate small business and innovation by reducing taxation, regulation and litigation” – if only!