

THE 'CURSE OF ASSUMPTION'

—YOU MUST EDUCATE TO MOTIVATE

This information is designed to give you insight into the magic that can happen when you educate your existing and potential customers.

You see, many businesses make an assumption that potential customers know who they are, what they do, how they do it, why they are better to deal with than competitors, and more. Further, they also assume customers know and understand everything offered by that business. In most cases, this simply is NOT true. Because of that, this assumption can literally be a 'curse' on sales for that business.

Many business owners complain that people purchase on price. By working through this issue for your business, you can make sure you're properly educating your customers.

You see, if customers are educated and, because of that better understand the benefits your business offers, price and other issues become far, far less important. Quality and value, experience, and other benefits become more important.

You also give the impression that you know what you're doing, care about the customer, and want them to have the right information on hand, instead of showing arrogance by assuming they know how good you are!

YOU HAVE TO SELL & 'EDUCATE' YOUR WAY TO BUSINESS SUCCESS OR OUT OF A BUSINESS PROBLEM—YOU CAN'T JUST CUT THE PRICE

An important point—your customers and prospects won't understand or appreciate the value, your products or services, a bargain, the way you do business, or the benefits unless and until you first educate them to appreciate it.

Merely offering a product or service at a specific price (even the best price) doesn't compel excitement or a response until you tell people what they're getting, its value compared to other products and services, and why or how you can offer such value.

And that's because customers buy the differences they perceive about your business.

Given that, it's critical that customers understand the differences between you and your competitors—specifically, why what you offer is better than your competitors.

In fact, it is pivotal to tell every potential customer, in a benefit-oriented way, what your business does AND explain the way your business does it, so customers can more easily spot those differences. **Otherwise they just won't know why they should buy from you!**



CLOSING HOURS

CMK will be closed from 21 December until 9 January 2017. Should you wish to contact us during this time, please contact us on the following numbers:

Andrew Darke 027 276 5102

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We would like to wish you all a Merry Christmas and a prosperous new year!

DO YOU PAY YOURSELF FROM YOUR BUSINESS?

Do you take regular cash drawings from your business profits to meet personal living costs? You need to be aware of how your personal drawings sit with your tax position.

SOLE TRADERS

Sole traders complete an IR3 tax return at the end of the year. All business income and expenses are included in your tax return. Drawings are not considered to be a deductible business expense. It's much easier to track if the cash drawings are taken like a regular salary or wage: weekly, fortnightly or monthly. Record your drawings for personal use in a cash book or with accounting software. Make sure you do your forward planning so there is enough money in the business to cover the bills after you take your drawings.

PARTNERSHIPS

Partnerships are largely in the same position as sole traders: you can take regular drawings from the business profits. These are not deductible so don't include them as a deductible expense in the end-of-year partnership return. The split of profits to the partners at the end of the year does not take into account any drawings taken from the profits. There is the option for a partner to be paid a salary or wage if there is a written contract of service and this might suit you and the business better. PAYE would be deducted from your salary or wage like a regular employee. You could then claim this salary or wage as a deductible expense in the partnership's end-of-year return.



COMPANIES

If your business entity is a company, you have more options. Shareholder-employees can:

- draw money from the company periodically throughout the year. These drawings are recorded in the shareholder current account as a loan. At the end of the tax year, the company calculates a salary amount from the company profits and credits the current account with this amount. Shareholders must pay income tax on this salary amount and it is declared on your IR3 Individual income tax return. The salary is a deductible expense for the company, while drawings are not a deductible expense for the company
- be paid a regular salary, whether monthly, fortnightly or weekly. PAYE is deducted as for a regular employee, provided you have an individual employment contract with the company. The company can claim this salary as a deductible expense in its end-of-year return
- receive dividends from the company profits, after the tax on those profits has been paid

The company can pay directors and management fees from its profits. These may be included as deductible expenses in the company's end-of-year tax return.

Whatever the business entity, as with other business records, you must keep records of all drawings, salary or wages for at least seven years.

Drawings are not a deductible expense regardless of whether you operate as a sole trader, partnership or through a company. As drawings are not a deductible expense, they are not separately disclosed in the tax calculation but they will form part of the accounts disclosure which accompanies the tax return to IRD.

Salaries paid by companies or partnerships on the other hand will be a deductible expense against business income but then will be taxable in the recipient's hands at their marginal tax rates.

Circumstances will be different for everyone, and it's important that you get this right. Please contact us if you want to discuss this further with us.

ENFORCING EMPLOYMENT STANDARDS



It is taking time for the impact of this year's employment law changes to sink in. Parental leave and the demise of zero hours contracts received a lot of press. Enforcing employment standards has had some coverage but always sounds a bit abstract in comparison. Yet this is an area that seems to bite employers.

The basic idea is to make sure employers pay at least minimum wage and give employees their proper holiday entitlements. Simple, right? However, it's exposed a dramatic number of cases where employers aren't doing this. The consequences can be grim.

PENALTIES FOR SERIOUS BREACHES

Where an employer has committed serious breaches of employment standards, the Employment Court can now order some very heavyweight penalties as well as compensation for affected employees.

'Pecuniary' penalties may be up to \$50,000 for individuals or, for a company, whichever is the greater of an amount up to \$100,000 or three times whatever gain the company made from the breach. Compensation to affected employees is tied to the amount the employee lost or was likely to lose because of the breach.

The employer may also face being banned from being an employer, an 'officer of an employer', or even involved in employing people. An 'officer of an employer' can be a director of a company, a partner in a partnership, or anyone in an influential senior role in a business. A banning order can be in place for up to ten years: a bit limiting, if you're in business.

The law explicitly prohibits insuring against penalties for breaching employment standards. It doesn't say anything about insuring for the legal costs or compensating affected employees but it would be better not to be in the situation where you have to do this kind of breakdown.

These more draconian sanctions are in addition to those already in the armoury of Labour Inspectors.

LIABILITY FOR A BREACH

It's in senior management's interests to make sure the business' practices are in line with employment standards because the liability doesn't stop at the business entity. Where an employer is ordered to pay money to compensate an employee and can't or won't pay, the above-mentioned 'officers of an employer' may be liable if they are involved. A person is 'involved in a breach' whether they have actively brought it about or been a party to it in any way — directly or indirectly.

In June this year, in a case preceding the latest changes, an employer was ordered to pay \$161,343.67 in wage arrears, and interest at the rate of 5% per year, for breaches of minimum entitlement requirements involving 121 different employees. The employer was also ordered to pay \$65,000 in penalties for failing to provide written employment agreements; failing to keep holiday records; and failing to pay holiday pay, public holiday pay and minimum wages. The sole director and major shareholder of the employer company was found liable with the company for the wage arrears.

VULNERABLE EMPLOYEES

The Labour Inspectorate is upfront about targeting employers who exploit vulnerable employees — for instance, those new to New Zealand, without long term visas or people to advise them.

In August, the Employment Relations Authority (ERA) ordered a Wellington grocery store to pay \$53,000 in penalties and arrears for employment law breaches. The employer had failed to pay the employee minimum wage, holiday pay or additional pay for working on public holidays; had not paid the employee for all hours worked; and had charged the employee more than \$10,000 in premiums by way of a payment

of \$5,000 upfront, \$3,240 in regular small cash payments, and \$2,167 funding company expenses on the employee's personal credit card.

The penalty for breaches of the legislation was \$25,000, in addition to \$28,781.23 to be paid to the employee for minimum wage arrears, reimbursement of premiums and holiday pay arrears. 'This ruling sends a clear message to employers that failure to comply with minimum employment labour standards will not be tolerated,' said Loua Ward, Labour Inspectorate Regional Manager.

All employers need to know what the employment standards are and have good systems in place to meet them. It's not enough to simply say 'It doesn't affect us. We're not defrauding our employees.' There are enough employers out there getting it wrong on holiday pay and minimum wage entitlements to make another look at your systems worth your while. Ask us if you'd like more detail.

'Employees must be paid for all hours they work, and employers are required by law to keep proper time and wage records for all staff'

Loua Ward, Regional Manager
Labour Inspectorate

GST

- ADJUSTMENTS ON PRIVATE USE

Another area that we notice often confounds clients is how to calculate GST deductions on assets that are partly for business use and partly for private use. You can claim GST but only in proportion to the extent the asset is available for producing income. This is called GST apportionment.

Most commonly, this involves a vehicle used for work but also used privately. Lifestyle blocks where there is some commercial use of the land would be another example.

There are a number of factors which affect the GST apportionment and the resulting claim for GST deductions including:

- proportion of time the asset is available to produce income
- market value of the asset

- costs directly associated with the asset being available to produce income
- overall costs which must be apportioned between business and private use

The calculation changes with factors such as:

- Was the asset acquired before or after 1 April 2011?
- Did it cost more or less than \$5,000?

This can be tricky to work out but it becomes trickier when the proportion of business to private use changes. Obviously the amount claimable will change too. In these situations we may need to make an adjustment. Questions to be asked in these situations are:

- Did the asset cost less than \$5,000?
- Is the changed proportion of business to private use less than 10%?
- Is the value of the adjustment worth more than \$1,000?

There are limits on the number of adjustment periods for which you need to make this adjustment. These are determined by the acquisition value of the asset. Once the limit is reached, no further adjustments are made. For land assets such as lifestyle blocks, there's no fixed limit for the number of times the adjustment needs to be made.

Adjustments are also required for 'mixed-use assets' which include holiday homes, boats and aircraft with a cost or market value of \$50,000 or more. An example of this is the family bach or crib which the family use for breaks but also rent out during the year. These particular assets are earmarked as special from an income tax standpoint, and the GST treatment reflects that. The GST deductions will be subject to a proportional limitation based on the income-earning days and days used for private use.

In all of these situations, it's vital to keep good records of when the asset was available to produce income and of any associated costs.

We see a lot of cases where people have landed themselves in a mess trying to work the deductions out themselves. We'd like to make this easier for you – please let us know if you have assets split across business or personal use and certainly let us know if the proportion of business to private use changes. We can also provide you with some tools to help you keep track of your usage.