

Tacks **FAX**



DON'T LET THE IRD NAIL YOU

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Suggestions - improving engagement letters

Clauses like these could be useful additions to your engagement letters:

Clients ask unqualified staff for tax advice so insert:

Tax advice

We will **only** accept responsibility for written tax advice signed by partners of our firm. Further, no responsibility will be accepted unless there has been full disclosure of the facts, in writing, from you.

You could also disclaim liability if IRD differs in its opinion from you or you may prefer to save this until you supply the advice.

Even if you keep the statutory records, you may not be given all of them so insert:

Company records

If at any time you operate your business through a company you undertake to maintain all statutory records for the period required by law.

Protect yourself from not being paid by a company, in trouble, by adding:

Fees

When accounting for a limited liability company, you personally guarantee payment of our fee.

Also, ensure you could demand early payment by inserting:

All fees charged by us are payable within 14 days of receipt of our invoice.

You don't want a casual comment to be taken as professional advice so insert:

Non accounting advice

This firm does not provide legal or financial advice. Any opinion expressed should be confirmed by the appropriate professional.

Make your authority more extensive by adding the following words:

"Authority...and any other instructions you may give us."

Do-it-yourselfers

Signed company accounts

Company financial statements should be signed by two directors unless there is only one director.

A court can call for a copy of the accounts. An example would be where one of the shareholders is involved in a matrimonial dispute. It can be embarrassing if your client company has not complied with the Companies Act 1993 and there are no signed and dated financial statements.

How to apportion overseas travel

In August 1995 IRD published its attitude to apportionment of overseas travel in TIB Vol 7 No 2. It recognises holiday and business are often combined in the one trip and takes a reasonable approach. As a rough guide the article says:

There are three possibilities:

Prime purpose is business

The Commissioner wrote:

"In relation to airfares, when the holiday element is minor and incidental to the business purpose of the trip, the Commissioner may allow the full claim for the cost of the airfare. If there are clearly two advantages sought, an apportionment will be required for the cost of the airfare."

Apportion food and accommodation based on the ratio of the number of days worked to days of holiday.

Purpose is mixed holiday and business

Apportion airfares as well as food and accommodation. The time spent on business might be less than the time spent on holiday.

Prime purpose is holiday

No claim for airfares. Apportion food and accommodation.

We are attaching a copy of the IRD publication.

The issue of an accompanying spouse is also discussed, briefly. The department suggests the costs of the second person travelling to a conference might be justifiable in four ways, one of which is an expectation of the overseas organisation that the spouse will attend.

Warn the do-it-yourself clients by adding something like:

It is easy to make errors, which can lead to major adverse tax consequences. Examples include share transfers and declaring dividends. We do not accept any responsibility for any transactions of this nature prepared by you.

Instructions for person preparing accounts

You should be preparing an instruction sheet for the person preparing the financial statements for a business, to comply with SES 2. If you are not, you may find the jobs run more smoothly when you do. It enables you to anticipate problems.

Checking client tax returns – PIE income

Clients are not used to the PIE regime. It pays to check, when reviewing their tax returns, to see if they have invested in a PIE. If they have, check they are using the correct Prescribed Investor Rate (PIR).

It could be sad to discover, in a few years, your client was being taxed at 30% when the amount could have been 19.5 or similar. It appears the client cannot get the overpaid tax back. Likewise, it could be traumatic to find several years' tax returns have to be re-opened because the PIR was too low. The IRD can get the underpaid tax back.

The information supplied in this publication has been researched with care. However, the author and the company accept no responsibility to anyone for any error which may occur in the information provided. Readers are advised to consult their normal source of expert advice before acting on anything they read in Tacks Fax. 127 Queens Drive, Lower Hutt, Ph 04-9394156, fx 04-9399724, e-mail mail@smallbusinessinst.co.nz