

## Spring Wilco 2012



## Risk and Reward



### Is your succession plan viable?

Succession will affect every business at some point. It is completely inevitable, and yet so many businesses don't have adequate plans in place. As our baby boomers reach retirement age and the mass exodus of skilled young workers continues, succession will remain an important issue.

Whether you're planning an exit or not, succession planning gives you the best chance of being financially independent at your desired retirement age, to carefully pass your clients on to a successor, to prepare for catastrophes and to realise maximum value in all scenarios. If managed properly this is your opportunity to create wealth in your business.

#### The benefits of succession planning:

- § Choose when you wish to retire
- § Minimise disruption for your clients
- § Maintain continuity of employment for staff
- § Maintain suppliers' credit terms
- § Retain the confidence of banks and financiers
- § Manage lease and loan liabilities properly
- § Reduce the pain of a forced retirement
- § Avoid conflict with your partners
- § Maximise the value of your business
- § Ensure adequate funds for yourself and your family
- § Increase the number and quality of potential successors

**A succession plan generally consists of two important parts: legal agreements and a business continuity plan.**

**The business continuity plan** should tackle management and ownership plans to ensure your business remains a success and continues to service your clients' needs. **Legal agreements** such as a shareholder agreement and buy and sell agreements manage the business dealings and transition of business interests come succession time.

**Insurance can be an important factor.** In the event of sudden death or disablement the remaining owners may buy the estate out. Insurance can help fund the purchase upon a forced exit, avoiding the need for the remaining partners to use their own capital.

You need to consider the type of insurance and level of cover you require, also who holds the responsibility for paying the premiums, how to deal with shortfalls and surpluses, policy ownership issues and how you'll treat the termination of the policy.

**Managing succession:** Succession is a management issue that should be addressed 5 - 10 years in advance of implementation. Plan for a number of possible scenarios, to enable the departure of an owner or partner, whether through forced and unexpected events or by retirement. Succession planning is important at the beginning of a business as life is unpredictable!

Often the emotional aspects form the initial barriers to a succession plan, including personal relationships, family concerns, issues of relinquishing control, and beliefs that the owner will keep working beyond retirement. Succession planning can be seen as a threat to security and status.

It can be difficult for partners to suggest to a colleague that it's time to start thinking about retiring, but transparent and open discussions always result in fairer solutions. If a plan is established well in advance then emotional issues can be reduced.

Key employees need to understand their position throughout the process, so they're less likely to exit when most needed. (cont.)



## Is your succession plan viable? (cont.)

### Succession planning: factors to consider

- § What, when and how is the plan going to be implemented?
- § What is the selection process for finding a successor?
- § What development training does the successor require?
- § Who will mentor and coach the successor going forward?

The process for succession planning needs to manage both the emotional issues and technical issues to ensure the happiness of all involved and the enduring success of the business.

**Succession in family businesses:** Did you know that only 30% of family businesses survive the transition to the second generation? And only 12% survive transition to the third?

It seems failure to recruit and develop the right successors is a big challenge. Other contentious issues and common mistakes are: technical mistakes, planning in a vacuum, leaving the business to the surviving spouse and the challenge of treating children equally.

Business owners need to be critical but constructive: would the chosen successor be a contender if they weren't a family member?

Whether you're running a family business or not, now is the time to act. Be proactive, not reactive. Succession planning is a management necessity and vital to minimise risk management issues. It's something that everyone should plan for and that every team member should be aware of.

We're happy to discuss your succession plan with you, and if necessary we can point you in the direction of a succession specialist.



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## Trials without tears

The Department of Labour recently completed research into just how successful trial periods are proving for both employers and employees.

Research established that about 60% of employers had used trial periods and they proved equally popular with SMEs and larger employers.

Of those who hired under a trial period, 40% wouldn't have done so otherwise - and yet 80% of all employers retained employees who were on a trial period.

Trials have been particularly beneficial for younger, inexperienced workers and those unemployed for some time.

**70% of employers plan to use trial periods going forward to minimise risk:**

- § To be sure of the employee's skills before commitment
- § To be sure the employee also fits the workplace culture
- § To avoid incurring costs if staff are in fact unsuitable for the job

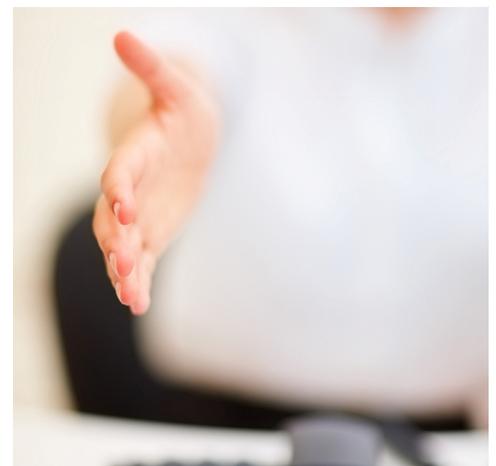
It's clear trial periods are providing a win-win solution for employers and employees, while helping create thousands of jobs.

## Employment agreements are a must

A recent ERA ruling further proves how vital employment agreements are. An employee was awarded \$3,000 after the ERA ruled that she had been unjustifiably disadvantaged through lack of an employment agreement.

**Order of events:** In 2008, the employee accepted an advertised role offering 25 hours per week with flexibility and potential for 40 hours during peak times. A year later, the employee requested more hours and the role expanded. After 6 months, the extra work was reduced along with the employee's hours.

The employee claimed that she then verbally applied for, and accepted, a vacant full-time position at the company. One of the employer's three directors later stated there was no offer of a full-time role, no documentation (cont.)



## Employment agreements a must (cont.)

confirming the alleged appointment and no staff announcement. In addition, he said that he lacked the authority to make such an appointment and was only able to adjust hours.

Down the track the amount of work declined and the employer reduced the employee's hours. She resigned and raised a personal grievance.

**The verdict:** It was decided that the employer acted without good faith by not providing an employment agreement. Had it

done so, confusion surrounding the employee's hours could have been avoided. This in turn might have prevented a further finding to the employer's disadvantage relating to reduction in the employee's working hours (for which compensation of another \$7,000 was awarded).

Where an employee is not covered by a collective agreement, the law requires an individual employment agreement to be in writing. This promotes greater certainty and trust - which can only be a good thing.

**'You can't have your cake and eat it too.'** - Old proverb.

## KiwiSaver matures

On July 1 KiwiSaver turned 5 years old.

Our national KiwiSaver initiative has been a great success, with nearly 2 million New Zealanders enrolled. Some might say KiwiSaver has contributed to better saving habits for all New Zealanders in a crucial time of fiscal restraint.

The 5 year milestone will be eagerly awaited by baby boomers - many of whom are now eligible to withdraw from their golden nest egg.

**Are you eligible to withdraw your funds?**

**You must fit two criteria:**

1. You must be at least 65 years old, i.e. qualify for NZ Superannuation.
2. You must have been enrolled in KiwiSaver for 5 years.

If you joined KiwiSaver when you were 63, then you won't be eligible to access your funds until 5 years after, when you'll be 68.

**How to withdraw your savings:** First, contact your scheme provider to confirm



you're eligible. If you're unsure who this is, contact IRD (have your IRD number ready).

Your provider will explain the withdrawal process and timeframes involved. This will vary, depending on your provider and the funds/assets portfolios your money is invested in. They can also tell you what your savings are worth.

**Note:** You can contact your scheme provider to discuss the withdrawal application process and relevant timeframes ahead of meeting both criteria.

It might be a good idea to ensure you have the required paperwork ready.

Upon becoming eligible you may wish to leave your account open and continue contributing to it.

**Are you an employer with an eligible employee?** Provided you're not required to under an employment agreement, you're no longer liable to pay compulsory employer contributions for employees eligible to withdraw from their KiwiSaver funds.

## Standard mileage rate increases

The IRD standard mileage rate for motor vehicles is now 77 cents per km. This rate applies to the 2012 income year.

The standard mileage rate may not be acceptable where an employee's business travel exceeds 5,000km. The reimbursement should be based on actual expenditure or a reasonable estimate of the expenditure likely to be incurred by the employee.

## Tax Talk

## Timely reminders (due 30 September)

- § If you want to elect into the LTC regime you have until 30 September
- § Student loan borrowers living overseas, bi-annual payment due



## International investment tax changes

If you have offshore investments (these may include a pension, insurance policy, or shares) you may be subject to the international tax rules. A number of complex changes have been introduced. Briefly these changes:

- § Allow the controlled foreign company (CFC) rules (active income exemption) and the portfolio foreign investment fund (FIF) methods (fair dividend rate and cost methods) to be used by investors with interests of 10% or more in foreign companies that are not CFCs
- § Introduce a zero rate of approved issuer levy for interest paid to non-residents in respect of retail bonds
- § Introduce an alternative thin capitalisation method for firms with high-value intangible assets

The new rules apply to income years beginning on or after 1 July 2011. The changes are complex and we recommend you contact us to discuss how this may affect you.



## Don't forget to send us your financial info

If you're yet to bring in your annual records then take a moment to compile the information and send it in. Check to see whether any of the following apply to you...

- Have you compiled the necessary documents for us?
- Do you have any overseas holdings/investments?  
For example an overseas mortgage, pension, insurance policy, rental property, shares, bank accounts...
- Have there been any changes in shareholdings?
- Have you worked overseas in the last financial year?
- Have you been affected by the Christchurch earthquake?
- Have you sold or replaced any assets/investments?
- Have you acquired any assets/investments?

## Business Perspective

### IRD Compliance Focus 2012/2013

The IRD just released their annual Compliance Focus document for 2012-2013 to 'help you get it right'. It outlines how Inland Revenue will focus its energies to net the correct amount of tax.

This year their focus is on:

1. **Receiving the right information at the right time.** If your circumstances change remember to let us (and the other necessary government agencies) know. Also make sure you have the right amount of tax deducted at source and if you're an employer that you're deducting the right amount of tax from payments you are making.
2. **Filing and paying on time.** If you think you'll be unable to meet your tax obligations let us know as soon as possible so we can work with the IRD to manage your situation.



3. **Paying and receiving the right amount.** IRD are focusing on individuals who try to reduce their tax liabilities or increase their entitlements to tax credits.
4. **Providing confidence and certainty.** The IRD are trying to clarify what they expect from taxpayers and provide more information - so keep an eye out.

The IRD has implemented several campaigns to educate the community and minimise accidental tax avoidance. They're also forging better relationships with external agencies, strengthening reporting systems and encouraging open communication to proactively influence voluntary compliance.

Taxes fund over 80% of government programmes and services, including education, healthcare and policing so it's in everyone's best interests to get it right.

The IRD state that taxpayers 'can have greater confidence that they are paying the right amount of tax when the advice and support their tax agent provides is based on complete information.... Recent research shows a clear correlation between the use of tax agents and increased voluntary compliance, particularly when the tax agent belongs to a professional organisation.'

So if you think this may affect you, give us a call.

#### 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.