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Outsourcing



The HRTorQue REPORTER

HRTorQue News

We are happy to announce that Karl van der Merwe (Operations Manager) has a new addition to his family. Aden Noah was born to Karl and Theresa on 19 December 2011.

Nicky Hardwick (HR Consultant) also gave birth to Tyler Noah on 31 January 2012. Congratulations to Nicky and Marc.

We wish Karl and Nicky and their families health and happiness with their new little boys!

We Welcome Rose Gedye to the HRTorQue Team

We welcome Rose as an Associate and specialist in the Skills Development area. We will shortly be inviting those clients that we presently assist with Workplace Skills Plans, Annual Training reports and Grants to a coffee morning and presentation on the value of addressing this valuable area within their business and additional ways in which value can be added, for example, learnerships.

Rose has more than 30 years experience in the HR field. She holds an IPM Diploma in Human Resource Management and Industrial Relations and is a certificated Skills Development Facilitator, Assessor & Coach. She has represented SAASOA (South African Association of Ships Owners & Agents) on the TETA (Transport Seta) Mancom of F&C Chamber for 4 years and founded the SAASOA 'Adopt a Learner' Learnership program. We are very pleased to welcome her onboard.

2012 Salary Increases

By Melany Bydawell

The average predicted increases for the period September 2011 to August 2012 is 7.2% for basic salary and 7% for Total Cost to Employment.

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Reminder: Taxation Laws Amendment Bills (Published 2 June 2011)

The changes from a payroll perspective are as follows:

- All the changes to statutory tables, tax thresholds, rebates, etc as proposed in the budget have been included;
- The increase in the exemption amount in the retirement lump sum benefit tax table has taken effect (i.e. from R 300 000 to R 315 000);
- The abatement in the residential accommodation fringe benefit formula has been changed to R 59 750. This is now in line with the under 65 tax threshold;
- The medical caps of R 720 and R 440 have been included;
- The maximum cost ceiling of an employer owned motor vehicle is now R 480 000.

These have been implemented in the standard payroll rules already, so there is nothing needed to be done by you!

Proposed Changes to BCEA, EE & LRA Acts*By Melany Bydowell*

The implementation of the proposed amendments to some of our Labour Laws, have been delayed. The proposed amendments have been put on hold and the relevant parties are now debating six “fundamental principles” in NEDLAC.

Once agreement has been achieved, a new set of drafts will be drawn up by the legal experts and we will arrange for workshops to be held with our Associate Labour Attorneys, MacGregor and Erasmus.

SARS Penalties - Interim Submissions*By Karen van den Bergh*

SARS continually repeat / publicise their policy regarding admin penalties for late submissions and / or incomplete mandatory information on the Employee's IRP5. By now Employers will know what these penalties are, so we won't rehash them here. Details of the penalties as sent in our previous newsletter are still valid so please review if necessary.

Again there were a few issues that certain companies experienced when submitting their interim IRP5's. SARS did manage to resolve most of these at the eleventh hour, so SARS's view remains that irrespective of the issues, the deadline date still applied to everyone. There were also a few technical issues around the process of downloading the bulk Tax Reference Numbers prior to this year's interim submission, but for the most it was a much smoother process than last year. For Employers who were expecting Tax Reference Numbers back for certain Employees but didn't - we found that in 90% of the cases, the minimum mandatory information was either not supplied or supplied incorrectly. As such we would like to urge clients who are still experiencing issues with these Reference Numbers to check the mandatory information and resubmit to the payroll for when the next Bulk Registration takes place).

There are many Employers expecting to be “unfairly penalised” – but bear in mind that should you have valid reasons for not making the submission deadline or for not supplying the mandatory information for Employees, these can be taken up with SARS and they will be sympathetic, especially if you are able to show them that a serious attempt was made to gather and update Employee mandatory information.

Although the number of tax returns received by SARS this year (via e-filing) was about 23% more than last year there was a marked reduction in Employers submitting their interim IRP5's this year. This has been a cause for concern for SARS and as such an investigation has been initiated to establish the reasons why.

Watch this space!

Disciplinary Hearings: Early Suspension*By Melany Bydowell***When should you/can you suspend an employee before a disciplinary hearing?**

Care should be taken when a decision is made to suspend an employee prior to a Disciplinary Hearing.

Suspension is recommended when:

- The allegations are of a serious offense, for example misappropriation of funds;
- There is a possibility that the accused may interfere with an investigation, tamper with evidence or intimidate witnesses;
- The outcome of the hearing will be negatively affected by having the accused on the company's premises during the investigation.

The employee should be invited to motivate his/her reasons as to why he/she should not be suspended from duty and irrespective of the reasons for suspension - this is always on full pay.

Amendments Effective March 2012

By Karen van den Bergh

As mentioned in our previous newsletter, the "cap" tax relief will effectively fall away and be replaced by a tax "credit" system from March next year. In essence, tax relief will be applied to medical aid contributions by means of a tax rebate instead of reducing remuneration by the value of the cap amount.

Medical Tax Credits

The Fourth Schedule to the Income Tax Act, No 58 of 1962, currently allows an employer, when determining an employee's tax payable, to take into account any contributions paid by the employee in respect of the year of assessment in respect of the employee, their spouse and any dependents of the employee, as defined in Section 1 of the Medical Schemes Act. In addition, employers are currently allowed to deduct contributions limited to the capped amount in respect of medical scheme contributions paid by employees under 65 years.

With effect from 1 March 2012, all medical scheme contributions must be treated as follows:

- An 'under 65' employee is entitled to the tax credits in respect of medical scheme fees paid by the employee.
- The tax credit amounts to:
 - R216 each per month for contributions made in respect of the employee and one dependant, plus
 - R144 per month in respect of each additional dependant.

A '65 and older' employee is allowed the full medical scheme contribution paid by the employee as a deduction from remuneration.

- The medical aid parameters currently used to calculate the allowable Medical aid deductions will be amended to comply with the new legislation. These changes need to be implemented after the last February 2012 payroll run, but before the first March 2012 payroll run.

There has been no further update on the proposed reforms regarding taxation and administration of retirement funds, other than the fact that they have been postponed until later further discussion has taken place. At this stage there is no indication as to whether or not the proposed reforms will be effective from March 2012 or a later date.

The Youth Subsidy scheme proposed in the budget (Effective March 2012) has not been finalised yet. There has been much "noise" about this in the press and on TV in recent months so something is very definitely due to happen. Let's hope sanity prevails and we don't get given only a month or two to implement.

The National Health Insurance scheme also proposed for implementation in March 2012 has not been included in the draft amendments. Again nothing has been finalised here in respect of how Employees on the payroll or the running of payroll systems will be impacted.

All of the above-proposed changes to legislation will have an impact on Employers and Employees somewhere, somehow. The sooner we understand exactly how these are going to be applied, the more opportunity we will have to understand their impact from a tax perspective and how best to implement these changes in the payroll – and of course what to tell our Employees. Through the Payroll Authors Group we regularly engage with SARS and other relevant entities in an attempt to gain clarity on these issues but unfortunately "the wheels of government often turn very slowly!"

We will let you know as soon as we get some clarity and direction.

Can an employer amend or add to a charge sheet during a disciplinary hearing?

The reason for employers setting out the charges against an employee in the notice to attend the disciplinary hearing is so that employee has adequate time to prepare his/her defence. If an employer decides to change or add to the charges during the hearing, the employee has not been able to prepare according to these changes/additions. However, an employer is not prevented from amending a charge before a finding is made, provided that the amendment doesn't add to the complexity or substance of the charges.

Complex and varied charges may render the employee's dismissal as procedurally unfair.

Email Marketing: To send or not to send?

By Michelle Driman, Trade & Lateral Development

Contact Melany Bydawell if you require assistance in this area.

Email marketing is a powerful tool that, when used correctly, can bolster your bottom line and give your customers the added value they expect. Launching an email campaign can be daunting – there are a lot of factors to consider. If these are disregarded, your efforts could be wasted and your customers could get upset! Fortunately if you have clear objectives and a little ingenuity, the basics are fairly easy to get right.

The more detailed your answers are to the following questions, the more successful your campaign is likely to be.

Know what you want to achieve:

1. Do you want to sell a specific product / service / seminar / workshop?
2. Do you want to educate your customers to add value to their lives?
3. Do you want to educate your customers so you can service them more efficiently?
4. Do you want to remind your customers that you're around for advice & support?

Once you've answered these, you can decide what to send and who to send it to. Regardless of your objective, your email campaign should add value to the people who'll read it. Hard sell works sometimes (if the offer is brilliant) but usually emails that add value - even if the reader doesn't buy – are the most effective.

Example:

If you're trying to sell a seminar about tax legislation changes to Financial Managers, you could summarise a key legislation change in your email (the full changes to be discussed in your seminar, of course). By giving them this brief summary (and maybe a quick checklist of the legislation requirements that they could use immediately), you are proving your credibility and illustrating that the updated law is something they need to know now.

Once you've decided on your objectives, audience and content, you're ready to design the email, send it out and analyse your results so you can make strategic decisions going forward. You could handle some of these elements in-house but the processes can get very technical and have some stringent legal implications.

You may prefer to outsource your email campaign to an email marketing company that specialises in every aspect of this marketing process. A specialist company will understand email strategy, optimal design, spam triggers, deliverability, report analysis and more and could help you to navigate the myriad of possibilities of your campaign.

The Desire to Work?

By Melany Bydawell

If only we could GET employees to COME to work on time and for the 7/8 hours that they are at work, to WORK!

Social networking, excessive sick leave, extended lunch hours, late coming, negligence, conflict, unrealistic expectations, spending excessive time on blackberries and cell phones during working hours. More and more as HR practitioners we are faced with the above concerns and questions from clients who are frustrated and anxious to look for solutions.

When identifying the underlying reasons for the frustrations a number of issues are highlighted:

- Lack of communication, job roles, expectations and standards
- No Policies or Procedures
- Expectations and common law rights of employers and employees have not been explained
- Lack of comprehensive contracts of employment setting out conditions of employment, including various aspects of leave, confidentiality clauses, etc.

We are in a position to assist organisations in successfully addressing these issues in a constructive manner.

For solutions please contact Melany Bydowell: melany@hrtorque.co.za

UIF

By Karen van den Bergh

No news yet on whether or not they will increase the UIF limit to the same value as the BCEA earnings threshold. The BCEA earnings threshold increased to R 172 000.00 P/A in July this year but no mention was made of an increase in the UIF limit. **Please remember that this rate change only applies to the BCEA and not UIF.**

Intoxicated on Duty

By Melany Bydowell

Does this constitute Misconduct or Incapacity?

There is often misunderstanding around the management of cases where employees present themselves for duty in an intoxicated state due to consumption of alcohol or other substances and whether this should be regarded as misconduct or incapacity. Most Disciplinary rules refer to the breach of this offence as a 'major misconduct' with a recommended sanction of 'dismissal'. The confusion comes where the LR Act, Code of Good Practice states that "The cause of the incapacity is relevant should the employer decide to dismiss the employee. The Act suggests that in certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for the employer to consider". Emphasis should be placed on the words "counselling and rehabilitation MAY be appropriate steps for the employer to consider".

Whilst counselling and the opportunity for rehabilitation may be appropriate in certain instances, it may not be in others. For example, where the intoxicated employee is in a high risk position such as a security guard or bus driver. The confusion is the question on when would it be appropriate to classify such cases as misconduct warranting a disciplinary sanction, and when ought employers adopt an incapacity counselling approach when faced with an employee under the influence of alcohol? In cases where counselling may be appropriate, the process should also incorporate a 'final written warning'. Or the employer may decide to dismiss as mentioned above based on the position that the person is occupying and of course the Company Policy in this regard.

Cognisance should also be taken of the OHS Act which states that "an employer or a user, as the case may be, shall not permit any person who is or who appears to be under the influence of intoxicating liquor or drugs, to enter or remain at a workplace". It also states that "Subject to the provisions of sub-regulation (3) no person at a workplace shall be under the influence of or have in his possession or partake of or offer any other person intoxicating liquor or drugs".

Domestic Workers

By Karen van den Bergh

Please note that as per Government Gazette No 34797, dated 28 November 2011, the minimum hourly, weekly and monthly rates to be paid to Domestic Workers have been increased.

Domestic Worker Minimum Wages were increased, as from 1 December 2011, to:

- R9.85 per hour for 27 hours or less per week
- R8.34 for those who work more than 27 hours per week.

These amounts are effective 1 December 2011 to 30 November 2012.