Managing Annual Leave Accruals

Is your business concerned about its accrued liabilityfor employees’ holiday pay? If not properly managed, this liability can creepup and lead to substantial cash outlays often at a time when your business canleast accommodate it.

One employer (Hull-Moody Finishes Pty Ltd) came up withan innovative method to smooth out its cash flow and leave accrual liabilitiesby entering an enterprise agreement with its seven employees which provided for“loaded” hourly rates incorporating over award penalty rates and payment inadvance for annual leave, long service leave and personal leave on conditionthat each employee take at least two weeks’ unpaid leave each year (because theannual leave component would already have been paid). The enterprise agreementwas knocked back by Fair Work Australia (“FWA”) at first instance but approvedon appeal.

It is feasible that similar arrangements could beincorporated in common law employment contracts, for example, for non-award ormanagerial employees.

But before you shout too many hallelujahs there is alittle sting in the tail of all this:
The application for FWA approval was notopposed and there was no Union involvement.
Even so, the Hull-Moody arrangements wereonly approved by a 2/1 majority decision of FWA which means that the effectivesplit is 2/2 when the decision at first instance is taken into account.
There is some concern mirroring the“minority” FWA view that such arrangements are contrary to the protectivecontext of the Fair Work Act because they allow cashing out of annual leave.
Any such arrangements must take intoaccount the “better off overall” requirements of FWA.
Employers adopting such arrangements mustensure that the advance payment loading is reviewed and adjusted to take into accountany pay rises throughout the relevant year.
The Hull-Moody arrangements will not suit all businessesbut they may have particular application for the Mining, Building &Construction Industries and industries were shift work is prevalent.

Before embarking on any such arrangements, however,employers should be careful to seek appropriate advice.

About MSIGlobal Alliance:
MSI Global Alliance (MSI) is one of the world’s leading international alliances ofindependent legal and accounting firms, with over 250 member firms in 105countries.
InAustralia and New Zealand, MSI consists of 14 independentlegal and accounting firms that provide specialist services to local andoverseas businesses.
As a group, MSI members are committed to serving companies andindividuals both in Australia, New Zealand and around the world.
For further information about MSIin Australia and New Zealand, visit www.anz.msiglobal.orgor contact Maree Schneiders on 0411 446 484 or maree@strategyco.net to arrange aninterview.

Contacts

Maree Schneiders
0411 446 484
mailto: maree@strategyco.net