

Call in for a Coffee

In this edition

**Downsizing in the Crisis - your liabilities
& Outplacement programs**



Introduction

Welcome to RSM's second 2009 edition of Call in for a Coffee. With the deepening international crisis this edition features two related articles prepared by two of RSM Thailand's Directors Mr. Mark Butters and Mr. Mike Holloway dealing with downsizing in a crisis followed by outplacement services.

Downsizing in the Crisis - your liabilities

Many businesses are reviewing costs and one of the measures under consideration may include reduction of the workforce. In accordance with Thai Labour Laws, making staff redundant owing to financial reasons or as a result of the recession is considered to be "termination without cause" and therefore subject to severance payments as follow: -

Years of Service	Severance pay due
More than 120 days but less than 1 year	30 days at current pay rate
More than 1 year but less than 3 years	90 days at current pay rate
More than 3 years but less than 6 years	180 days at current pay rate
More than 6 years but less than 10 years	240 days at current pay rate
More than 10 years	300 days at current pay rate

The following legal claims may arise from making staff redundant: -

1. Termination of employment without proper advance notice

An employer is required to inform their staff that they are to be terminated at or before the current pay date in order for the termination to be effective for the following pay date i.e. if the current pay date is 27 February 2009, notice of termination should be given

on or before 27 February 2009 for this to be effective from the date of the payment of the March 2009 salary. In the event that an employee is terminated with immediate effect, a payment in lieu of the one month notice period is required.

Longer notice periods may be required in the event that this is specified in an employee's contracts, e.g. if the employee is subject to three months notice, this must be given on or before 27 February 2009 if he/she is to be terminated effective from the pay date for May 2009, otherwise a payment in lieu of three months notice may be required.

2. Termination of a fixed term employment agreement prior to the maturity date

In this event, the employer may be liable to pay out the remaining period of the contract. However, the employer will not be subject to the payment if the agreement is for a fixed period of not more than two years and the employment was made for a specific project which is not deemed to be in the employer's "normal course of business" or for seasonal work.

3. Unfair termination/dismissal

Even in instances where full severance payments have been made in accordance with the Labour Code, an employee who has been terminated may still file a claim for unfair termination with the Labour Court. In the event that the Court rules in favour of the employee, the most common rulings are that: -

- the employer is instructed to rehire the employee; or
- the employer is ordered to pay compensation to the employee.

In considering these cases, the Court may consider the following matters: -

- was any action taken by the employer to avoid the unnecessary termination of the employee; and
- were the termination and justifications given conducted in good faith?

It is noted that the Courts consider that the loss of business does not necessarily constitute an acceptable reason for the termination of an employee, but rather that this is a result of mis-management.

4. Suggested action prior to making redundancies.

- Advance notice of the problems facing the business and the possibility of redundancies should be issued to the staff.
- Development of an action plan in respect of manpower issues and the rotation of work between different departments.
- Attempt to resolve the matter by alternative means, such as shortening of working weeks/hours, cessation of overtime, a freeze on new employment and early retirement schemes.
- Consultation with your Legal advisor prior to proceeding with redundancies or other cost cutting measures such as shortening the hours of work.
- Employment of an "outplacement service" provider to mitigate the effects of redundancy on the workforce.

Outplacement/Career Transition Services

As outlined above, laying off of employees can often be harmful and costly to both the employee and the employer. From the employee's point of view, losing one's job is ranked third amongst life's most stressful situations and whilst redundancy money (severance) can assist the ex-employee during their search for a new role, a well designed and implemented outplacement program can make the transition to a new job both more acceptable, successful and very often more rapid. Perhaps most importantly, a well presented and implemented outplacement program is far more likely to result in acceptance of his/her situation by the employee who has just been made redundant.

Key Benefits

- Avoids legal problems: Employees are far less likely to sue for unfair dismissal if they are provided with a quality career transition program.
- Maintains a positive public image: Providing outplacement services to terminated employees reduces the likelihood of 'bad mouthing' to the media or amongst an ex employee's circle of friends.
- Maintains good relations with terminated employees. Since ex-employees very often remain in the same industry keeping on good terms with them for future business dealings can prove invaluable.
- Improves employee morale and productivity. A company that demonstrates that it cares about its past employees will always be perceived well by the surviving employees who continue to work with the company.

Outplacement Programs

Most outplacement services focus on four keys stages in a terminated employee's transition to a new job:

1. **Acceptance:** Coming to terms with being out of work. Every year thousands of people are made redundant but most go on to find more challenging, rewarding and better paid jobs. The key to this phase of the program is convincing the individual that it is his/her job that has become redundant, not them personally.
2. **Counseling:** Assisting the employee in understanding/confirming their key strengths and specific talents in relation to their chosen career. A number of assessment tools are employed at this stage to help an individual identify what roles best match their personality and strengths. The goal is to help the individual identify his/her core skills so that they can better focus their job search efforts.

3. Preparation: Developing a quality resume, cover letter and advising on self presentation skills are key to this stage of a program. Individuals are advised how to best present themselves 'on paper' so as to maximize their chances of securing a job interview and are then advised as to how to make the best impression once in front of a prospective employer.
4. Job search: A good outplacement company will be able to advise on the available vacancies in the market and in many cases will be able to refer candidates to companies before a vacancy is announced. For the duration of the outplacement program candidates are assigned a consultant to provide advice and manage the job search process.

RSM Thailand's recently launched outplacement program adopts some of the key elements of a standard career transition product, but is more focused on the ultimate goal of finding new jobs for recently laid off employees. Utilizing the core strengths of RSM Thailand's current services, namely it's market leading recruitment company RSM Recruitment (Thailand) Limited and its Corporate Legal Division, RSM Thailand is uniquely placed to both advise ex-employees on available positions in the market and employers on the legal requirements associated with downsizing their staff levels.

RSM Thailand News

On 1 January 2009 RSM launched two new business products. Product number one as featured in this edition relates to its new Outplacement Services Division.

Product number two relates to its new Corporate and Personal Debt Restructuring Division

For more information about these services please contact RSM's Marketing Department.

RSM Sponsored Events – Past & Upcoming

AUST CHAM Sundowners, Four Seasons Hotel on 4th February 2009

RSM Thailand in conjunction with our Alliance Partner MBMG International sponsored the recent successful AUSTCHAM Sundowners event at Four Seasons Hotel.

Future RSM Sponsored Events

Lighthouse Club Late Lunch, Molly Malone's Silom on 27th February 2009 from 3:00 pm until late.

New Zealand Black & White Ball 2009, Amari Watergate Hotel on 28th February 2009 from 6.00 pm until late.

St. David's Society Welsh Ball 2009, JW Marriott Hotel, Sukhumvit on 7th March 2009 from 6:30 pm until late featuring The Hong Kong Male Voice Choir, The Comedian and Radio Host Owen Money MBE and The Karen Jo and Red Sleeve Cover Bands.

St David's Society 2009 Ball

The Dubliner
Irish pub
Bangkok

Saturday 7th March 2009, 6:30 pm
JW Marriott Hotel

FEATURING
THE HONG KONG WELSH MALE VOICE CHOIR
THE KAREN JO & RED SLEEVE COVER BANDS
THE COMEDIAN AND RADIO SHOW HOST OWEN MONEY, MBE

Raffle Prizes include 2 Return Tickets to UK on GULF AIR

طيران الخليج
GULF AIR

Formal or National Dress
Entrance Fee 2,500 Baht

For Tickets & Information Contact
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Event Kindly Sponsored By

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FASHIONS

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RSM Thailand is a member firm of RSM International, the seventh largest worldwide organization of independent accounting and consulting firms represented in each of the top 40 business centers around the world with more than 30,220 staff in 732 offices in over 72 countries, driven by the common vision of providing high quality professional services in their domestic markets and in serving the international needs of their client base.

The RSM service line leaders in Thailand are:

Corporate Advisory

Gareth Hughes - Managing Director

Accounting & Tax Compliance

Mark Butters- Director

Executive Recruitment

Mike Holloway - Director

Business Services & Legal

Pardorn Suchiva - Legal Principal

Taxation Consulting

Steven Herring - Senior Taxation Consultant

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Prawit Wipusirikup - Audit Principal

Audit & Assurance

Surachai Damnoenwong - Audit Principal

Corporate Advisory

Sethaphong Phadungpisuth- Corporate Advisor
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