

# BLCCJ Newsletter



**THE BELGIAN/LUXEMBOURG  
CHAMBER of COMMERCE**

Winter 2004



in JAPAN



Vol. 3 Issue 3



## Messages

H.E. Mrs Michèle Pranchère-Tomassini,  
Ambassador of Luxembourg in Japan



President BLCCJ, Vincent Pairet

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## Perspective

Yes IV Program by Mr B. de le Court and  
Mr L Swinnen



Nippon Export Award by Mr E. Dubuc

The Dream of a Better World for All  
by Mr D. Delgorge



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## BLCCJ Activities

# Two Potentially Troublesome Issues at Your Company

by Thomas Nevins, President TMT Inc.

By all means keep the summer and winter bonuses.

With the rather recent changes in the law, with tax treatment and social security payment deductions on bonus becoming less advantageous, a few companies coming to me had stopped the practice of paying their Japanese style seasonal allowance or bonus. As a labor consultant often bombarded with problem employee issues, I always knew there were more important reasons to have a substantially large Japanese style summer and winter bonus. There can be, and should have been, a performance range on these bonuses, and even the potential to pay an especially bad actor even no bonus. That combined with offering a modest incentive to separate, was a flexible and helpful tool in this land where it can be so difficult to terminate a staff that pushes back. Unfortunately, because of the social tax adjustment on bonus, I have been noticing that some of my new clients had given away a valuable tool, and now are dividing the annual income figure by 12 months, instead of the previous 16 to 18 months number. For obvious and understandable reasons, the people affected were eager to use the tax/social security deduction change to move away from the at-risk bonus, and instead simply divide by 12. Some companies also failed to see how this adjustment automatically bumped up their retirement benefit liabilities.

**SOLUTIONS:** 1. If you have not had a healthy performance-based flexibility on your seasonal bonus, introduce it. 2. Go back to a bonus carve-out, maybe even larger than last time. 3. Make sure you compensate on the retirement benefit side. With the proper tactics, messages, and communications, none of these things are impossible.

You can avoid jail, and still have fair and reasonable overtime payment policies.

On Monday, February 3, 2003, poor Tadao Nakamura, age 59, and operator of Shinmeien nursing home was arrested by the Ome Labor Standards Office. The LSO was angry and they had their reasons. It was the first time such an arrest was ever made. Egregious falsification of paperwork, and lying blatantly, is indeed not recommended. Why were 18,511 mostly small business owners ordered to pay overtime, out of the roughly 121,000 businesses inspected by the Labor



Standards Offices in 2003? The umbrella labor organization Rengo and the unions have not been able to win base-ups, stop the staff reductions, so instead union and lawyers' (looking for some yen) association hot lines published in newspaper, and on ads in trains, have encouraged employees to complain to the local LSO office. During an 18 month period, 600 firms paid back overtime to the tune of 13,500,000 yen each. Takefuji paid 3.5 billion yen to 5,200 current and former employees, Chubu Electric was ordered to pay 930 million yen to 6,500 employees etc

At most of your firms, people are not working extremely long hours. If they are, they usually are discretionary workers, and those hours often are at their discretion. So much of the 'service overtime' that some Japanese bemoan, would not even be payable in most countries to such university graduates, donning a tie, and not working on an assembly line. Within the Japanese government ministries themselves, they always had maximum caps on overtime payments, even when people were 'working,' or in the office much longer. Unfortunately, I have noticed that some companies that had never paid overtime in the past, had personnel managers etc. who have voluntarily moved to paying time calculated overtime. After an inspection, and by December 1, 2004, a new client that had never paid overtime, must report back and satisfy his local LSO office. It is a fairness issue. Some people milk the system, and the other people resent this. Costs are way up. Morale is way down.

**SOLUTIONS:** 1. They are multi-pronged, including many internal policy requirements, practices, written and verbal messages to employees, managers, and the LSO officials. 2. A salary practice where overtime is not payable to people over a certain grade. 3. A system of exempt, or in-lieu-of-time-calculated-allowances that are paid to virtually all your staff, for which it can, in fact, be legitimately argued are often in discretionary labor categories.