END OF YEAR UPDATE

FOR YOU AND YOUR BUSINESS

2023

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"If you are considering giving your employees a treat this year as a thank-you for their hard work, make sure you understand the tax obligations."

PARTIES & GIFTS - HOW DOES FBT WORK AT THE END OF THE YEAR?

A company car, travel expenses, workplace discounts. These are a few of the ways that your business can reward employees (or provide a bit of a perk throughout the course of employment).

If you are considering giving your employees a treat this year as a thank-you for their hard work, make sure you understand the tax obligations. Certain gifts given to your employees may be claimable as a tax deduction under strict conditions and rules.

What kinds of end-of-year gifts might be tax deductible?

Any gift classified as entertainment cannot be claimed on your tax, regardless of the time of year. If you wish to claim your gifts as a tax deduction, it's best to give items classified as non-entertainment gifts.

These types of gifts that are given to staff or associates are usually exempt from fringe benefits tax (FBT), with the item cost, as well as the GST, being claimable.

Certain gifts fall within the ATO's guidelines on what is a tax-deductible gift. If you're looking for ideas on what to give your staff this Christmas, consider hampers, skincare, flowers, wine, computers, gift vouchers, groceries and games.

However, these gifts should have the value of less than $300 to not incur FBT. If the gift costs more than $300, you will still be able to claim a tax deduction and the GST credit. FBT will, however, be payable at the rate of 49% on the grossed-up value of the gift.

If you're feeling more generous and want to thank your staff, bear in mind that any gifts that you give to your staff that could be considered a personal gift may not be claimed as a tax deduction. Those items that cannot be claimed under the minor benefits rule generally fall under the entertainment or recreational classification and could include tickets to the theatre or sporting events, movie tickets, holidays accommodation, flights, club memberships, a trip to a theme park, and live events.

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Keep records of all of the expenses associated with purchasing gifts this holiday season for your staff so that we can assist with your business's tax return.

What about a Christmas party?

If your business holds a Christmas party:

- on a working day, on your business premises, and only for your current employees, you don't pay fringe benefits tax (FBT) for the food and drink
- off your business premises, or the party includes associates of employees (such as their partners), you don't pay FBT if the party is a minor benefit – that is, the cost for each person is less than $300 and it would be considered unreasonable to treat it as a fringe benefit
- that includes clients, you don't pay FBT for the costs relating to the clients.

If the Christmas party is not subject to FBT, you can't claim income tax deductions for the cost of the party.

Some fringe benefits (such as entertainment gifts) may need to be included in payment summaries. When the value of certain fringe benefits amounts to more than $2,000 in an FBT year, it is your responsibility to record that amount in your payment summary.

PREPARING YOUR BUSINESS FOR ITS OFFICE CLOSEDOWN

At the end of this calendar year, you may be looking to shut down your business and give yourself and your employees a break.

Whether it is a few days over Christmas and New Year or a couple of weeks between December and January, preparing your business and staff for a holiday closedown needs to consider the following for potentially smoother operations handling.

Notifying your employees

It is always wise to notify your employees formally of the shutdown. It also gives them time to contact clients or customers to organise any necessary alternative arrangements.

Legally you need to give them 14 days of notice. This time of year can be very busy and chaotic, therefore by having the closedown plans in writing, you can prove you have given adequate notice should any legal issues arise.

Organise staff leave ahead of time

To avoid issues with staffing and conflicts resulting from pending staff leave, it's also best to give plenty of notice in preparation.

Since the end of the year can be an expensive time for employees, it's best to head off conflicts about taking time off before they can escalate.

You may give priority to seniority, notice given or have another system in place.

Availability to clients

Your clients need to understand that there will be a time during the holidays when your staff and your business will be unavailable. To do that, there should be clear communication of your expected closure dates and prospective timeframes that you may be available before that to organise when they can be seen or purchase your services.

Planning ahead

The lead-up to the end-of-year shutdown can be chaotic, but ensuring everyone does their part can be as simple as assigning specific tasks to employees. These might include:

- Notifying clients of the office's closing dates and reminding them that there won't be anyone to help them for the set time frame
- Diverting calls and emails or setting up a vacation responder letting clients and people know when a response may be likely.
- Wrapping up any projects before leaving for the time off
- General office clean up such as cleaning out the fridge, taking out the rubbish, turning off appliances, etc.
- Documentation is either stored safely or disposed of to prevent lost data.
- If working in areas during public holidays, knowing and applying the appropriate payroll for staff is important (e.g. employing cleaners)
- Automating systems specifically for customer service and/or payments (e.g. purchases, renewals) while people are out of the office

PREVENTING HR NIGHTMARES AT END OF YEAR EVENTS

At the end of the year, parties, events and workplace celebrations prevail, offering great opportunities to mingle with your team. But care must be taken to ensure that your end-of-year event doesn't become too eventful.

While good times and fun can produce amusing stories, more serious incidents can become an HR nightmare.

Employers should understand that their liability extends to outside events affiliated with their staff's employment (such as employer-sponsored events, training workshops or even office parties).

Vicarious liability means that, as an employer, you can be held legally responsible for acts of discrimination or harassment that occur in the workplace or in connection with a person's employment.

Employers can be liable for acts by their employees that occur at work-related events, such as conferences, training workshops, business trips and work-related social events, such as Christmas parties.

Employers owe a duty of care to their employees and must take reasonable steps to identify and reduce potential risks. The nature of workplace functions and consumption of alcohol heightens the threshold for what is required of employees to take 'reasonable steps.'

By undertaking pre-event planning, you can implement precautionary measures to minimise potential risks while ensuring that your staff and yourself can have a good time.

Remind employees of workplace policies

Remind employees that workplace policy and appropriate behaviours are not only applicable to the events but also expected. Employees need to have been provided access to training on workplace policies related to bullying, sexual harassment, discrimination and OH&S and informed of behaviour expectations. Breaches during workplace events may result in disciplinary action. Make sure that

Ensure that policies related to bullying, sexual harassment, discrimination, and work health and safety are up-to-date and accessible. All employees must receive appropriate training regarding these policies.

- Advise employees that workplace policies could apply to planned and unplanned workplace events.
- Remind employees that workplace policies will apply to behaviour at these functions even when held off-site.
- Ensure that workplace policies allow for internal complaints and properly investigate all complaints.

Set rules around alcohol

Remind employees of the dangers of excessive alcohol consumption and drunk driving. Responsible service of alcohol must also be taken into account to reduce the risks of sexual harassment, bullying and accidents.

Ensure that food and non-alcoholic drinks are available. Also, consider the needs of staff with dietary or cultural requirements.

If employees become too intoxicated at a work party, they should be told to stop drinking. If necessary, they should leave the function with safe transport arranged.

Employee safety

Ensure that the chosen venue and activities do not present inappropriate risks. Undertake a risk assessment of the venue to identify safety hazards. Also, check your employee insurance policy to see if the function is covered.

Set specific start and finish times for workplace functions, and note that parties following after the function are not endorsed by the employer. In order for employees to get home safely, you could provide taxi vouchers or organise a shuttle bus.

THE TAX-DEDUCTIBLE COST OF GIVING

Charitable giving and the holiday spirit go hand-in-hand at the end of the year, with plenty of information about the taxable consequence of donations available to taxpayers.

When can a deduction be claimed?

Firstly, a tax deduction is only available for donations of $2 or more that are:

- Made to a deductible gift recipient (DGR)
- Made without receipt of material benefit or advantage (eg buying a raffle ticket or items at a charity auction)
- Evidenced by a record of donation

Whether or not an entity is classified as a DGR can be searched on the ABN Lookup, with some entities classed as such concerning a particular fund, authority or institution that it operates. No tax deduction is available for donations made to social media or crowdfunding platforms unless the platform is a registered DGR.

Deduction as a normal business expense

Subscriptions and donations to various kinds of organisations purely for business purposes, for example, as a form of advertising, may be deductible as an ordinary business expense.

Similarly, a business that supports a DGR through advertising or sponsorship may be entitled to a tax deduction as a business expense.

Salary-sacrificing arrangements

As an employer, you can arrange and facilitate donations to DGRs for their employees (with their consent) through workplace giving programs or salary-sacrifice arrangements.

Under a workplace giving program, an employer forwards a portion of an employee's salary to a nominated DGR (for example, $20). The employee claims a deduction for the donations in their tax return and may be eligible to have PAYG withheld at a lower rate.

Under a salary sacrifice arrangement, an employee agrees to have a portion of their salary donated to a DGR in return for the employer providing them with benefits of a similar value. The employer generally incurs no FBT, but the employee cannot claim the deduction.

Political contributions

There are additional conditions that apply for donations (including membership fees) to political parties, independent candidates and members of political parties. Individuals can claim back up to $1,500 from donations made to a party or candidate, but businesses cannot claim a deduction for the same donations made. They may be subject to FBT if they donate on behalf of an employee.

Crowdfunding platforms

A business may be entitled to an input tax credit for such a payment if it is registered for GST and the acquisition is made for a creditable purpose. For example, where advertising rights are received in return. If payments are made toward a crowdfunding campaign in exchange for goods, services or rights, these are not considered donations.

What records need to be kept?

Taxpayers should keep records of all tax-deductible donations made. DGRs will typically issue a receipt for donations made, however, there is no requirement for a DGR to provide a receipt.

If you made donations of $2 or more to bucket collections – for example, to collections conducted by an approved organisation for natural disaster victims – you can claim a tax deduction for gifts up to $10 without a receipt. To claim contributions of more than $10, you need a receipt.

Donations made through a workplace giving program can be evidenced by an employee's income statement or payment summary or by written records from the employer.

IMPORTANT TAX-RELATED REMINDERS ABOUT HOLIDAY HOMES

If you own a holiday home in Australia, the Australian Taxation Office (ATO) has some important reminders and guidelines for you during the upcoming and possibly busy summer season. It's crucial to know what you can claim and when it's valid.

What to expect from the ATO

The ATO may ask you questions to determine the validity of your deductions.

These questions can include:

- How many days was your holiday home rented out, and was the rent in line with market values?
- Where do you advertise your property for rent, and were there any restrictions placed on tenants?
- Have you, your family, or friends used the property?

Answering these questions helps the ATO assess the validity of your deductions.

Timing matters

When it comes to your holiday home, it's not just about the total rent received or expenses incurred. The timing of rentals and expenses also plays a role. The ATO wants to ensure that you're accurately reporting your income and expenses throughout the year.

Renting your property via digital platforms

If you use platforms like Airbnb, Home Away, or Flipkey to rent out your property, you need to keep the following in mind:

- Keep records of all income earned and declare it in your income tax return.
- Keep records of expenses that you can claim as deductions.
- You don't need to pay GST on the amounts of residential rent you earn.

Understanding tax implications

Your holiday home's tax implications depend on how you use the property. If it is not rented out, you don't need to report anything until you decide to sell it. When you do sell, you'll need to calculate your capital gain or loss. Accurate records from the time of purchase to the sale are crucial in this process.

If it is rented out, you must report the rental income in your tax return. You can also claim expenses incurred for the purpose of producing rental income.

However, there are some nuances to consider:

- If your property is genuinely available for rent only part of the year.
- If you use your property for private purposes for part of the year.
- If only a portion of your property is used for rental purposes.
- If you charge less than market rent to family or friends.

In these cases, you will need to apportion your expenses accordingly.

> "If you rent your holiday home to family, relatives, or friends at rates below market prices, your deductions are limited to the amount of rent received during that period."

Genuinely available for rent

To claim expenses for periods when the property is not rented out, it must be genuinely available for rent. The ATO looks for signs that indicate whether the property is genuinely available for rent, such as:

- Limited advertising
- Unfavorable property location, condition, or accessibility
- Unreasonable or strict conditions imposed on the property
- Refusal to rent out the property without adequate reasons

These factors help the ATO assess your intention to earn rental income from the property.

Available for part of the year

If you rent out your holiday home and also use it for personal purposes, you must apportion your expenses. Deductions cannot be claimed for expenses related to private use or periods when the property was not genuinely available for rent.

Renting to family or friends

If you rent your holiday home to family, relatives, or friends at rates below market prices, your deductions are limited to the amount of rent received during that period.

Understanding the taxation rules for your holiday home in Australia is crucial to ensure compliance and maximise your benefits. Keep clear records, be aware of timing, and if you're unsure about any aspect of your holiday home's tax situation, consult with a tax professional for guidance.

ALTERNATIVE LEAVE OPTIONS FOR EMPLOYEES

There is an increasing recognition by employers of the importance of offering flexible and alternative leave options to their employees.

These options go beyond the traditional annual and sick leave, catering to the diverse needs and preferences of a modern workforce.

Some of the alternative leave options that (if feasible for your business) could enhance employee satisfaction and work-life balance.

Paid parental leave

Australia's Paid Parental Leave (PPL) scheme provides new parents with up to 18 weeks of government-funded leave. However, many progressive employers are going a step further by offering additional paid parental leave on top of the government scheme. This support not only helps new parents in their transition but also promotes family-friendly workplaces.

Volunteer or community leave

Volunteer leave allows employees to take paid time off to volunteer for causes they're passionate about. By encouraging employees to give back to their communities, businesses can create a positive social impact while fostering a sense of purpose among their workforce.

Study leave

Supporting employee growth and development, study leave permits employees to take time off to pursue educational opportunities, such as degree programs, professional certifications, or short courses. Employers can also consider offering financial assistance or scholarships to further incentivise continuous learning.

Mental health and well-being leave

Mental health is a critical aspect of overall well-being. Australian employers increasingly recognise the need to provide dedicated mental health and well-being leave. This allows employees to take time off for mental health days, counselling, or well-being activities, destigmatizing these issues and ensuring a healthier, more productive workforce.

Long service leave

While long service leave is a well-established Australian employee benefit, some companies are taking it a step further by allowing employees to take their long service leave in shorter increments. This approach allows employees to enjoy the benefits of their service more flexibly.

Remote work leave

In the age of remote work, employers can provide specific remote work leave, allowing employees to work from a location of their choice. This especially benefits employees who may want to visit family or work in a different environment.

Cultural and religious leave

Acknowledging the diverse cultural and religious backgrounds of their employees, companies can offer cultural and religious leave to allow staff to celebrate important holidays and traditions without compromising their annual leave allocation.

By offering these alternative leave options, Australian employers can attract and retain top talent, boost employee morale, and contribute to a healthier work-life balance. Importantly, this flexibility demonstrates an understanding of the changing needs and expectations of the modern workforce, ultimately contributing to a more inclusive and productive work environment. As workplaces continue to evolve, embracing alternative leave options can be a win-win for both employers and employees in Australia.

PAYING OUT STAFF LEAVE

From the very first day of employment, annual leave should accumulate for employees. This leave gradually accumulates throughout the year, with any unused annual leave rolling over each year.

The concept of paying out leave has become a more common over time. Leave payout, where employees receive a monetary equivalent for accrued and unused leave, can be for multiple reasons, including the following:

Resignation or termination

When an employee leaves a job, whether voluntarily or due to termination, any accrued and unused leave can be paid out as part of their final paycheck. Failing to pay out any accumulated leave at the end of employment could leave you, as the employer open to legal action.

Annual leave payout

Employees often accrue annual leave throughout the year. In some cases, employers may allow employees to request a payout of a portion of their annual leave, providing them with extra income when needed. This can be particularly beneficial when facing unexpected financial challenges.

Excessive accruals

To maintain a healthy work-life balance, it's essential that employees take regular breaks and time off. In cases where employees accumulate excessive leave and face difficulties in finding the time to utilise it, employers may offer the option to receive a payout for a portion of their leave. This can also help companies manage their leave liability.

In certain circumstances, the employer can direct an employee to take annual leave when they have an excessive annual leave balance. Some awards and registered agreements give employees who have an excessive annual leave balance the right to notify their employer that they will take leave.

Generally, an annual leave balance is considered 'excessive' if an employee has more than 8 weeks of annual leave or 10 weeks of annual leave if they are a shift worker.

Industry award or agreement

Many industries in Australia have specific awards or agreements that include provisions for leave payout. These agreements outline the conditions under which leave may be paid out, such as when it exceeds a certain accrual limit or during specified circumstances. Employers must comply with these regulations.

Award and agreement-free employees may agree with their employer to cash out annual leave at any time.

Financial hardship

Employees may request leave payouts in instances of financial hardship, such as to cover medical expenses or educational costs. These requests are typically at the discretion of the employer.

How can leave payout options be beneficial?

- **Financial Relief:** Leave payouts can provide employees with much-needed financial relief, helping them navigate unexpected expenses or changes in employment.
- **Compliance:** Employers must adhere to industry-specific awards and agreements as well as relevant labour laws when paying out leave.
- **Cost Management:** Employers should carefully manage leave payout requests to ensure they maintain an accurate record of leave balances and budget accordingly. Managing leave liability is essential to financial stability.
- **Employee Satisfaction:** Offering the option of leave payout can enhance employee satisfaction and demonstrate flexibility and empathy, which can, in turn, improve retention and workplace morale.

Paying out leave can serve as a vital tool for supporting employees in various circumstances, from financial difficulties to changes in employment.

However, whether or not an employee is award and agreement-free, the following applies:

- the employee must retain at least 4 weeks of annual leave
- there must be a written agreement between the employee and employer on each occasion
- the payment for the cashed-out leave has to be at least the amount that the employee would have been paid if they took the leave.

Annual leave does not accumulate for a period of annual leave that has been cashed out.

An award or registered agreement may also limit the amount of annual leave an employee can cash out or the timeframe in which it can be cashed out. For example, in most awards, the maximum amount of accrued annual leave that may be cashed out in any 12-month period is 2 weeks.

It is unlawful for an employer to force (or try to force) an employee to make (or not make) an agreement to cash out annual leave. Make sure that any agreements made regarding leave payout or any circumstances that result in leave payout abide by the conditions set out by Fair Work.

PROVIDING A HOLIDAY BONUS THIS YEAR?

Holiday bonuses can go a long way in making employees feel appreciated at their place of work.

Holiday bonuses are a long-time tradition for large industries. These businesses usually have a set precedent on what to give their employees.

Businesses should also consider the role the holiday bonus will play in their year-long pay scheme. Is it a substitute for a year-end bonus? Or is it a token of holiday spirit?

If businesses already pay a year-end bonus, the holiday bonus becomes more of a gift of appreciation.

Here are some reasons for holiday bonus:

Boosts motivation

A holiday bonus can help raise your general morale as you know you're getting rewarded for your hard work at the end of the year. This can increase job satisfaction and improve the overall work environment. Employees who receive holiday bonuses may be more motivated to meet deadlines in a timely manner and help the company reach its financial goals.

Promotes employee well-being

A monetary bonus or even a gift can help reduce stress during the period. When you know that you can expect a holiday bonus at the end of the year, it may offset the extra costs associated with the holiday season.

Increases productivity & engagement

The company uses holiday bonuses as a means of incentivisation. It gives you something to look forward to at the end of the year, which leads to increased engagement and productivity.

Demonstrates care for employee

Holiday bonuses help show that a company appreciates the efforts of its employees. When you are recognized at work, you're generally more inclined to put in extra hours, perform additional duties, and maximise your efforts.

Helps meet the financial goals

If the company meets its financial goals, your awareness of increasing holiday bonuses makes you more inclined to work harder and more efficiently. The promise of these holiday bonuses can facilitate a more dynamic work environment where employees help the company meet or exceed its set financial goals.

SETTLING CUSTOMER DEBTS

Good credit management is an important business strategy to maintain cash flow and stable finances.

A cornerstone of managing credit is not only making sure an invoice gets paid, but gets paid on time.

Before a debt recovery process commences, which may delay payment further and damage a relationship with a customer, it is worthwhile for businesses to put a few processes in place to avoid this customer debt in the first place.

Prepare your customers

Ensuring customers understand their payment terms from the start is the first step in training them to keep track of outstanding invoices and payment due dates.

Keep detailed records

Businesses should keep all customer records, such as payment term agreements, customer limits and outstanding sales to date.

Follow up regularly

Starting following up procedures once a payment becomes overdue will help speed up the process. It is also very important to know exactly who to speak to about payment matters, as it may be different to the person you had been dealing with during the transaction process.

Implement payment in full

Most businesses adopt this policy in regard to payment procedures. This way, the customer has a total amount to pay by a concrete due date. Sometimes making it easier for the customer by staggering payments and due dates can confuse and delay payments even further.

Upfront payments

For labour and time-intensive work, some businesses ask for part-payment or deposit up front. This works as a way of showing that the customer is financially committed to the project. It also allows a business to better manage cash flow, knowing that there won't be months at a time when no payments are coming in because of works in progress.

WHAT RECORDS DO YOU NEED TO KEEP FOR EMPLOYEES?

Much like receipts and invoices for tax purposes, your business's record-keeping must also include records pertaining to your employees.

Certain information needs to be kept for each employee. If an employee is paid an annual wage under an award, employers must keep extra records for these employees.

Legally, some employment records (such as time and wages records) must be kept for up to 7 years. These records may include:

Basic employment details, such as:

- Name and ABN of employer
- Commencement date
- Your role or type of work (full- time, part-time or casual);
- Hours of work, including:
- Records of overtime work
- A written agreement regarding averaging hours.

Pay:

- Pay rate paid to the employee
- Gross and net amounts paid
- Any deductions from the gross amount
- Details of any incentive-based payment, bonus, loading, penalty rate, or other Monetary allowance or separately identifiable entitlement paid.

Individual flexibility arrangements and guarantees of annual earnings. Leave entitlements; If an employee is able to cash out annual leave, the employer has to keep:

- A copy of the agreement to cash out the amount of leave
- A record of how much was paid, the amount of leave cashed out and when the payment was made.

Superannuation contributions, including:

- Amount paid, pay period, dates paid
- Name of the super fund
- Reason the employer paid into the fund (for example a record of the employee's super fund choice and the date they made that choice).

Termination of employment (where applicable); records must include:

- How the employment was terminated, for example by agreement, summarily, or in some other way (specifying details)
- If notice was provided and, if so, how much
- The name of the person who terminated the employment.

While not all employee records must be kept, it is best practice to keep other records to provide a full employment history. These include resumes and job applications, contracts of emplyment, performance reviews and trade or registration certificates.

You must also keep all records for your employee for 5 years relating to tax, superannuation amount calculations and how you met your choice of super fund obligations.

Who can see these records?

Employee records are private and confidential. Only the employer, payroll staff, the employee and authorised individuals, such as an accountant, can access the records.

If an employee asks to see their records, you must make them available. This includes after an employee has ceased employment.

What happens if the record is wrong?

An an employer, you have obligations to ensure that your employment records are accurate and up to date.

Any record which an employer is obliged to keep, must not be misleading or false to the employer's knowledge. Where a record is found to be false, the employer is obliged to rectify this on the record as soon as they become aware, noting where a correction has been made.

You as the employer or any other person must not alter any employment record except if making a correction on the record, or as otherwise stated in legislation.

If records aren't kept or are incorrect, Fair Work Inspectors can give employers a fine, called an infringement notice.

It is unlawful for employers to make or keep employment records that they know are false or misleading.

A failure to keep adequate and correct employee records can lead to significant consequences, including financial penalties and reputation issues. Make sure to consult your records to ensure your employee-related documents are up to date and reflective of key legal requirements.

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