END OF YEAR UPDATE '22

THE END OF YEAR GUIDE FOR YOU & YOUR BUSINESS

IN THIS ISSUE:

HAPPY HOLIDAYS

We would like to take this opportunity to wish all of our clients and their families a very happy holidays.

We will be taking a short break over the Christmas period.

OUR CLOSEDOWN DATES ARE:

23RD DEC 2022 - 9TH JAN 2023

LeenaneTempleton

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2022-2023 October Federal Budget Announcements

While the Federal Budget For 2022-2023 did not provide a buffet of announcements, there were some key measures announced of interest to businesses and individuals.

Paid Parental Leave

By 2026, expanded paid parental leave will offer 26 weeks of leave, up from 20 weeks. The extension of parental leave will apply in increments of two weeks, starting from 1 July 2024 until it reaches the full 26 weeks, from July 2026.

Childcare Subsidy

An increase in childcare subsidy for families earning below $530,000 per annum has been confirmed, with the increase to commence in July 2023.

Stage 3 Tax Cuts

Nothing was confirmed regarding stage 3 tax cuts in the October Budget. This leaves it open to being addressed in the May 2022-23 Budget.

Downsizer Contributions

The Budget addressed the eligibility of downsizer contributions to superannuation becoming available for those aged 55 years and above. This was previously only available to 60 years and older.

A downsizer contribution is a one-off post-tax contribution to superannuation up to $300,000 per person from the sale of their home. In the case of couples, both can contribute, and downsizer contributions do not count towards non-concessional caps. Likely, this will not be in effect until the next quarter after Royal Assent is obtained.

Off-market Share Buy-Backs Tax Treatment

The tax treatment of off-market share buy-backs undertaken by listed public companies will be aligned with the treatment of on-market share buy-backs. Current rules around share buy-backs by companies off-market mean that a proportion of the consideration for off-market purchases is treated as a dividend. However, the change will make that entire consideration for off-market buy-backs to be treated as capital proceeds, with no associated franking credits.

Additional Funding To The Tax Avoidance Taskforce

The Taskforce will continue to be focused on compliance activities that target multinationals, large public and private groups, trusts and high-wealth individuals. The government has announced a further $200 million in funding per year for the next three years to extend the Taskforce and, in 2025-26, there is to be a significant increase of $534.5 million for that year.

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FBT During The Holiday Season

The end of the year might be the time that you look for ways in which to say thank you to your hardworking employees, especially after the ongoing business challenges that may have emerged over the past 12 months.

While a work Christmas party may have been a previous method that you have employed to demonstrate this, the expense of it could be a deciding factor. Christmas parties are regarded as "entertainment" expenditures, which means they are not tax-deductible, and the employer may have to pay FBT if the party costs $300 or more per person.

An end-of-year party may not be feasible for your business this year, with rising costs amid the ongoing inflation rates.

Instead, it may be a better idea to thank your staff through the act of giving certain items known as "non-entertainment" gifts. These non-entertainment gifts cost less than $299.99, are fully tax-deductible and carry no FBT.

Non-entertainment gifts are usually exempt from FBT when the total cost of the gift is less than $299.99 (inclusive of GST). An employer can also claim tax deductions and GST credits for every non-entertainment gift to staff members. These gifts could include beauty or skincare products, flowers, wine, gift vouchers or hampers.

If you provide a similar gift to the spouse/partner of an employee, the FBT exemption will also be valid. This can be a nice way to say thank you to the hard-working members of your staff while promoting a positive work culture.

Providing your employees with gifts considered to be "non-entertainment gifts" but costing $300 or more (including GST) is less tax effective. Even though the gift giver can still claim a tax deduction and GST credit, FBT must be paid at 47%.

You can still give staff members entertainment gifts as a way of saying thank you, though this is a less beneficial and tax-favourable option from an employer's point of view. Examples of entertainment gifts include tickets to a play, sports event, musical, theatre or even providing a holiday.

These gifts may not be FBT payable if they cost less than **$299.99** (including GST)

or claimable for a tax deduction or GST credit. However, if they cost more than **$300** (including GST)

an employer can claim a tax deduction and GST credit, but FBT is payable at **47%**

Some fringe benefits (such as these 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.

Want to know more about possible FBT exemptions that might apply to any gifts you give to your employees this holiday season? Speak with us about how you can make this work for your situation.

FBT Gift Lists For Your Employees

Are you considering giving your employees a treat this year as a thank-you for their hard work? Certain gifts given to your employees may be claimable as a tax deduction under strict conditions and rules. During this time of giving, a Christmas gift can reward both the employee and the employer.

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 (generally a good idea), 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
- Beauty products
- Flowers
- Wine
- Computers
- Crockery
- Gardening Equipment
- Gift Vouchers
- Groceries
- Games

However, these gifts should not be more than $300 to claim the GST credit and 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 47% 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:

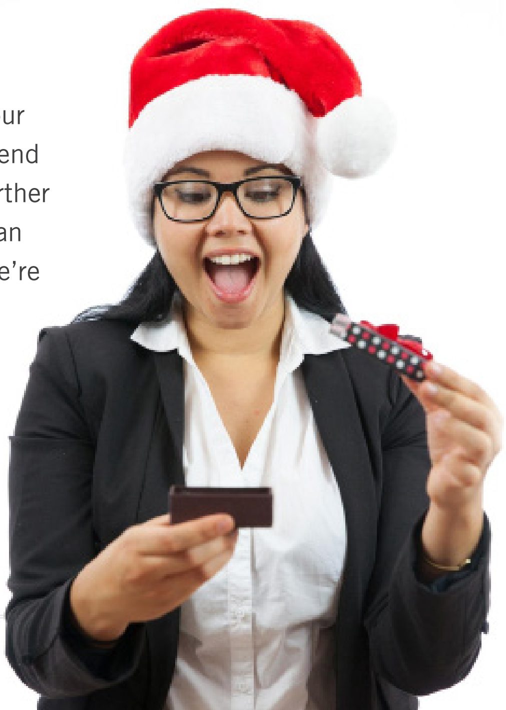
- Tickets to the theatre or sporting events
- Movie tickets
- Holidays
- Accommodation
- Flights
- Club memberships
- A trip to the amusement park
- Live Events

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.

AS A RULE OF THUMB:

- Make sure your gift is less than $300 (including GST)
- Make sure the gift is classified as non-entertainment
- Make sure your gift is a once-off
- Make sure your gift does not incur FBT
- Keep your records to prove that the gift was bought for and given so that you can claim your tax deductions.

Do you have more questions about your FBT gifting at the end of the year? For further information, you can consult with us. We're here to help you check your list (and get it right).



Charitable Donations: Tax Considerations Beyond The Deductibility

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.

But are there other tax benefits available for donations besides a straightforward deduction?

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)
- Made to a deductible gift recipient (DGR)

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.

HOW CAN DONATIONS OCCUR

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, eg 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.

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 after a long and drawn-out year.

EFFECTIVE COMMUNICATION IS KEY

Notifying Your Employees

It is always wise to notify your employees formally of the shutdown, whether that be through a printed memo, email, etc. It also gives them time to contact clients and/or customers to organise any necessary alternative arrangements.

Legally you need to give them 14 days of notice, and as this time of year can be very busy and chaotic, it can be quite easy for them to forget a quick conversation. By having the closedown plans in writing, you can also 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 (such as disputes etc), 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.

MAKE SURE EVERYONE KNOWS WHAT NEEDS TO BE DONE

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 (no one wants to smell last year's milk when they come back), 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

Vicarious Liability During Work Events

The liability of an employer does not start and end at the office door. 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).

Employers can be held legally responsible for acts of discrimination or harassment in the workplace or in connection with a person's employment.

This is known as **vicarious liability**.

It also means that 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.

For example, in the case of Leslie v Graham [2002] FCA, an employer was found to be vicariously liable for sexual harassment in a situation where the harassment occurred between two employees in the early hours of the morning in a serviced apartment they were sharing, while attending a work-related conference.

With workplace events approaching at the end of the year (such as office parties, lunches or even the end-of-year Christmas hurrah), you need to take all reasonable steps to minimise the risk of discrimination or harassment occurring to and by your employees during these events.

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.'

Failing to take reasonable steps to prevent inappropriate conduct at workplace functions can result in significant liability for the employer.

To reduce risks at workplace functions, the following **reasonable steps** can be implemented to minimise employer liability:

WORKPLACE POLICIES

- 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 & drunk driving, and no substance abuse.
- Remind employees that 'Secret Santa' gifts must be appropriate. There can be a risk of harassment or discrimination claims if gifts are inappropriate.
- 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. 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.
- Set specific start and finish times for workplace functions, and note that parties following after the function are not endorsed by the employer.
- Ensure that employees can get home safely. You could provide taxi vouchers or organise a shuttle bus.
- Check your employee insurance policy to see if the function is covered.

Superannuation Contributions As Christmas Gifts?

Looking for a unique Christmas gift for your children/grandchildren this holiday season? A contribution to their superannuation could be a long-term investment that keeps on giving.

While it may not be the most conventional of Christmas gifts, contributing to your children's or grandchildren's superannuation fund could provide them with an ongoing benefit as they grow older.

However, there are strict conditions in which you are allowed to contribute to another person's superannuation fund*. These are:

- If they are your employees (employer contributions).
- If they are your spouse
- If they are children under 18.

Children under 18 years of age can have contributions made on their behalf by you. You may wish to do so to provide them with part of their inheritance before you die or simply as a financial gift, both of which can continue to grow through the power of compound interest.

The power of long-term compound interest can have a potentially life-changing impact on their finances.

As earners below the low-income threshold (earning below $42,016), they will also be eligible for the government co-contribution of $500.

This means that if you put $1,000 into their fund when they were 15, they would also receive the government co-contribution of $500, meaning they would have $1,500 in total.

If this was left in their account and was subjected to the interest rate of 7% for 45 years (until they were 60), they could be up to $31,503 better off in their super fund. This is on top of any other contributions they may have received to their funds, such as an employer or spousal contributions throughout their lifetime.

If you continue to gift contributions on top of that initial amount in the first year, the power of compound interest could multiply that amount even more.

However, if you wish to provide your children/grandchildren older than 18 with a contribution, they must contribute to the fund themselves. This means they need to be deemed to have contributed themselves, even if they received the money from you. In these circumstances, the child must decide whether to make the contribution concessional or non-concessional.

A tax deduction on this kind of contribution can only be claimed if the child/grandchild contributes to the fund themselves, not by you (despite being the one to give the gift initially).

Want to know more about superannuation contributions and gifting? Consult with a professional adviser on superannuation for more information.

*Other people may contribute to their super fund, but there are tax penalties that may be applied.

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