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BUSINESS BULLETIN SUMMER 2023

THE FESTIVE SEASON – What can you Claim?

It's that festive time of year. Time to celebrate the end of another year and for many the first Christmas party following a couple of years hiatus. With the right approach, it is possible to enjoy some tax benefits out of your celebrations, and also avoid Fringe Benefits Tax (FBT). But as always with tax, the landscape is layered with complexity. The following is a general summary of the tax treatment of Christmas giving.

Minor Benefits

You may have heard the notion of minor benefits when it comes to employees and gifts or entertainment. Basically, the FBT legislation allows an FBT exemption for a benefit that is provided to an employee or one of their associates (eg spouse, partner) where the benefit is provided on an infrequent or irregular basis, which is not a reward for services and at a cost of less than \$300 (inclusive of GST) per benefit.

While an FBT exemption may apply, it will depend on the type of benefit provided as to whether the cost is tax deductible. For example, entertainment is not tax deductible unless it is subject to FBT. Let's consider some examples below.

Gifts to Staff

Non-entertainment gifts to staff (such as Christmas hampers, bottles of alcohol, gift vouchers, gift sets etc.),

KEY DATES

21 DECEMBER

November monthly Activity Statements

- due for lodgement and payment

21 JANUARY

December monthly Activity Statements -

due for lodgement and payment

28 JANUARY

October - December Superannuation

Guarantee contributions due for payment

28 FEBRUARY

Due date for quarterly (Oct-Dec) Activity
Statements

are tax deductible and you can claim GST credits, irrespective of the cost. Note however that you can generally avoid paying FBT if you keep the gift under \$300. If this threshold is exceeded, FBT will apply. Therefore, be conscious of this threshold when providing such gifts to staff this Christmas if you wish to avoid FBT.

Entertainment gifts to staff (such as tickets to movies/theatre/amusement park/sporting events, holiday airline tickets etc.) which are under \$300 will not attract FBT, but are not income tax deductible, and you cannot claim GST credits. If over \$300, FBT will apply, but a tax deduction and GST credits can be claimed. With FBT rate sitting at 47%, the tax deduction and GST credits available is unlikely to provide a better tax outcome than avoiding FBT by keeping the gift under \$300.



Gifts to Clients/Customers/Contractors/Suppliers

FBT only applies to employees and their associates (spouse, partner). Therefore, no FBT is payable, irrespective of the type or cost of a gift provided to a client or contractor. However, where a gift constitutes entertainment, no GST or tax deduction can be claimed. Thus, at least from a tax standpoint, it's better to provide non-entertainment gifts to clients (Christmas hampers, bottles of alcohol, gift vouchers, flowers) and, in doing so, enjoy a tax deduction and GST credits.

Christmas Parties

The old saying – you can't have your cake and eat it to rings true when considering the deductibility and FBT connotations of a Christmas party held for employees and their associates. Generally, Christmas parties constitute entertainment benefits and are

generally not tax deductible unless the cost is subject to FBT.

Where the total cost of a Christmas party is kept to under \$300 per person, an FBT exemption will generally apply (however no tax deduction or GST credit is able to be claimed). To enjoy this exemption the employer must use the Actual Method for valuing FBT meal entertainment. The Actual Method is the default method for valuing meal entertainment, and no formal ATO election is required to use this method. Under the Actual Method, an employer pays FBT (in the absence of an exemption) on all taxable meal entertainment provided to employees and their associates.

This Minor Benefit Exemption is not available if you elect to value your meal entertainment under the alternative 50/50 Method. Under this method, you pay FBT on only 50% of all taxable meal entertainment provided to employees, spouses AND clients, contractors, customers etc. irrespective of the cost. Likewise, you can only claim a 50% income tax deduction and 50% GST credits on such meal entertainment. However as stated earlier, with the FBT rate now at 47%, the 50% tax deduction and 50% GST credits available under the 50/50 Method is unlikely to provide a better after-tax result than the Actual Method where no FBT is payable.

The "take-home message" is that if like many employers the only social functions you host for employees during the year is a Christmas Party, be conscious of keeping the per-head cost under \$300. By doing so, you may be



able to exempt the entire cost of the party from FBT.

Cyber Security - protecting your business

The recent Optus and Medibank data breaches in which many thousands of people had their personal information stolen, has heightened public awareness of the threat of cyber attacks and identity fraud. Small business is not immune to the risks and the impact to a business of an attack can have devastating consequences. What steps can you take as a business owner to help guard against the risk of an attack?

Do not click

Spam and Phishing emails are on the increase and the level of sophistication some scammers use with these emails makes it easy to slip up and click on a link that can have serious connotations for your business. The emails do their best to spoof a legitimate source and usually include a link to a fake invoice or a link that requires you to enter your credentials. If there is any doubt over the legitimacy of an email do not click on any links or attachments. Hovering your mouse over a link can also give you an insight into where a link may be taking you. Where you have inadvertently clicked something you shouldn't, early action is the best policy and you should contact your IT professional for advice.



Ransomware/Malware

Ransomware works by encrypting your files

so that you can no longer use or access them. Ransomware can infect your devices in the same way as other malware and can get access to your systems by you visiting unsafe or suspicious websites, opening links on emails from unknown sources, or having poor security on your network and devices including your server. To prevent an attack or recover from one, you should ensure you have back ups (ensure they are resilient by testing and able to be restored if necessary), automatically update your operating systems and software, require multi-factor authentication to access services where possible and look to an IT professional to help you audit and secure your devices.

Passwords and multi factor authentication

Some passwords making the list of most commonly used in 2022 are the word "password" or the numbers "123456" – that is an example of what not to do!! You should create passwords that are long, unpredictable, and unique. A Multi-Factor Authentication (MFA) is a security measure that requires two or more proofs of identity to grant access. MFA is one of the most effective ways to protect against unauthorised access to your valuable information and accounts and the multi-layer makes it much harder for criminals to attack your business.

Educating your team

Your internal processes and your team are the last and one of the most important lines of defence in protecting your business from attacks. You should provide a best practice checklist for employees that states your IT practices regarding, IT security procedures, access to systems, authorisation, password requirements, internet usage etc. The governments website [cyber.gov.au](https://www.cyber.gov.au) houses a host of information for small and medium business and provides useful resources that could assist you to develop your practices.

Have you considered Cyber Insurance?

Cyber Insurance is a type of insurance policy that provides protection from financial loss in the case of cyber security attacks. It is

important to note that Cyber Insurance won't prevent an attack from happening in the first place however it will provide financial support in the case of a data breach. If you haven't got a cyber insurance policy for your business, now would be the time to research what is available and look to secure a policy.

Director ID - do you have yours?

A Director ID is a unique 15 digit identifier that is a mandatory requirement for all directors. Obtaining your ID requires you to verify your identity with the ATO through a myGovID. The date for obtaining your ID was 30 November 2022 however, the Tax office have announced that they will apply a pragmatic approach to directors who are yet to apply but do so before 14 December 2022. If you are a Director of a company (be mindful that while you may not trade under a company structure you may still be a Director if you have a company acting as a trustee for your Self- Managed superannuation fund or family trust) and you are yet to apply for your ID, you need to do so. You should contact your advisor if you need assistance.

