

CARDELL NEWSLETTER

CHRISTMAS PARTIES AND FRINGE BENEFIT TAX

Consider fringe benefit tax this festive season.

The Australian Tax Office (ATO) is reminding businesses that while staff Christmas parties can attract fringe benefits tax (FBT) there may be exemptions available depending on the venue and cost per employee.

There are two main exemptions to FBT that could apply to Christmas parties – exempt property benefits and exempt minor benefits.

Exempt property benefits:

- Christmas party costs include things like food and drinks served for employees as part of a Christmas party
- the cost to provide these goods is exempt from FBT if they are provided on a working day on business premises and consumed by current employees of that business.

If the property benefits exemption doesn't apply because the party is held at a restaurant or separate venue, the costs may be considered minor benefits and FBT exempt.

Exempt minor benefits:

- cost per employee must be less than \$300
- the exemption also applies to associates of employees such as spouses and children, provided the cost is less than \$300 per associate
- gifts are also considered separately from the Christmas party so, provided the cost of a gift and the party are each less than \$300, then both would be exempt from FBT.

The ATO gives the following examples:

1) a company decides to have a party on its business premises on a working day before Christmas. The company provides food, beer and wine. The party is for current employees and their associates only and the cost per head is \$185. In this case there is no FBT implications.

2) a company decides to hold its Christmas function at a restaurant on a working day before Christmas and provides meals, drinks and entertain-

ment. The function is for current employees, their associates and clients at a cost of \$365 per head.



In this case there are FBT implications in relation to the employees and their associates. There is no FBT payable for the clients but the cost of providing the entertainment is not income tax deductible.

GST implication.

Clients should be aware that Christmas party expenses are not tax deductible and the GST component cannot be claimed.

(Source: ATO)

PAYG INSTALMENTS—ARE YOU PAYING TOO MUCH?

In the current economic climate there has been a downward trend in earnings.

Cardell Accountants recommend that clients pay the amount on their Instalment Activity Statement when ever possible. However as a result of the global financial crisis, many instalment payers are finding this increasingly difficult. Rather than not paying at all, we recommend that clients use the option of varying the instalment amount to better

suit their situation.

Clients cannot just vary the instalment amount to one they wish to pay. Clients need to look at their business income and expenses to estimate their net business income for the year. This figure can then be used to calculate the tax for the year, using the Australian Taxation Office's tax rates. The tax for the year is then divided by 4 to provide the figure for the quarter.

Although, this may seem straight forward the ATO re-

serves the right to levy interest and penalties if the tax estimated is less than 85% of the final assessed tax amount.

The above examples are using instalment amounts, option 1, but the same guidelines apply to clients using the instalment rate, option 2.

We can assist you with your estimates. This is most important before finalising your last estimate for the June Quarter, which would need to be lodged by 28 July 2010.



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PAYG Instalments - Don't forget them.

EMPLOYEE VS CONTRACTOR

The Australian Taxation Office (ATO) is scrutinising these arrangements on two fronts.

EMPLOYER (Staff Hirer)

In this instance the ATO is keen to see that an arrangement where you hire an individual (although they may have an ABN) is not really an employee but with a different arrangement. Therefore as the employer you may be regarded as avoiding your obligations to withhold tax at source from the individual and not to make superannuation guarantee payments on their behalf.

There may also be obligations at a State level with regards to WorkCover and the accrual of leave entitlements.

CONTRACTOR (EMPLOYEE)

There was a change in the Income Tax Act effective from 1 July 2000 which targeted contractors. Its intention was to ensure that individuals who were in essence employees were not permitted to claim any deductions against their income other than those an employee would be entitled to. A major item here is the cost of travelling to work which an employee cannot claim – and nor could a contractor unless they provided their own bulky tools and were required to transport them to a work site on a regular basis.

ATO INDICATORS OF A CONTRACTOR.

The ATO has implemented tests which are applied to de-

cide if an individual is a contractor:

- 1.They are engaged to achieve a result – i.e. quote a fixed price for a job and invoice accordingly; (not on hourly basis) and have to make good, any deficiency for no extra charge.
- 2.Provide their own tools and equipment.
- 3.Operate independently of a single employer – ATO looks at more than 80% of income from one source.

An example may be a plasterer who will quote on the cost to plaster a house, then invoice upon completion (or a proportionate basis as work is completed), rather than invoicing each week for the hours



spent on the job.

APPLYING FOR ABN's

The ATO has tightened its review of ABN applications. It is now asking questions as a part of the registration process to help the registrant determine whether they are in fact "carrying on a business". If the individual is not carrying on a business, an ABN registration may not be processed.

SELF MANAGED SUPERANNUATION FUNDS

Self Managed Superannuation Funds are gaining ground.

According to statistics produced by the Australian Prudential Regulation Authority in March 2009, there were 406,577 Self Managed Superannuation Funds (SMSF) with investments of \$327.8 Billion. This means that 31.8% of the country's superannuation assets are held by these funds.

This much money potentially at risk attracts the attention of the Government and the Australian Taxation Office (ATO).

These SMSF gain significant tax concessions in exchange for complying with investment and cashing restrictions. SMSFs pay 15% tax on income

compared to individuals who can pay up to 45%.

However, with this concession comes certain obligations. For instance a SMSF cannot carry on a business, must have an investment strategy and money/assets in the fund cannot be withdrawn prior to retirement.

An important obligation for a SMSF is that it must be audited every year. The ATO seeks to reduce the risks of non-compliance by requiring the mandatory reporting of compliance breaches.

Furthermore due to the increase in SMSFs, the ATO has indicated it will be increasing its audit activity of SMSFs. As an accredited audit company, Cardell Assurance & Audit is



SMSF—your piggy bank for retirement.

required to perform audits according to ATO regulations and any non-compliance must be reported.

To ensure clients understand their obligations as trustees of SMSFs, we recommend reading the following ATO publications: "Running a self-managed super fund" and "How your self-managed super fund is regulated". Both publications are available from our office.

TAX BREAK

Key Dates:

- Commit to purchase by 31 December 2009
- Pay/Install by 30 June 2010 (Tax Break 2010 year)
- Pay/Install by 31 December 2010 (Tax Break 2011 year)

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