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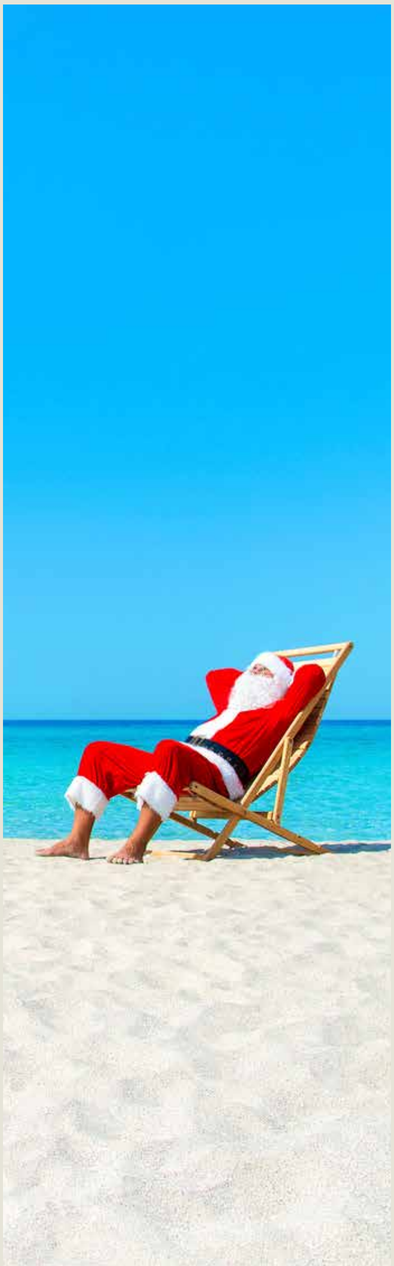

END OF YEAR UPDATE '16

The end of year guide for you and your business

Avoid a HR holiday hangover

With the Christmas season just around the corner, employers would be wise to take precautions when planning the work Christmas party to avoid any legal repercussions.

The festive season brings with it an increase in the likelihood of a workplace claim arising from inappropriate conduct such as sexual harassment, drug and alcohol use, as well as health and safety issues.

Employers must be wary of these implications when hosting end-of-year celebrations since they are considered an employer-sponsored event. Consequently, employers may be held liable for any misconduct, injury, discrimination or harassment that an employee is subject to at a work-related event.

Before the event, it is important for employers to communicate their business's code of conduct. Consider sending an email to all employees prior to the event to remind them of their responsibilities and that normal disciplinary procedures will apply.

Employers must ensure they provide a duty of care by OH&S standards to all employees. Employers would be best advised to have a discussion with the venue about their OH&S policies and evacuation plans.

To ensure employees travel home safely, organise travel arrangements to and from the event, such as a mini bus or taxi. Assigning a responsible person to act as supervisor for the event can help protect the safety and wellbeing of all employees. It is advisable to set a specific start and finish time and to clarify that any 'after-party' events are not employer-endorsed.

Employers may be held responsible for alcohol fuelled behaviour; a responsible service of alcohol should be provided by qualified personnel. Be sure to supply food and include low alcohol and non-alcoholic drink options and ensure minors are not supplied with alcohol.

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Tips for avoiding Division 7A penalties

Under Division 7A, private company owners must treat private expenses separately from company expenses to avoid facing penalties and paying extra tax.

Here are three ways to avoid common Division 7A mistakes:

Pay back borrowed money from your company

Ensure any borrowed money to pay personal expenses from your company is paid back to the company before lodging your company tax return.

Pay for the use of a company asset

From 1 July 2009, the usage of private company assets may also be taxed if private company owners use the assets of the company at no cost or at less than market value. Check to see if there are any assets that you have used and if necessary, make a payment or convert it to a loan (that equals the market value of the use of the asset) for the usage.

Set up a loan agreement

Treat any advances you have received from your company as a loan by:

- putting a written loan agreement in place before the date you have to lodge your company's tax return
- making sure the written agreement meets specific interest rate and maximum term criteria
- making the minimum loan repayments each year.

Tap into the spending season

The holiday season provides the perfect opportunity to connect with customers and leverage off the seasonal shopping period.

For many businesses, the upcoming Christmas season presents a peak in sales. Businesses that fail to maximise the holiday shopping season can miss out on a huge revenue opportunity and risk losing customers to competition.

It pays to adjust your marketing based on seasonal sales opportunities. A marketing campaign that capitalises on the upcoming season provides businesses with the opportunity to position themselves as an adaptive and quick-to-react business.

When crafting your holiday marketing campaign, it is not a good idea to leave planning and execution to the last minute. Here are five ways to boost sales and awareness this holiday season:

Pick the right opportunities

Ensure your marketing campaign meets the needs of your target market. Understanding your target market and their purchasing behaviour will help to hone into the festivities that may appeal to them and allows you to design your marketing campaign based around their wants and needs.

Advertise ahead of the holidays

Consider offering special discounts, increasing your availability for appointments (if you are a service based business), and introducing early bird offers to attract customers who like to shop ahead. Promoting your holiday sale early helps to prime customers to choose your business as a default shopping destination before your competitors get a chance.

Integrate with social media

Successful holiday campaigns integrate social media to increase reach and engagement. A strong social media strategy will help brands increase their social subscribers while encouraging customers to purchase. Consider enticing customers to subscribe with special offers such as free shipping or percentage discounts.

Reuse, recycle

As marketing efforts can be relatively expensive, consider reusing past marketing campaigns that were successful. Past campaigns may be recycled if they are still relevant or only need a few minor amendments. When developing a seasonal marketing campaign avoid time-specific references so the content can be used again.

Include a call-to-action

Seasonal campaigns will often have a deadline due to the nature of the campaign and therefore require a call-to-action. Encourage customers to contact your business via email, telephone or social media in your campaign and include deadlines for any special offers to create a sense of urgency. If uptake on promotions is not as expected you may extend offers for additional time.

Annual leave over the Christmas close-down

It is common for employers to shut down over the traditionally slow Christmas and New Year period.

During this time, employers need to be aware of their obligations, particularly in regards to annual leave. Generally, full-time and part-time employees need to be paid their usual wages unless their award or agreement says otherwise.

Most modern awards and enterprise agreements will set out the rules and requirements about notifying staff and what should happen during the shutdown. While a provision regarding annual close-down is not prescribed in every modern award; most shutdowns are subject to a period of notice (typically four weeks) to be given to staff.

If the award or agreement says you can tell your employees to take leave then employers are allowed to give directions for leave. However, if the award or agreement does not contain instructions about shut downs or directions to take leave, employers cannot force employees to use their leave.

For employees who are not covered by an award or agreement; employers can direct them to take annual leave if the direction is reasonable.

Overlooked issues in estate planning

Estate planning can be quite complex and often involves making a lot of difficult decisions. It can be easy to overlook smaller details when making 'big picture' decisions such as who inherits what in your estate.

Here are three issues that are easy to overlook when estate planning:

Powers of Attorney

A power of attorney is a formal document giving another person the authority to make legally binding decisions on your behalf if you are unable to do so due to illness, accident or absence.

There are two types of power of attorney: general power of attorney and enduring power of attorney.

A general power of attorney will make financial decisions on your behalf for a specific period or event, such as going overseas.

An enduring power of attorney appoints someone to make financial and legal decisions on your behalf in the case where you lose mental capacity to make decisions. It may apply for many years in the event of dementia or failing cognitive health.

To guard against unethical behaviour, it is generally recommended that two or more attorneys be appointed jointly to create a system of checks and balances.

Insurance

Insurance policies (other than superannuation) must have clearly nominated and up-to-date beneficiaries.

Check your insurance policies annual statement to ensure details are up-to-date. Don't forget about total and permanent disablement and trauma/critical illness policies as life cover may be attached to these.

Keep in mind, these policies will be paid directly to the nominated beneficiary and will not be included in your estate.

Superannuation

Superannuation funds deal with death benefits differently. Some automatically pay all death benefits to the deceased's estate rather than distributing benefits directly; others distribute according to their discretion while some offer binding death benefit nominations, which allow you to choose whom your funds are paid to.

It is important to note only certain individuals can receive a super death benefit directly. Superannuation death benefits must be paid to either a dependent of the deceased or the deceased's estate.

The Superannuation Industry (Supervision) Act 1993 (SIS Act) defines a dependant as a spouse of the person; any child of the person; or any person with whom the person had an interdependency relationship.

An FBT-friendly Christmas

While it can be quite fun celebrating the year's achievements at the annual Christmas party, it pays to be aware of the tax implications of these celebrations.

Christmas parties can attract a Fringe Benefits Tax (FBT), a tax that applies where an employer provides a benefit to an employee other than their regular wage or salary.

A number of benefits are exempt from FBT, including the work Christmas party, providing they follow certain rules. The ATO allows employers a $300 threshold per employee for Christmas parties.

In addition to hosting a Christmas party, employers can also provide employees with gifts that cost less than $300 per employee. Therefore, employers can avoid a FBT bill providing they host a party that costs less than $300 per employee and also give each employee a Christmas gift worth no more than $300.

The most tax effective option is to hold your Christmas party on the business premises on a working day for current employees only. Expenses such as food and drink are exempt from FBT for employees, therefore, no tax deduction or GST credit can be claimed.

Employers should be aware that FBT can arise if a spouse or associate of a current employee attends. If the combined cost for the employees and associates is $300 or more per employee, FBT will be applicable on the associate's portion of food and drink.

There are no FBT implications for clients attending the party, however, there is no income tax deduction or GST claimable.

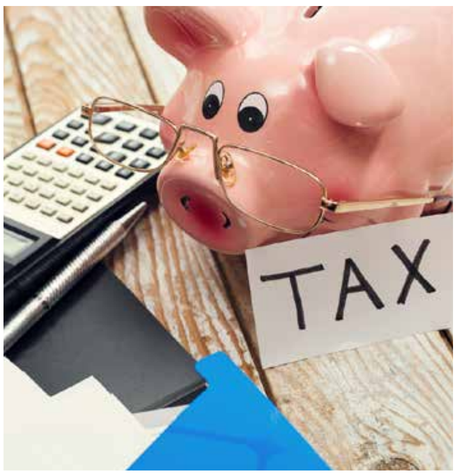
For employers who choose to host the Christmas party off the business premises they will be FBT exempt providing the combined cost of employees and associates is less than $300 per employee. Any costs that are exempt from FBT cannot be claimed as an income tax deduction and no GST credit can be claimed.

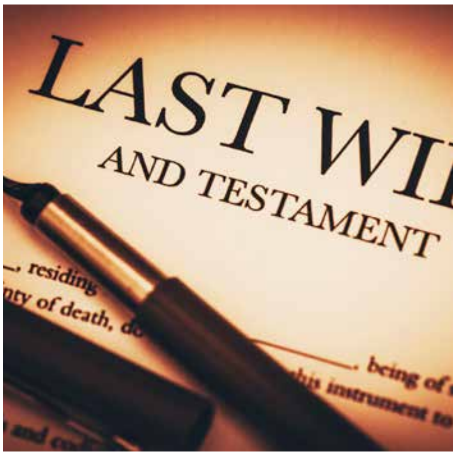
FBT will apply if the combined cost of employees and associates who attend the party is over $300, however, an income tax deduction and GST credit can be claimed on that portion.

Alternatively, businesses can choose to simplify their FBT paperwork with the 50/50 method or the 12-week register method.

The 50/50 split method allows for 50 per cent of costs associated with entertainment to be subject to FBT and, therefore, tax deductible and the other 50 per cent non-deductible regardless of whether it was provided to an employee, associate or spouse.

The 12-week register method involves tracking the taxable value of each individual fringe benefit for a continuous period of 12 weeks.





Tax-effective charitable giving

Giving to charity this Christmas is a great way to give to those less fortunate while receiving some extra tax perks.

Charitable donations are tax deductible which only adds to the incentive to be generous this holiday season.

Here are some tips for maximising your tax breaks on charitable donations:

The charity must be registered

Make sure the charity you donate to has been endorsed by the ATO as a deductible gift recipient (DGR) organisation. It is important to note that not all charities are endorsed as a DGR.

The gift must truly be a gift

The donation must be a gift, not an exchange for something material. This means if you have received items in return that provide you with some personal benefit, such as raffle tickets, you cannot claim the deduction as a gift or donation.

Check relevant gift conditions

The ATO considers a gift as a voluntary transfer of money or property, including financial assets such as shares. For some DGRs, the income tax law adds extra conditions affecting the types of deductible gifts they can receive. If you are considering a sizeable donation, discuss the tax implications with your accountant.

Wills and blended families

In recent years, there has been a rise in the number of blended and stepfamilies within Australia.

Figures from the Australian Bureau of Statistics showed that one in five families is a blended or stepfamily. Today, the issue of passing assets to beneficiaries on death is becoming increasingly risky.

As the numbers of blended and stepfamilies continues to rise it is important to ensure a Will reflects an individual's wishes.

Due to this, families should consider incorporating a Mutual Will into their estate planning. Mutual Wills can be an effective tool in an estate plan for couples where one or both partners have children from pre-existing relationships.

They can provide a degree of certainty that the gifts in the Will pass to the intended beneficiaries after the death of one party.

A Mutual Will is a Will that includes a binding contract between two parties stating that:

- each party will leave their property to the mutually agreed beneficiaries.
- during their lifetime neither party will revoke or change their Will without the consent of the other party.
- after the death of one party the surviving party will not alter or revoke their Will to change the mutually agreed beneficiaries.

If the surviving partner makes a new Will and departs from the original agreement, the effect of the contract means that the courts will impose a constructive trust over the property inherited by the survivor.

The new year is on the horizon. It may be a good opportunity for individuals who have not considered or adequately planned what would happen in the event that they were to pass away to take action.

Revised super proposals

The Government has announced some changes to the superannuation proposals originally announced in the May 2016 Federal Budget.

The Coalition's proposal is to reduce the existing annual non-concessional (after-tax) contributions cap from $180,000 per year to $100,000 per year. Australians who are under 65 years of age will continue to be able to use the three-year bring forward rule (bring forward three years' worth of non-concessional contributions ($300,000) from 1 July 2017.

The new suggestion replaces the original proposal for a $500,000 lifetime cap on non-concessional contributions made since 2007 announced in the May 2016 Federal Budget, which was opposed by parts of the super industry.

In the meantime, Australians can continue to put $540,000 into their super accounts between now and 1 July 2017.

Individuals with a superannuation balance of more than $1.6 million will no longer be eligible to make non-concessional contributions from 1 July 2017. This revised proposal is said to allow more individuals to build a superannuation balance cap to attain a $1.6 million pension balance cap in the retirement phase.

To offset the full cost of changes to non-concessional contribution arrangements, the start date for catch-up concessional contributions will be deferred by 12 months to 1 July 2018.

In addition, the Treasurer has reversed the Budget Measure to harmonise contribution rules for people aged between 65 and 74; providing they satisfy the work test they will still be able to make additional super contributions.