END OF YEAR UPDATE '15

The end of year guide for you and your business

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Avoid the post Christmas party blues

The festive season is fast approaching, accompanied by Christmas cheer and the much-anticipated work Christmas party.

End of year celebrations are a great time to bond with colleagues and celebrate the year's achievements. However, it is important for employers to remember that Christmas parties are an employer-organised event. Therefore, employers will be held liable and need to provide a duty of care by OH&S standards to all employees.

As hosts of the Christmas party, employers have legal obligations to abide by to ensure there is no post-Christmas party legal and HR aftermath. Employers are accountable for the responsible service of alcohol at the venue and are required to supply food, low alcohol and non-alcoholic drink options. If the event is not in a licensed venue, it is important to employ staff trained in the responsible service of alcohol.

Employers may also want to consider specifying a start and finish time in which they will be held responsible, with any after-party events not employer-endorsed. It is advisable to organise transportation, such as taxis and public transport, to and from the venue to ensure safety. It is a good idea to assign a responsible person to oversee the event.

A clear policy detailing a code of conduct with acceptable and unacceptable behaviour can be sent as a friendly email to remind staff what is to be expected at the work-related function. Offensive behaviour and misconduct that is discriminatory or harassing in nature can result in employers being sued for their negligence.

Ensure employees are aware that your workplace's social media policy is applicable during the event and to be cautious of posting anything online that may negatively impact your business's brand.

These simple precautions can help to minimise risks ensuring stress-free celebrations all around.

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ATO increases focus on property deductions

Property owners who claim inappropriate rental property deductions may find themselves in the ATO's direct firing line.

The tax office will be increasing its focus on extreme or inappropriate rental property deductions, in particular holiday homes.

Although it is quite common for owners to make some mistakes when claiming rental deductions, it is necessary for owners to get deductions and expense claims right to avoid facing harsh, costly penalties.

The ATO plans to send out letters to taxpayers around Australia, reminding them of the deductions that they can claim. Three main problem areas where rental property owners are incorrectly claiming deductions that don't necessarily suit their circumstances include:

Claiming excessive deductions

Deductions may only be claimed for the periods when the holiday house property was rented out, or when it was genuinely available for rent.

Splitting income and deductions

Husbands and wives who own property together, but divide the income and deductions unequally to receive a tax advantage for the higher income earner, will be heavily penalised by the tax office.

Claiming for interest deductions

Interest expenses incurred for a rental property are only deductible when the property is used to produce rental income.

Going green to increase profits

Businesses can help improve our environment and their bottom line at the same time by incorporating some simple, positive environmental activities into their everyday operations.

By improving their internal operations, every business can save money and help save the planet. The most important is reducing waste of any kind. Waste not only uses up the earth's resources, it squanders your money.

One of the hardest things to remember (but easiest things to do) is turn off all electronic devices and utilities overnight and weekends. Your printers, monitors, copiers, are all on 'standby' mode. The extra minute it takes to warm these up in the morning isn't really that much of a hardship. Also, look for eco-friendly supplies and raw materials.

Differentiate yourself from the competition by emphasising your green business practices. If you're willing to make a substantial commitment to eco-friendly operations, you can stand out from your competitors and carve a niche in the market. Many customers make choices based on a preference for environmentally sensitive products or services, and this can give you a competitive advantage.

Encourage employees to take public transportation to work. Many business are located near public transport. The benefits of such practices include saving fuel, and also mean that staff without their own transport can easily get to work. If you hire local staff the benefit may be even greater.

Sell a "green" product or service. Ready to go totally green? The market for environmentally sensitive products and services is exploding. Those considering starting a business or those looking to revamp their existing company, can focus on serving the eco-conscious market directly.

Have a go at inventing something. We're still in the very early days of the green movement and many problems need to be solved. A good, workable idea for a product or service that can help save the planet has got good prospects, so now is the time to write that business plan and develop that product. Don't forget about the intellectual property issues that may also need to be dealt with such as trademarks.

Even a small business can make a contribution to helping save and repair the planet, while ultimately growing their bottom line.

Exiting from your business

The end of the year is a time for reflection, with some business owners opting to exit their business.

If you intend on selling your business to direct funds towards retirement, you must be aware of your entitlements regarding superannuation contributions. There are other tax implications to review such as the Capital Gains Tax.

Capital Gains Tax is the first and foremost consideration when selling. There are various CGT concessions for small businesses such as the 50% active asset reduction, a retirement CGT exemption and CGT rollover provisions that may apply to some individuals. There are exemptions from capital gains such as the family household, private cars, personal use items and pre-CGT assets (acquired before 20 September 1985).

The proceeds from a business sale may be contributed to superannuation accounts tax-free under the small business CGT concessions. For those business owners under the age of 75 and compliant to certain timeframes, these superannuation entitlements apply. These sellers have the opportunity to invest substantially in wealth management options for a more secure retirement. Check with your tax advisor on how these rules can apply to your business.

Staying on top of your superannuation

SMSF trustees who are planning to head overseas for an extended period of time shouldn't forget to ensure their SMSF remains compliant while they are away.

Long absences from Australia can create severe tax penalties for self-managed super funds. This is because leaving Australia to work or live overseas can violate super fund rules and result in an individual losing a substantial amount of their retirement savings as a tax penalty.

Before heading overseas for a prolonged period of time, SMSF trustees should check whether their trip could impact upon their fund and if they need to take steps to avoid facing any tax penalties.

SMSFs receive tax concessions as long as they are compliant and satisfy the three requirements that define an Australian superannuation fund:

- The fund is set up in Australia or is invested in an Australian asset
- The management and control of the fund takes place in Australia
- The fund meets the active member test (in relation to contributions)

It is the second and third requirements that can cause problems for SMSF trustees who decide to work or live overseas. All SMSFs must continue to meet the 'control test', which is based on physical location. This requires the SMSF trustees to be located in Australia, since they are responsible for managing and controlling the SMSF.

While absences of up to two years usually do not cause problems, significant evidence must be provided that indicates the absence is only temporary.

SMSFs also need to meet the active member test. One of the safest ways to pass this test is to avoid making contributions into the SMSF while the SMSF trustee is overseas.

However, if contributions need to be made to the fund, it may be a good idea to pay them into a public offer fund during the period the SMSF trustee is away, and then roll them over to the SMSF when the trustee is back home.

Although these scenarios may not apply to every SMSF trustee who leaves Australia on an overseas trip, it is a good idea to seek proper financial advice and guidance before leaving the country. to avoid facing such high penalties.

'Tis' the season for tax-free giving

At the end of the year, many employers look for ways to thank their employees for their work during the year.

While throwing a work Christmas party is a great way for an employer to demonstrate their appreciation of everything their staff have achieved throughout the year, the cost of holding such an event can be quite expensive.

Christmas parties are regarded as "entertainment" expenditures, and are therefore not tax-deductible. Some Christmas parties can also result in employers having to pay a fringe benefits tax (FBT) if they end up costing $300 or more per person.

Instead, it may be a better idea for an employer to thank their staff through the act of giving certain items known as "non-entertainment" gifts. Non-entertainment gifts that cost less than $300 are fully tax deductible.

Non-entertainment gifts are usually exempt from FBT when the total cost of the gift is less than $300 (inclusive of GST). An employer can also claim tax deductions and GST credits for every non-entertainment gift they give to staff members. Types of gifts typically include beauty or skincare products, flowers, wine, gift vouchers or hampers.

The FBT exemption also extends separately to any gifts an employer provides to associates. This means that a similar gift can also be given to a staff member's spouse or partner and have the same favourable tax outcome.

Providing employees with gifts that are considered to be non-entertainment gifts but cost $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 the rate of 49%.

Of course, employers can still give staff members entertainment gifts as a way of saying thank you, however, this is a less beneficial and 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.

If the cost for these is less than $300 (including GST), FBT is not payable, however employers cannot claim any tax deduction or GST credit. If the cost of the entertainment gift is $300 or more (including GST) an employer can claim a tax deduction and GST credit, but FBT is payable at the rate of 49%.

Employers should also keep in mind when giving non-entertainment gifts that some fringe benefits may need to be included on payment summaries.

When the value of certain fringe benefits amounts to more than $2,000 within an FBT year, it is the employer's responsibility to record that amount in their payment summary.

End of year annual leave

If your business is closing over the traditionally quiet Christmas and New Year period, don't forget to check your employee annual leave provisions first.

While it can be easy to get caught up in the end of year festivities, owners who are closing their business during the holiday season mustn't forget about their compliance with relevant modern awards or enterprise agreements.

Many modern awards and enterprise agreements outline strict provisions that employers must comply with if they wish for employees to take paid annual leave during a period of shutdown, or if the employee has excessive accumulated annual leave.

All employers that are shutting down their business for the holiday season must provide employees with enough notice of the intention to shut-down and the requirement that they take annual leave during that period.

Employers who fail to do this risk being heavily penalised and may be fined up to $33,000 per breach.

Since the provisions of modern awards regarding notice periods can differ, employers should make sure they check the awards that apply to their business.

Employers should also be aware that they may need to provide employees with notice as early as November, depending on the timing of the annual closure period.

Employers shouldn't forget to provide any award-free employees with notice of an annual shutdown as well, if they are required to take annual leave for the period.

Even though there are no specific notice provisions for award-free employees, the direction to take annual leave must be considered reasonable.

Employers should hand a written notice of the shutdown period and the requirement for employees to take paid annual leave to employees. Written notices can be delivered through email or included on an employee's payslip, and can then be used as evidence of maintaining compliance with the Fair Work.

Reducing your FBT in 2016

Reducing your business's FBT (fringe benefits tax) can lead to savings for a prosperous new year.

Questions are often raised about what FBT strategies can yield the highest savings. Firstly, reviewing your calculated method annually and trial the three types of calculated methods; the 50/50 method, 12-week register method and the actual method to find what works best for your business to optimise savings.

Some FBT strategies to consider this new year:

- Ensure employees clearly define meal and entertainment expenses. By simplifying the process, the quality of data provided can improve from a compliance and calculation point of view. Also, train employees to understand the difference between the travelling and non-travelling employee status.
- Consider an employee master list to search for employee data more easily and avoid duplications.
- To avoid additional tax, be sure to provide appropriate documentation of all expenses such as receipts and have good record keeping measures set in place.

Maximising your Christmas sales

For many small businesses, the Christmas period may account for a large proportion of their annual sales.

The holiday season is a significant spending period for consumers and brands, providing businesses with opportunities to maximise their sales by focusing on their marketing techniques.

To stay ahead of competitors, it is important to establish a plan for the busier months, advertise ahead of the Christmas season and consider new marketing avenues such as online media.

Plan strategically

A plan that specifically covers who the target audience is and what marketing activities are to be conducted in each month during the lead up to Christmas can provide your business with guidance. Be sure to include measurable and realistic goals for your overall campaign strategy and monitor them effectively.

Get a head start

Early promotions help to create awareness about the products and services, providing a chance to stand out from the crowd before competitors begin advertising.

Pre-Christmas marketing ideas may include early-bird offers to attract customers who like to shop ahead.

Digital focus

Consider expanding into the digital realm with online marketing tools such as sponsored social media, paid search and email marketing to inform customers of your current and upcoming promotions. Online communication can include gift suggestions and seasons greetings to customers. A quiet reminder that the content should be relevant to ensure maximum engagement with your customer.