

# BRIEFINGS

EDITION #24 DECEMBER 2015



## Naughty or Nice? Christmas Tax Checklist

It's that time of year again – what to do for the Christmas party for the team, customer gifts, gifts of appreciation, etc. Here are our top tips for a generous and tax effective Christmas season.

### For Your Business

#### What to do for customers?

The most effective way of sharing the Christmas joy with customers is not necessarily the most tax effective. If, for example, you take your client out or entertain them in any way, it's not tax deductible and you can't claim back the GST. There are specific rules designed to prevent deductions and GST credits from being claimed when the expenses relate to entertainment, regardless of whether there is an expectation of generating goodwill and increased business sales. Restaurants, a show, golf and corporate race days all fall into the 'entertainment' category.

However, if you send your customer a gift, then the gift is tax deductible as long as there is an expectation that the business will benefit (assuming the gift does not amount to entertainment).

From a marketing perspective, if your budget is tight, it's better to focus on the customers you believe deliver the most value to your business than spending a small amount on every customer regardless of value. If you are going to invest in Christmas gifts then make it something people remember and something appropriate to your business.

#### What to do for your team?

Christmas is expensive. Some businesses simply can't afford to do much because cashflow is too tight. Expectations are high so if you are doing something then its best not to exacerbate cashflow problems and to take advantage of any tax benefits or concessions you can. Let's have a look at the impact of your options.

#### *Christmas parties*

If you really want to avoid tax on your work Christmas party then host it in the office on a work day. This way, fringe benefits tax (FBT) is unlikely to apply regardless of how much you spend per person.

Also, taxi travel that starts or finishes at an employee's place of work is exempt from FBT. So if you have a few team members that need to be loaded into a taxi after over-indulging in Christmas cheer, the ride home is exempt from FBT.

If your work Christmas party is out of the office, keep the cost of your celebrations below \$300 per person. This way, you won't pay FBT because anything below \$300 per person is a minor benefit and exempt. Be careful, though, as the \$300 includes all the costs of the event - meals, drinks, entertainment, etc.

If the party is held somewhere other than your business premises then the taxi travel is taken to be a separate benefit from the party itself and any Christmas gifts you have provided. In theory, this means that if the cost of each item per person is below \$300 then the gift, party and taxi travel can all be FBT-free. However, the total cost of all benefits provided to employees needs to be taken into account in determining whether the benefits are minor across the FBT year.

Just remember that if entertainment is provided to employees and an FBT exemption applies, you will not be able to claim tax deductions or GST credits for the expenses.

If your business hosts slightly more extravagant parties and goes above the \$300 per person minor benefit limit, you will pay FBT, but you can also claim a tax deduction for the cost of the event. Just bear in mind that deductions are only useful to offset against tax. So if the business is paying no or limited amounts of tax, a tax deduction is not going to help offset the cost of the party.

#### **Christmas gifts for staff**

\$300 is the minor benefit threshold for FBT so anything at or above this level will mean that your Christmas generosity will result in a gift to the Tax Office as well at a rate of 49%. To qualify as a minor benefit, gifts also have to be ad hoc – i.e. no monthly gym memberships or giving the one person multiple gift vouchers amounting to \$300 or more.

Gifts of cash from the business are treated as salary and wages – PAYG withholding is triggered and the amount is subject to the superannuation guarantee.

Aside from the tax issues, think about what will be of value to your team. The most appreciated gift is the one that means something to the individual. Giving a bottle of wine to someone who doesn't drink, chocolates to a health fanatic, or time off to someone with excess leave, isn't going to gain much in the way of goodwill. A sincere personal message will often have a greater impact than a uniform gift.

#### **For You**

##### **Spread the joy with charitable gifts**

If you want to give a gift to someone who doesn't need or want anything material, you might consider giving them something like a well in a third world country. Assuming the gift is made through a deductible gift recipient, then the donation of the well will be tax deductible - either for you or the recipient - as it is the money equivalent of a well for projects of this type, not an actual well.

If you made a donation and received something for that donation like a toy or a raffle ticket, then it would not be tax deductible.

# **600 Targeted in Random ATO Audits**

Back in June, the Australian Taxation Office (ATO) told a Parliamentary standing committee on tax and revenue that it was "considering" reintroducing random audits. Now the ATO has confirmed that random audits will commence in 2016.

The compliance program targeting 600 individuals and small businesses will focus on tax evasion and under-reporting.

The stimulus for the reinvigorated approach appears to be advice from the ATO's counterparts in Britain and the US noting that they could not truly estimate the level of non-compliance and tax evasion without random audits.

The ATO advised *Fairfax* that only a handful of the 600 individuals and businesses targeted will be physically audited where they found grounds to investigate further.

On a more positive note, 500,000 taxpayers have been contacted by the ATO advising that their tax returns will not be subject to further review. The pilot project is aimed at taxpayers with 'straightforward' affairs and taxable incomes of less than \$180,000. The 'certainty letter' is an assurance that the ATO will not review the return unless there is evidence of fraud or deliberate avoidance.

# **Office Closure**

Our office will be closed from 24 December 2015 and will re-open on 4 January 2016.

We wish you and your families best wishes for the festive season and a happy and healthy year in 2016.

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