



## Client eBrief



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### Christmas Parties & Gifts

You decide to throw a Christmas party for the staff. Can you claim this as a business expense? Does FBT apply? This depends on who attends and where the party is being held. The provision of a Christmas party for an employee may be a minor benefit and exempt from FBT if the cost of the party is less than \$300 per employee and certain conditions are met. This provision also applies to the employee's associate (family member) or spouse.

The cost of providing a Christmas party is income tax deductible to the extent that it is subject to FBT. Therefore, any costs that are exempt from FBT cannot be claimed as an income tax deduction. GST credits can only be claimed to the extent that a cost is tax deductible.

Therefore, if you cannot claim it as a deduction, you cannot claim the GST credits either. The ATO have guidelines in regards to FBT as it relates to different business structures. See the link below for detail relating to small business (NAT 71590), government (NAT 71589), non-profit organisations (NAT 71586) and tax-exempt bodies (NAT 1054 and 3192).

- ATO – FBT and Christmas parties

#### Minor Benefits Exemption

The \$300 threshold is applied separately to each benefit, gift or party. So for example, an employee could attend the workplace party at a cost to the employer of \$280 and receive a gift worth \$250, but because these amounts are treated separately there are no FBT implications.

#### Christmas Gifts

The provision of a gift to an employee at Christmas time, such as a hamper, may be a minor benefit that is an exempt benefit where the value is less than \$300. Where the gift is given at the Christmas party, each benefit can be considered separately.

#### Christmas Gifts for your Clients and Employees

Are gifts to your employee, clients and suppliers claimable?

Gifts may be classified as "entertainment".

For gifts such as wine, food, hampers, vouchers, etc, these are not considered to be entertainment. If the gift is a minor benefit (i.e., less than \$300 value), then yes, the gift is tax deductible, and therefore GST is claimable for employees and their family members, clients and suppliers. No FBT applies to gifts of less than \$300. For gifts over \$300, FBT may apply for employees and their family members, but FBT does not apply to clients or suppliers.

Gifts such as a holiday, membership to a club, or tickets to a theatre, sporting or musical event are considered to be entertainment. For minor benefits, as above, the gift is tax deductible for employees and their family and no FBT applies. However, for clients and suppliers, the entertainment gift is NOT tax deductible, and no FBT applies.

## ATO Lodgement Dates

These dates are from the ATO website and do not take into account possible extensions. You remain responsible for ensuring that the necessary information is with us in time.

**BAS/IAS Monthly Lodgement – December Activity Statement:** 21<sup>st</sup> January, 2015 final date for lodgement and payment.

**BAS/IAS Monthly Lodgement – January Activity Statement:** 21<sup>st</sup> February, 2015 final date for lodgement and payment.

**BAS/IAS Monthly Lodgement – February Activity Statement:** 21<sup>st</sup> March, 2015 final date for lodgement and payment.

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2nd Quarter of FY 2015: **BAS Lodgement – December Quarter 2014 (including PAYGI)** 28th February, 2015 final date for lodgement & payment

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Due date for super guarantee contributions, for **2nd Quarter of FY 2015**, October to December 2014 - contributions to be made to the fund by 28th January, 2015.

Due date for super guarantee contributions, for **3rd Quarter of FY 2015**, January to March 2015 - contributions to be made to the fund by 28th April, 2015.

The super guarantee charge is not a tax deduction if not paid by these dates.

Refer to the ATO for details regarding any SGC charges applicable if not paid by due date.

Giving your clients a gift at Christmas is a personal choice that you as the business owner makes. Be aware that some clients may not be allowed to accept gifts due to their business's Code of Conduct (e.g., government workers).

We remind you that the topic of entertainment, tax deductibility and fringe benefits tax is complex and not always straightforward. Check with your tax agent if in doubt and refer to the ATO website for detailed guidance.



## Christmas Shutdowns – what a Business Owner needs to know

Many businesses have a scheduled period of closure during Christmas and New Year. How employer's treat this depends on the award or agreement their employees are governed by. These guidelines apply to permanent employees - casual employees do not have to be paid during a scheduled shut down.

### 1. Award or Agreement allows employer to direct leave

If the award or agreement provides for the employer to direct leave to be taken at specific times, then the employer can do this so long as they follow the guidelines about how much notice is required.

**Example:** The Clerks Private Sector Award does allow employers to direct employees to take leave during an annual shutdown, and they must be given at least 4 weeks' notice (before the first day of leave), in writing.

What if the employee doesn't have enough leave? The employer can agree to pay annual leave in advance or the employee can take unpaid leave. HOWEVER, "If an employee doesn't agree to either, they have to be paid their ordinary pay rate for the shut down. They can't be forced to take unpaid leave".

### 2. Award or Agreement is silent

If the award or agreement is silent on the issue, then the employer may not force an employee to use their leave during a scheduled closure. The employer can negotiate with the employee to take paid or unpaid leave, or half pay leave if the award/agreement allows this.

### 3. The employee is not covered by an award or agreement

Note that this is rare—the majority of employees are governed by an award, even if the employer doesn't realise it or doesn't like it!

If there truly is no award or agreement governing the employee, then the employer can direct the employee to take leave if the direction is 'reasonable'. See below for detail on what is 'reasonable'.

### 4. Public Holidays during leave

Public holidays that fall during a period of paid leave are always paid as normal days, they should not be taken as annual leave days. If an employee normally works a given number of ordinary hours and overtime hours, then they will be paid only for the ordinary hours on a worked public holiday, they will not be paid for the usual overtime hours. If a public holiday falls during a period of agreed unpaid leave, the public holiday is not paid.

## What is 'Reasonable'?

**From FairWork Best Practice Guidelines:** "What is 'reasonable' will depend on factors such as the kind of business run by the employer, the nature of the work performed by the employee, the employee's personal circumstances (including family responsibilities) and how much notice was given to the employee".

An employer can refuse a request from an employee if they do not feel it is 'reasonable'.

This will be governed by factors such as: the effect on the workplace and the employer's business of approving the request, including the costs of doing so and negative impacts on efficiency, productivity or customer service; the inability to organise work among existing staff; and, the inability to recruit a new employee or the practicality or otherwise of the arrangements that may need to be put in place to accommodate the employee's request.

Disclaimer: All or any advice contained in this newsletter is of a general nature only and may not apply to your individual business circumstances. For specific advice relating to your specific situation, please contact your accountant or contact me for further discussion.

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