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Christmas Cheer - with no FBT fear

With the year steadily making its way towards the festive period, businesses that are turning their attention to end-of-year celebrations will need to keep in mind the tax implications of throwing a Christmas party or handing over gifts to staff. Of course there's nothing wrong with getting into the yuletide spirit, but business owners should make sure that while doing so, adverse tax outcomes are minimised.

As with any benefit that a business provides to staff that is outside the safe definition of "salary", the question of whether it is a (taxable) fringe benefit or not will need to be addressed.

The Tax Office states that there are no different FBT rules that apply to Christmas entertainment, which can certainly come under the "minor benefits" umbrella. A minor benefit will be FBT-exempt where, broadly, the benefit is less than \$300 per person and provided on an infrequent and irregular basis.

Not that the taxman doesn't know how to have fun. The FBT law allows however (perhaps getting into the spirit of the season) for the minor benefits threshold to apply to each benefit provided, not to a total value of "associated benefits".

So if, as a generous employer, you organise lunch/dinner **and** hand out gifts, the meal and the gift are considered separately for FBT purposes. If each is less than \$300, they are both generally FBT-free.

It is worth noting however that as such minor benefits are exempt from FBT, a business cannot then claim such expenses as a tax deduction, nor can claims be made for any goods and services tax (GST) credits that arise from making these "supplies".

Where such costs do fall under the FBT regime, an employer's liability is calculated at 46.5% of the grossed-up "taxable value" (or 47% after April 1, 2014, as an effect of the Medicare levy increase) of the benefit provided. Determining the value (for FBT liability calculations) of "entertainment" expenses can be through the "actual" expenses method (which is the default option) or a business can elect for two other options:

- The "50/50 split" method — where the taxable value is equal to half of the total food and drink expenditure relating to employees and their associates as well as third parties (eg clients)
- The "12 week register" method — based on the percentage of food and drink entertainment through a register that is maintained for a representative period (in this case, as the name suggests, 12 weeks).

In a practical sense, the 50/50 split method can avoid additional administration, however the latter may be preferred where third party entertaining predominantly exceeds staff entertainment. Consult this office for the best option for your situation.

Note that expenditure in relation to meal entertainment is specifically excluded from having to be reported on an employee's payment summary as a "reportable fringe benefit".

Minimising your Christmas party FBT impost

Structuring your Christmas celebrations in a way that makes sure you play Santa under the "minor benefits" banner will be well worthwhile.

The safest option for a business to steer clear of FBT liabilities would be to hold the Christmas party on the business premises on a working day, as providing meal entertainment to employees (and also bona fide clients) will be FBT free.

If partners and families of employees attend (known as "associates") their FBT-free status is maintained if the benefit provided to each person is less than the minor benefits limit of \$300.

And if the party is held off-premises, and everyone attends the work function at a pub or restaurant, the \$300 limit applies to both employees and associates, with anything over subject to a liability based on a taxable value calculated by one of the methods referred to above.

If entertainment is held off-premises, here is an added cautionary tip regarding the FBT implications for travel expenses such as staff taking taxis. For an employer thinking of paying for this travel option, the important consideration in regard to this will be venue.

If the taxi travel is from home to an entertainment venue (that is not the workplace) and home again, the FBT law will include the cost of the ride as part of the entertainment and deem that it is to be included in the cost-per-head total (that is, it counts towards the \$300 minor benefit limit).

But if the cab drives from home to a function held at the workplace, and/or from the workplace back to home after the festivities, the taxi fare is exempt from FBT.