



News Bulletin

Accountants &
Business Advisors



DECEMBER 2019
Merry Christmas!

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TAX DEVELOPMENTS UPDATE

Nowhere to Hide! ATO Discovers Undisclosed Foreign Income



On 15 August 2019, the ATO announced that it was in possession of records relating to more than 1.6 million offshore accounts worth a

combined value of more than \$100 billion.

This data has been obtained as part of the operation of the new international data reporting and information sharing regime known as the Common Reporting Standard (CRS).

The ATO's latest update on its successes with the CRS serves as a timely reminder that information held in jurisdictions that were previously considered to be "secrecy jurisdictions" or "tax havens" is becoming increasingly accessible to the ATO, with 65 jurisdictions having signed up to the CRS.

Over the course of this decade, the international tax environment has shifted towards greater transparency and exchange of information between tax authorities. Unsurprisingly, the ATO has been very much involved in this shift and now has a greater capacity to detect offshore tax evasion and undeclared foreign income than at any time in the past.

Identifying non-disclosure of foreign income has been a key focus area for the ATO and an area that has been receiving increasing attention over the last

few years is offshore arrangements, particularly in tax havens or jurisdictions with banking and financial secrecy. In particular, and relevantly, the ATO is zeroing in on:

- offshore bank accounts, including debit and credit cards;
- unreported foreign income and assets (and capital gains referable to those assets);
- transactions with offshore structures; and
- deductions relating to foreign income that have been claimed incorrectly.

ATO Receives 230 "Tip-Offs" Per Day As Part Of The Black Economy Attack



The ATO in tackling phoenix, tax evasion and black economy behavior has instituted a system of "Tip-Offs", encouraging people to report any known or suspected phoenix, tax evasion or black economy behaviour by completing a "Tip-Off" form and supplying it to the ATO.

The ATO has revealed that it received a record-breaking 15,000 tip-offs to its Tax Integrity Centre in the first quarter of this financial year as the agency continues its focus on the black economy.

The ATO says that the top categories of tip-offs the ATO has received so far this year have been about:

- Not declaring income;
- Demanding cash from customers and/or paying workers "cash in hand";
- Someone's lifestyle does not appear to match their income level; and
- Not reporting sales.

ATO figures show that cafés and restaurants top the list in terms of the total number of tip-offs received in the first quarter this year.

Apart from the hospitality industry, the ATO also received high volumes of tip-offs about black economy behaviour in the hairdressing and beauty, building and construction, and cleaning industries.

THE IMPORTANCE OF DELEGATION TO BUSINESS SUCCESS



Delegation is one of the most important management skills you can learn and is a vital tool to the success of a growing business.

Business owners who do not learn to delegate responsibilities and tasks often end up stunting their company's growth. One of the most difficult transitions for leaders to make is the shift from doing to leading.

Good delegation saves you time, develops your staff and motivates individuals. Poor delegation can cause frustration, stress, and confusion.

It's not uncommon for owners to try to do it all themselves, and many have a difficult time delegating and walking away. They check in frequently, correct minor errors and take care to ensure the employee is doing it their way instead of coming up with their own techniques.

As you begin your business, taking on all the tasks may be a reality. However, as you grow, you will have less time to spend on things that need your attention. Spreading yourself too thin and trying to have your efforts in every area of the business will not serve you well.

At this point, delegation or distribution of responsibilities to employees is needed. Delegating work allows you to offload responsibilities to employees and allows you to focus on larger business matters.

One of the biggest hurdles people have with delegation, is accepting a different approach or indeed a slightly different outcome. Of course, some process-driven tasks are formulaic and must be done in a specific way. Others, however – certainly more creative tasks – would never be done in the same way by two different people. Therefore, you should rationalise your expectations before you delegate.

To know if you're guilty of holding on to too much, answer this simple question: If you had to take an unexpected week off work, would your business operate effectively as normal?

If you answered no or if you're unsure, then you may be more involved than necessary.

To raise the ceiling of your leadership potential, you need to extend your presence through the actions of others through delegation.

TAXATION OF CHRISTMAS BENEFITS



With Christmas once again almost upon us, it's important to understand the Tax implications of holding

Christmas parties and giving Christmas gifts.

As a general rule, Christmas parties constitute "entertainment benefits" and as such are subject to Fringe Benefits Tax (FBT) unless specifically exempted, or the "minor benefits" exemption applies. A minor benefit is one that is provided to an employee or their associate on an "infrequent" or "irregular" basis, which is not a reward for services, and the cost is less than \$300 "per benefit" inclusive of GST.

(i) On-site Christmas party

Holding the Christmas party on the business premises on a working day is usually the most tax effective. Expenses such as food and drink (including alcohol), are exempt from FBT for employees with no dollar limit, but no tax deduction or GST credit can be claimed.

Where only finger food or a light meal and no alcohol is provided, then the entire cost is tax deductible and there is no FBT, and a GST credit can be claimed on the entire cost.

(ii) Off-site Christmas party

Christmas parties held *off the business premises* are exempt from FBT where the cost for the employee and their associate is each less than \$300 inclusive of GST but no tax deduction or GST credit can be claimed. The cost of clients attending the party is not subject to FBT, and no tax deduction or GST credit can be claimed on their portion of the cost.

Certain benefits provided to employees at the Christmas function are considered *separately* when applying the \$300 minor benefits exemption.

For example, a Christmas party is held at a restaurant costing \$220 per head, and at the same time employees are provided with a Christmas hamper (considered a non-entertainment gift), costing \$150. Although the total cost is more than \$300, the provision of both benefits will usually be exempt from FBT under the minor benefits exemption.

For the Christmas party expenses, the business will not be entitled to claim either a tax deduction

or a GST credit. However, a tax deduction and GST credit claim should be available on the cost of the hamper as this is not considered to be "entertainment".

GIFTS

(i) Non-entertainment gifts

Non-entertainment gifts provided to employees are usually exempt from FBT where the total value is less than \$300 inclusive of GST. A tax deduction and GST credit can also be claimed. These include skincare & beauty products, flowers, wine, perfumes, gift vouchers and hampers.

Non-entertainment gifts given to clients and suppliers do not fall within the FBT rules as they are not provided to employees. Generally, a tax deduction and GST credit can be claimed for these gifts provided they are not excessive or overly valuable.

(ii) Entertainment gifts

The provision of entertainment gifts has different tax implications (examples include theatre tickets, passes to attend a musical, live play, movie, tickets to a sporting event or providing a holiday).

Where the cost for the employee and their associate is each less than \$300 GST inclusive, FBT is not payable, and no tax deduction or GST credit can be claimed.

However, if the cost for the employee and their associate is each \$300.00 or more GST inclusive, a tax deduction and GST credit can be claimed, but FBT is payable. The cost of any entertainment gifts provided to clients is not subject to FBT, and no tax deduction or GST credit can be claimed.

EMPLOYEE V CONTRACTOR: ATO CHECKLIST BEFORE HIRING CONTRACTORS

Due to the changing nature and diversity of modern work arrangements (and the emergence of the "gig" economy), the courts have adopted broader tests to discover the "real substance" of the relationship in question. The courts have also shown an increasing willingness to strike down "disguised employment relationships" that deliberately seek to position a relationship outside of the tax, super and other laws

In this context, this issue that has been a focus of the ATO which has updated its checklist for business operators to consider before hiring a "contractor".

ATO considers that the employee/contractor distinction can only be made after reviewing the working arrangement in its entirety, and notes that there is not just one deciding factor that makes a worker an employee or contractor for tax and superannuation purposes.

To get the right answer, the ATO recommends that business operators review the following case scenarios before hiring someone as a contractor:

- ability to subcontract or delegate – if they pay someone else to do the work;
- basis of payment – if they will be paid based on an agreed quote they provided;
- equipment, tools and other assets – if they are providing their own tools and equipment needed to get the job done;
- commercial risks – if they are legally responsible for their work and liable for fixing mistakes or defects;
- control over the work – if they decide how the work gets done subject to specific terms in any contract or agreement; and
- independence – if they operate their own business independently of your business

If the answer is No to some or all of these scenarios, the ATO says further information and advice should be sought before treating the worker as a contractor (instead of an employee).

SEASONS GREETINGS!

We would like to take this opportunity to thank you for allowing us to be of service to you and wish all our clients the very best for the festive season and for a happy and prosperous New Year.

Please note that our Offices will closed for the festive season from the 23rd December, 2019 to 10th January, 2020.



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