SOMERVILLE BOOKKEEPING

Client eBrief

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Tax Risk Management and Governance Guide

The ATO has developed a tax risk management and governance review guide for business. While aimed at large business, there are guidelines for small to medium businesses as well.
The ATO is encouraging businesses to adopt an internal control framework to self-assess tax and operational risks.

The full guide addresses responsibilities of both boards of directors and management personnel.
Small to medium entities may not have the formal documents of large entities, but nevertheless the same principles can apply.

- Role of management in authorising suppliers, granting credit to customers, controlling bank accounts and so on
- Levels of access and permissions granted to staff appropriate to their role
- Staff, management and board roles and responsibilities should be clearly defined and documented, with appropriate segregation of duties and security processes
- Adoption of documented policies and procedures
- Controls are checked internally by existing staff and/or business owners rather than an external person or entity
- Audit trail records
- Code of conduct for staff and associates-this may be more formal in a large business, but may be informally adopted through the accepted culture of a small business
- Chains of authority, communication and reporting should be clear
- Directors should understand their legal liabilities, rights and obligations
- Adoption of technology and information controls and security procedures
- Record keeping policies and procedures
- Accounting software and procedure

References
ATO-Tax Risk Management and Governance Review Guide
ASX-Corporate Governance Principles
ASIC-Corporate Governance

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 – September Activity Statement: 21st October, 2016 final date for lodgement and payment.

BAS/IAS Monthly Lodgement – October Activity Statement: 21st November, 2016 final date for lodgement and payment.

1st Quarter of FY 2017: **BAS Lodgement – July to September 2016 (including PAYGI)** 28th October, 2016 final date for lodgement & payment

When a due date falls on a Saturday, Sunday or Public Holiday, you can lodge or pay on the next business day.
A public holiday is a day that is a public holiday for the whole of any state or territory in Australia

ATO gives small business extension for SuperStream compliance
Small business has been granted a short reprieve for adopting SuperStream, with the ATO extending the compliance deadline to October 28

Please Note: Due date for Super Guarantee Contributions, for: 1st Quarter of FY 2017, July to September 2016 - contributions to be made **to the fund** by 28th October, 2016.

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.

Important Changes to Annual Leave

A number of very important changes have recently been made by the Fair Work Commission to annual leave entitlements for employees covered by the Fair Work Act 2009.

It is now critical for you to familiarise yourself with these changes because:

- the changes are already in full legal effect
- non-compliance may result in prosecution and penalties, and
- existing annual leave policies and procedures may now need to be updated

The key changes are explained in detail for you below:

Cashing Out Annual Leave

For the first time, all Modern Award-covered employees are now able to cash-out a portion of their accrued annual leave. However, cashing-out is subject to four very strict rules which must always be followed:

1. Employees can only cash out a maximum of two weeks' annual leave every 12 months
2. An employee must always have a remaining balance of at least 4 weeks after the cashing-out has been processed
3. Each agreement to cash-out annual leave must be recorded in writing, and
4. The amount paid to the employee must be no less than the amount they would have received had the leave been taken

All Employers should also note:

- Employees under 18 years of age will also need their parent / guardian to sign the cashing-out agreement, and
- Employers remain strictly prohibited from coercing or misleading employees into cashing-out their accrued annual leave.
- A small number of Modern Awards are still subject to variation to permit cashing-out of annual leave. Always check the applicable Award carefully.

Employees who are not covered by either a Modern Award or an Enterprise Agreement remain free to cash-out annual leave, subject to the separate rules imposed by section 94 of the Fair Work Act 2009. These rules are the same as those listed above, except that there is no restriction on the amount of annual leave which can be cashed-out in each 12 month period.

Excessive Annual Leave

Many business find it difficult to effectively manage unwieldy annual leave balances. Fortunately, these latest changes by the Fair Work Commission now make it much easier to direct employees to take annual leave and thereby reduce – or eliminate - excessive leave balances.

Firstly, it’s important to note the definition of ‘excessive leave’:

- If the employee is not a Shiftworker: 8 weeks’ annual leave
- If the employee is a Shiftworker: 10 weeks’ annual leave

Most – but not all – Modern Awards now contain a 'model directed leave term'. This new clause will allow your business to direct an employee to take annual leave. As is the case with cashing-out of annual leave, very strict rules apply:

1. The employee and employer must firstly meet with one another and discuss ways of reducing the excessive leave balance. If they're unable to reach agreement on when or how annual leave should be taken, your business can then direct the employee to take some of their annual leave. This is referred to as 'directed annual leave'.
2. The directed annual leave period must begin:
    - no earlier than 8 weeks, and
    - no later than 1 year from the date the annual leave direction is issued by your client
3. The directed annual leave period must be at least one week long, and
4. The employee must have at least six weeks of annual leave left after the directed leave period has been completed
5. The Employer's direction must not be inconsistent with any leave arrangements already in place. This includes any annual leave policies or procedures which apply in their workplace
6. An employee may subsequently request annual leave despite the employer's prior direction for it to be taken. If this happens, the employer must disregard their previous direction when considering the employee's new annual leave request, and

If an employee has had an excessive leave balance for more than 6 months and the employer has not issued a direction for the leave to be taken, the employee can unilaterally take some of their leave. In this situation the same rules as mentioned above for employer-directed leave will also apply.

Leave in Advance

Most Modern Awards now expressly allow employers to provide their employees with annual leave in advance of that leave having been accrued by the employee.

Importantly, the new 'model clause' also expressly allows employers to deduct any subsequent 'annual leave debt' from the employee's final pay if their employment ends before their accrued annual leave has returned to a positive balance.

The following rules apply to annual leave provided in advance of accrual:

1. The mutual agreement must be recorded in writing
2. The agreement must confirm the amount of leave in advance being provided, the date when that period of leave will commence
3. The agreement must be signed by both the employer and the employee, as well as the employee's parent or guardian if they're under 18 years of age, and
4. A copy of the agreement must be kept in the employee's records

Payment of Annual Leave

A number of Modern Awards have historically required employees to be paid their full wage or salary in-full and up-front when then begin a period of annual leave.

Most Modern Awards imposing this obligation have now been amended to allow employees who are paid via EFT to continue receiving their wage or salary payments 'as usual' during their period of annual leave.

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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