



## 2005: The year ahead for business

*2005 is likely to be a mixed year for small business. Inside this month, we keep you up to date and informed about what to expect and how to prepare for the year ahead.*

### TAXATION:

With the Government winning a new term, 2005 is likely to be fairly quiet on the taxation front. However, we will see a continuation and strengthening of the tax office's audit activity.

The tax office has signalled increased scrutiny where employers fail to meet their tax obligations such as pay as you go withholding, superannuation guarantee payments for their employees, and fringe benefits tax.

Small business owners should be prepared to deal with a tax audit and should not operate on the basis of 'if' it occurs but 'when' it occurs.

For Individuals, the ATO has highlighted work related deductions, rental income and undeclared income as areas of concerns.

Capital gains tax on property and shares is also in the ATO's sights with a new series of reviews and data matching projects being used. The ATO are cross checking tax returns against State Government real estate sales and share registry data, and will follow-up on any discrepancies.

### THE ECONOMY:

In economic terms, the last two years have seen growth rates as good as they get. While 2005 will see a dampening of growth levels, the economy will remain strong. Exporters may also see some relief with the Australian dollar predicted to depreciate against the US dollar.

The big change in 2005 for many is increasing interest rates. Rates are anticipated to increase by approximately 1% in the coming year. While this is not good news for business, an increase of this size is manageable for most. Recent economic predictions see this rise eventuating in the March quarter.

The tightening of the economy in the New Year is likely to polarise the small and medium sized business community with a widening of the gap between good and lesser performing businesses. Business cannot rely solely on the economic good times to maintain solid performance. Business owners need to focus on their own business fundamentals, such as the effective running of a business, and have things well organised in order to ensure a good outcome for the upcoming year.

### SUPERANNUATION:

Superannuation is a key area of change in 2005 with the introduction of choice of funds for employees. Plus, for those with Self Managed Super Funds, you can expect a ramping up of ATO audit activity. Here are the key issues:

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## Don't let the ATO dampen your Christmas spirit

With the festive season upon us again and entertainment expenses on the rise, it's important to keep the sobering thought of tax and FBT in mind. This month, we look at what your work related Christmas expenses and how to minimise the tax exposure for your business.

Fringe Benefit Tax (FBT) is paid by employers who provide non-cash benefits to employees. This generally includes expenses for entertainment provided by employers for employees and their associates such as their husbands or wives.

### *Minor benefit exemption*

If the cost of your Christmas party works out to be less than \$100 per employee and certain conditions are met, then the expense may be considered a 'minor benefit' and exempt from FBT. For the minor benefit exemption to apply the expense needs to occur infrequently.

If associates of employees also attended your Christmas party, then they would have to be considered in the \$100 cost per employee in order for the minor benefits exemption to still apply. For example, if you have 50 people attending your work Christmas party (28 of those are employees) at \$45 per person this works out to be a benefit of \$80.36 per employee and as a result, is likely to be considered a minor benefit. However, if the cost per person increases to \$62 per person, then the benefit per employee is \$110.71 and does not qualify for the exemption.

If you hire a band or other entertainment at a separate cost to the venue where your Christmas party is held, then an additional \$25 per employee is allowed to cover this expense under the minor benefits exemption.

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*Choice of fund*

Employees will have the ability to choose their own superannuation funds from 1 July 2005.

Under current legislation, employees are restricted in their choice of superannuation fund, with the superannuation guarantee directed either into a superannuation fund nominated by an Award, the majority fund of the employees, or a complying fund of the employers choosing. Whilst employees are able to propose a desired superannuation fund, at present the employer has the right to reject that proposal. As a result, employees often have several superannuation funds operating at any one time, all in line with their pattern of employment.

Under the new legislation, an employee will be able to change funds at any time as long as they have not changed funds within the last 12 months. For employers, choice of funds will increase compliance costs with the administrative burden of the change falling on them.

*Co-contribution*

Low income earners eligible for the co-contribution scheme, where the Government matches personal superannuation contributions dollar for dollar, will increase from \$1000 to \$1500 as of 1 July 2005.

*Super surcharge rate reduction*

On 1 July, the superannuation surcharge will reduce from the current rate of 12.5% to 10% in the new 2005-2006 financial year.

*Self Managed Super Funds audit alert*

The Tax Commissioner's 2005 compliance program has non-compliant self managed super funds as a major target. Here's an outline of their key initiatives and areas of concern:

- Additional checks to confirm the integrity of new trustees.
- Focus on the use of fund assets. Fund assets must be maintained for the sole purpose of providing benefits to fund members on their retirement, not before.
- Funds with outstanding tax and regulatory returns
- The use of offshore SMSFs to avoid complying with retirement income policy, superannuation surcharge and reasonable benefit limits requirements.
- Increased focus on those promoting SMSFs as a way for individuals to access superannuation before retirement.
- Review international investments when checking SMSFs for compliance.
- Trustees that lend money or otherwise provide financial assistance to a member (or relative) of the fund.
- The acquisition of assets by the Fund from a related party
- Increasing audit coverage (last year 1,055 funds were audited)

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**Don't let the ATO dampen your Christmas spirit**

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*Property benefit exemption*

Costs for things such as food and drinks for a Christmas party are exempt from FBT if the Christmas party is:

- held on a working day; and
- held at your place of business; and
- attended by current employees of the business (FBT applies where associates of employees also attend the Christmas party if the cost for their attendance does not already fall under the minor benefits exemption.)

*Christmas Gifts*

Gifts such as hampers or wine given to employees at your Christmas party is known as an 'associated' benefit of the function and has to be included in the \$100 per employee expense, in order for it to be considered within the minor benefits exemption.

Gifts such as hampers or wine given outside of a Christmas work function, are FBT exempt if less than the \$100 minor benefits threshold.

*Tax deductibility*

Any costs associated with your work Christmas party that are subject to FBT may be claimed as a tax deduction.

Entertainment expenses exempt from FBT, such as expenses that are exempt under the property benefits or minor benefits rules, cannot be claimed as a tax deduction.

Where your business is registered for GST, you are also entitled to claim back the GST portion of the entertainment expenses that are subject to FBT.

*For information and assistance to minimise your tax exposure, contact us today.*





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### *Uninvested Funds*

Investment management is a key area of responsibility for trustees of SMSFs. Fund investments should be made with the important objective of providing for the members' retirement. Trustees should seek expert advice on the potential income and capital growth of investments.

Too often people managing their own super fund contribute money to a fund that sits as cash and is not being properly managed for investment purposes. This un-productive approach to super fund investment results in poor performance and low returns.

Investment opportunities are changing all the time and as we head into 2005 it is important that you seek expert advice regarding your investment strategy to place you in the best position possible.

### EMPLOYEE RELATIONS:

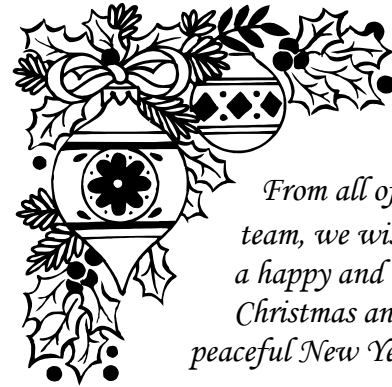
Following are the issues and likely changes small business employers should keep an eye out for in 2005:

- The possible exclusion of employers with less than 20 employees from unfair dismissal laws under proposed Federal legislation.
- A recent Australian Industrial Relations Commission (AIRC) decision saw redundancy (severance) payments increase. 2005 is likely to see the impact of this decision flow through to other Awards, with similar standards already in place in Queensland and NSW.

This is expected to be offset by the proposed Federal Government legislation limiting small businesses from the increased payments which will limit their liability to a maximum of 8 weeks severance pay.

- As already is the case in NSW, a much more rigorous approach is expected by State Governments in prosecuting employers under State OH&S legislation where employees are injured in work accidents.
- As in SA, it can be expected that industrial tribunals hearing unfair dismissal claims involving labour hire workers will be able to involve and make orders against either the labour hire company, its client, or both.
- Privacy legislation preventing or requiring permission to undertake workplace surveillance will continue to be progressed.
- The Federal Government may seek to pass legislation overriding State legislation enabling independent contractors to be treated as if they are employees.

## *Season's greetings*



*From all of our team, we wish you a happy and safe Christmas and a peaceful New Year.*

### SUCCESSION PLANNING:

Any business owner planning to sell or pass down their business in the next 10 years should put a succession plan in place at least 5 years in advance.

Increasingly businesses are being judged on their profit performance and cash flow management. The best way to ensure a good business succession outcome is to operate in the top quartile of your business sector.

*\*With thanks to Paul Tanner, Employee and Workplace Relations specialist with Thomson Playford.*

### **Quote of the month**

Life is no brief candle to me. It is a sort of splendid torch which I have got a hold of for the moment, and I want to make it burn as brightly as possible before handing it onto future generations.

*George Bernard Shaw*

