

**JANUARY 2016**

# Client eBrief



## Allowing for Private Expenses

The ATO acknowledges that at times it is convenient for a business owner to purchase goods through their business that are in fact for private use, and also that there are goods that are purchased that may legitimately be used for both home and work purposes.

There is no problem with you paying for such goods through your business; however, you cannot claim the GST or the purchase amount as a business-related expense where it relates to private usage, unless Fringe Benefits Tax applies.

You may only claim a GST credit for the portion that relates to business usage. Generally a business would report the private usage adjustment on each BAS quarterly.

### How to Work out the Private Portion of Expenses

1. Estimate or calculate accurately the portion of private use
2. Calculate the percentage of private use cost and the corresponding GST amount
3. Adjust the GST claim on each BAS

### Annual Private Apportionment

A small business may elect to account for private usage annually rather than quarterly in some circumstances:

- Your annual turnover is less than \$2 million

## 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, 2016 final date for  
lodgement and payment..

BAS/IAS Monthly Lodgement –  
January Activity Statement: 21<sup>st</sup>  
February, 2016 final date for  
lodgement and payment.

BAS/IAS Monthly Lodgement –  
February Activity Statement: 21<sup>st</sup>  
March, 2016 final date for  
lodgement and payment.

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- You must assess eligibility for annual reporting by 31 July each year.

This means that you only make one adjustment either at the end of the financial year or in conjunction with the preparation of your income tax return, to account for private usage throughout that year.

#### Criteria for Claiming a GST Credit in Relation to Private Expenses

- The purchase must be at least partly for business use
- GST is included in the purchase price
- The business has paid (or will pay) for the expense
- You have a valid tax invoice for the purchase

#### Common Examples of Private Expense Adjustments

- Purchase of a laptop computer for use at both home and office
- Purchase of vehicle for both leisure and work use
- Percentage of contractor's invoice where work was performed at home office

#### Hospitality Industry Stock Used for Private Use

The ATO will accept an estimate of the value of goods taken from trading stock for private use in certain hospitality/food related businesses. The ATO publishes a schedule of private use amounts for each financial year. See below for detail if relevant to your business.

#### What you Can't Claim

You may not claim expenses that are solely private or domestic in nature, for example, childcare fees, clothing, or paying a cleaner for your home. Nor can you claim expenses that are not legally tax deductible such as parking fines, loans undertaken to pay off an ATO debt, or penalties imposed by court order.

Entertainment expenses are in their own category. You may be able to claim some entertainment expenses where it relates to employees and associates, however, these may also be considered for Fringe Benefits Tax. You will need to check before claiming the cost of any entertainment related expenses.

#### Bookkeeping and BAS Preparation

As your bookkeeper/BAS agent, I will make any necessary adjustment on your BAS according to your instructions regarding specific percentages related to the following expenses:

- Vehicle use
- Laptop use
- Contractor XYZ
- Other..

You may need to provide the accountant with verification for your claims at the end of the financial year.

**2nd Quarter of FY 2016: BAS Lodgement – December Quarter 2015 (including PAYG!)** 28th February, 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.

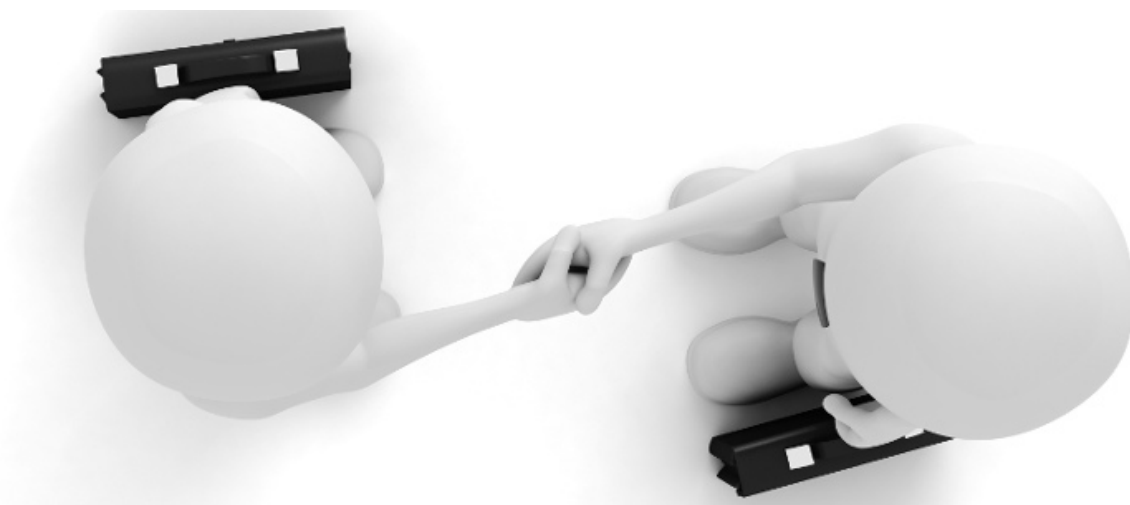
A public holiday is a day that is a public holiday for the whole of any state or territory in Australia

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Due date for super guarantee contributions, for **2nd Quarter of FY 2016**, October to December 2015 - contributions to be made to the fund by 28th January, 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.



## What it Means to be a Director of a Company

A company is a separate legal entity with its own rights and obligations. Company assets, liabilities, income and expenses belong to the company entity, not to the individual directors.

Directors are bound by certain rules that govern your behaviour. You must carry out your duties as a director in good faith, in the interests of the company (even if that conflicts with your personal interest), and for a proper (legal) purpose.

The *Corporations Act 2011* imposes legal obligations on company directors and sets out how directors must perform their duties and how they are expected to manage the affairs of the company.

### Directors Key Responsibilities

- To act in good faith in the best interests of the company and for a proper purpose
- To exercise care and diligence
- To avoid conflicts between the interests of the company and your personal interests
- To prevent the company trading while insolvent (i.e. while it is unable to pay its debts as and when they fall due)
- If the company is being wound up, to:
  - report to the liquidator on the affairs of the company
  - help the liquidator (e.g. by giving the liquidator the company books and records that you may have in your possession)

It is expected that a director can guide and monitor the management of their company. A director's responsibilities are not changed or limited by previous experience (or lack thereof).

Directors have a duty to act with honesty and diligence according to your legal obligations as set out in the *Corporations Act 2011*, and any other relevant laws such as *Superannuation Guarantee Act 2009* and *Goods and Services Tax Act 1999*.

### Company Responsibilities

- Must have a registered office in Australia
- If the company operates from an address other than the registered office, ASIC must be notified of the principal place of business
- The company must notify ASIC of personal details of all directors - name, date of birth and residential address
- Must keep detailed financial records and lodge reports with ASIC if required
- Must keep ASIC details up-to-date; ASIC must be notified of changes to company details and personal details of directors within 28 days of changes
- Must pay relevant fees to ASIC and other licencing bodies as needed
- Must fulfil financial reporting and payment obligations as per the ATO requirements

### Recommendations

- Always act in good faith and honesty in business dealings on behalf of the company
- Make sure you understand your legal obligations as a director
- Keep informed of the financial position of your company by reading and understanding financial reports regularly
- Get advice when considering changes to company and business activities
- Understand how any proposed changes may affect business performance
- Regularly meet with management and key personnel to remain informed about all aspects of the business
- Be careful when times are tough—it is illegal to trade while insolvent

### What to do When Things go Wrong

In most cases, if things go wrong, the debts of a company remain with the company entity. The company entity will be active until it is de-registered with ASIC. However, in some circumstances, company directors may become personally liable for unpaid debts, and this liability may continue even though a company has ceased operations.

- Get professional advice from your tax agent before anyone else. Your difficulties may be temporary and there may be payment plans available to manage cashflow in the short-term
- Take action as soon as you believe there may be problems. Statistics show that directors who face the difficulties as soon as they are known about have a greater chance of overcoming the challenges and remaining in business.
- You may receive advice about voluntary administration, liquidation or receivership as appropriate to your company's situation.
- Whoever is appointed, you must assist them in their assessment and management of the company as long as required.
- If administrators or liquidators are appointed, you lose some or all control of the company depending on the situation. Again,

depending on the circumstances, control may or may not be regained.

## Summary

This is not a complete guide to director's responsibilities but is meant as an overview. You should check the links below for more detail on all aspects of your responsibilities as a company director.

- [ASIC - Guide for Small Business Directors](#)
- [Australian Institute of Company Directors](#)
- [ATO - Director Penalty Regime](#)
- [ATO - Starting your Own Company](#)

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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