

Fairwork – Workplace Myths Fact or Myth

EMPLOYMENT MYTHS-

MYTH:- I Can test out a new employee by asking them to work an unpaid trial

FACT:- If someone is working for your business you must pay them wages. You must also give them any other conditions they're entitled to under the National Employment Standards (NES) & any applicable modern award or enterprise agreement. There is no such thing as an unpaid trial. You can ask a prospective employee to demonstrate a skill that is required for the job, for example a touch typing test, or asking them to make a coffee. However, if they perform work they have to be paid for it.

MYTH:- Employees have to work for 12 months before they can take any annual or personal leave.

FACT:- Under the National Employment Standards, employees start accruing leave as soon as they start work. This means that employees can take paid annual leave at any time as agreed with you, even if they have worked for you for less than 12 months. If an employee is sick, they must be paid sick leave as long as they have enough leave and they have given notice and if required, appropriate evidence.

MYTH:- I can fire an employee without notice during their probation period

FACT:- Under the National Employment Standards, employees who have been working for less than 12 months must get at least 1 weeks' notice. Certain employees aren't entitled to notice including casuals, fixed term employees and employees whose employment is terminated because of serious misconduct.

You should also check the modern award or any agreement that applies in case it provides a greater entitlement

MoneySmart Week is an independent, not-for-profit national initiative promoting the importance of financial literacy. Knowing how to make sound money decisions is a core skill in today's world, regardless of age. We want to show Australians how they can take simple steps to make a big difference to their finances.

MoneySmart Week will be held annually in the first week of September. MoneySmart Week 2012 includes:

- A call to action for all Australians to take the next step in their financial health: 'Do a Money Health Check'.
- A National Awards program to recognize outstanding achievements in financial literacy.
- Promotion of existing money management programs, tools and resources.
- A range of special activities and events in workplaces and the community.

Why is financial literacy important? Financial literacy is about understanding money and finances and being able to confidently apply that knowledge to make effective financial decisions. It affects quality of life, opportunities we can pursue, our sense of security and the overall economic health of our society. To find out more about financial literacy, visit www.financialliteracy.gov.au

ATO Key Lodgement Dates

These dates are from the ATO website & do not take into account possible extensions. Contact us to establish when your information is required for lodgement. You remain responsible for ensuring that the necessary information is with us in time.

BAS/IAS Monthly lodgement –August Activity Statement: 21st Sept12
final date for lodgement & payment

BAS/IAS Monthly lodgement –September Activity Statement: 21st Oct12
final date for lodgement & payment

1st Quarter of FY2013:
BAS lodgement – September Quarter (including PAYGI) 28th Oct
final date for lodgement & payment.
Final date for electing to pay GST by instalments (option 3) or final date for opting out of option 3 for current year.

GST: Final date for eligible quarterly GST reporters to elect to report GST annually
PAYGI: Final date for eligible instalment reporters to elect to report annually for June balancers.

Where a due date falls on a day that is not a business day (that is, the due date is a Saturday, Sunday or public holiday), lodgement or payment may be made on the first business day after the due date without incurring a penalty or general interest charge(GIC).

Working out tax on commission wages

The ATO have formally changed the approved manner of calculating the amount of PAYG Withholding to be taken out of lump sum commissions etc. In effect, spread out the commission or annual bonus over the period that it applies. And tax it as though it had been paid over several weeks or months as appropriate

TAX ON BONUS CALCULATION



Template for Tax on Bonus/Commissions/Backpay

1. Work out how much of the additional payment applied to each earlier pay period in the current financial year.
2. For the first affected pay period, add the additional payment relevant to that period to the normal earnings previously paid to get total normal earnings for that period.
3. Use the relevant tax table (i.e., weekly/monthly/etc) to find the amount to be withheld from the total normal earnings for that period.
4. Subtract the amount previously withheld for the period from the amount at step 3.
5. Repeat steps 2–4 for each pay period affected. Total the amounts calculated in step 4 for each pay period for the withholding on the additional payment.
6. Use the relevant tax table to find the amount to be withheld from the payee's gross earnings (excluding additional payments) for the current pay period.
7. Work out the total PAYG withholding for the current pay period by adding the withholding on the additional payment (step 5) to the withholding on the gross earnings (step 6).

EXAMPLE: PAYG withholding component for an Annual Bonus payment.

Employee earns \$1000 per week and at the end of the year is paid a \$900 bonus.
(In this example the Weekly Tax Tables are used)

| | Yellow fields manually enter data | Green fields are calculated |
|---|-----------------------------------|---|
| 1. Determine gross earnings for the current pay period | \$ 1,000.00 | |
| 2. Use the relevant tax table to find the amount to be withheld from Mark's gross earnings in step 1 | \$ 178.00 | |
| 3. Enter gross bonus amount. | \$ 900.00 | |
| Note: if the bonus is for example a quarter, and the employee is paid weekly, then you would enter 13. | 52 | |
| Divide the additional payment by the number of pay periods in the year. In this example: \$900 / 52 | \$ 17.31 | Note: cents not included in calculation |
| 4. Add the amount at step 3 to the gross earnings at step 1 | \$ 1,017 | |
| 5. Use the relevant tax table to find the amount to be withheld from the amount at step 4 | \$ 183.00 | From 2012 weekly tax table |
| 6. Subtract the amount at step 2 from the amount at step 5 | \$ 5.00 | |
| 7. Multiply the amount at step 6 by the number of pay periods in the year for the withholding on the additional payment | \$ 260.00 | |
| 8. Work out the PAYG withholding for the current pay period by adding the withholding on the additional payment (step 7) to the withholding on the gross earnings (step 2). In this example, regular tax \$178+extra tax for the bonus period \$260 | \$ 438.00 | Total tax to withhold at this period |

Note: some people prefer to do a separate pay entry for bonus payments, clearly stating the period the bonus is for. In this case, you process a regular pay, and then you would process the bonus pay less the tax of \$260

PROCESS IN MYOB LIKE THIS:

Open the card file of the employee; check they have the relevant pay categories selected, eg Bonus, Backpay, Commission. Check these categories are set up correctly for entitlements etc.

Start payroll, select employee/s, enter pay date and select period bonus payment applies to, eg a month, quarter or year.

Edit employee's pay; zero out regular hours if doing a separate pay, enter gross bonus amount at correct field, then manually enter the tax amount as per your spreadsheet calculations.

Claim for payment in the Building Industry

Security of Payment: securing the future for building contractors & sub-contractors

The Victorian building and construction industry is made up largely of small businesses that contract and sub-contract to larger builders.

Cash flow and on-time payments are vital for all businesses, but for small operators, particularly those with ongoing employee and materials costs, a hold-up in payments can cause financial stress.

What is not widely known is that contractors and sub-contractors in the building industry have an Act of Parliament specifically to help them get paid for work done under construction contracts.

The Building and Construction Industry Security of Payment Act 2002 is intended to protect contractors and sub-contractors by creating a statutory right to progress payments under construction contracts if they don't already exist in the contract.

According to the Building Commission, which oversees the Act, it bans 'pay if paid' and 'pay when paid' clauses in contracts and creates a fast, low-cost adjudication process that allows an expedited enforcement process through the courts.

In addition to contractors and sub-contractors, the Act covers suppliers of materials under construction contracts, architects, engineers and others providing building advice, plus contracts to supply related goods and services.

Domestic building contracts with a home owner are not covered, although contracts with the home owner's building contractor or sub-contractor are.

The good news is that it is simple to initiate the process. The first step is to send the client a payment claim, which is essentially an invoice under the contract. This must:

- Be made within three months of the last date of work;
- Identify the work done or the goods or services supplied;
- Identify the amount claimed; and
- Clearly state that the claim is made under the Act by saying: 'This payment claim is made under the Building and Construction Industry Payment Act 2002' - this simple statement notifies the respondent that the Security of Payment scheme has been triggered and its timeframes now apply.

If your business receives a payment claim, you become the 'respondent' and you should respond by paying in full on-time, or by providing a payment schedule within 10 working days. A payment schedule must show the amount you intend to pay and the reasons for any difference from the payment claim amount.

If the 'respondent' does not pay or provide a payment schedule, the person making the claim, the 'claimant', can apply for adjudication to enforce payment in court. Adjudication, through an authorised adjudicator, is a swift, fair and low cost process where the decision can be enforced in a court without affecting either parties' rights under the contract or other legal remedies.

If your contracting or sub-contracting business has encountered problems with payment for work done under a contract, or your business has received a payment claim, or you wish to find an adjudicator, visit the Security of Payment section of the Building Commission website, at <http://www.buildingcommission.com.au/www/html/1379-introduction.asp?intSiteD=1>

Steps to obtaining prompt payment using Security of Payment

The Building Commission advises that:

- A claim is made by the person who has carried out the work under the contract (the claimant) issuing an invoice itemizing the work and indicating that the claim is made under the Security of Payment Act.
- The person on whom the claim is made (the respondent) then either pays the claim in full or provides a payment schedule.
- A payment schedule must be in writing and give reasons for any amount the respondent says it should not have to pay.
- If a dispute remains, the claimant can apply for adjudication over the disputed amounts.
- Adjudication is by a qualified adjudicator appointed by an Authorized Nominating Authority.
- If the respondent ignores the claim or adjudication order, the claimant can obtain a court order.

Fairwork :- When are you going to pay super for your employees?
The law has been passed requiring you to tell your employees when you will pay the SGC. As yet, we haven't been advised of a start date. Your payslips will need amending.
Talk to us regarding this new requirement

Disclaimer: All or any advice contained in this newsletter is of a general nature only, & 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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