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END OF YEAR UPDATE '23

THE END OF YEAR GUIDE FOR YOU & YOUR BUSINESS

OPES ACCOUNTING GROUP
ACCOUNTANTS & ADVISERS
Our Strength Your Success

Carry Forwards Contributions Planning

Is it time to play catch up with your super contributions?

Every financial year, the cap for concessional and non-concessional contributions is set at a specific limit. For the 2022-23 financial year, this was set at $27,500 for concessional contributions.

If you make or receive concessional contributions of less than the annual contributions cap, you may be able to accrue any unused amounts and carry them forward for use in later financial years.

This allows you to (potentially) make larger concessional contributions in a single financial year if the concessional cap hasn't been completely used.

Most working Australians will pay at least part of their concessional contributions through their employment (their super guarantee contributions). However, any amounts left over from that financial year can be applied to your carry-forward limits.

AN EXAMPLE OF BRINGING FORWARD CONTRIBUTIONS

Let's assume that a registered nurse made a concessional contribution total of $15,000 in the 2018-19 financial year, out of the total cap of $25,000. This means they have $10,000 in unused amounts to be added to their total cap for the following year (brought forward).

If in the following year, they make $20,000 in concessional contributions, out of the total cap of $25,000 (for the 2019-20 year), they will have an additional $5,000 in unused contributions to be added to their total unused amount (now $15,000). (cont. p2)

HAPPY HOLIDAYS

We would like to take this opportunity to wish all of our clients and their families a very happy holidays.

We will be taking a short break over the Christmas period.

OUR CLOSEDOWN DATES ARE:
22nd DECEMBER => 8th JANUARY

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Business Management & Consulting
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In the following year, they can make up to $40,000 in contributions total.

Any unused cap amounts can be carried forward for up to five years. Your catch-up contributions for the 2023-24 financial year (this current year) can accrue as far back as the 2018-19 financial year; however, once the five-year limit passes, they will expire.

To be eligible to make catch-up concessional contributions, your total super balance must be below $500,000 at the prior 30 June.

ANOTHER WAY OF LOOKING AT CARRYING FORWARD CONTRIBUTIONS

It's not only the established workers who can potentially benefit from carry-forward contributions.

Do you operate a business through a family trust? One advantage of a family trust is that you can stream income to various family members. However, the tax office now requires that whoever is distributed to out of the family trust must get the 'economic benefit of that distribution'. The money must have not only been given to the individual, but they must have also received the benefit of that money.

Suddenly, the 18-year-old school student in your trust is not as attractive an option as before. If you distribute $100,000 to them from the trust, they must be given the money. Imagine your 18-year-old having control of an extra $100,000. Scary, right?

There is an alternative. Have you considered giving them the money to put into their superannuation?

Let's say that the family trust distributes the $100,000 (as well as the money that the student might need to live on, say $20,000). Effectively, you'll receive a tax deduction for the $120,000 - but the student now has to pay tax on it.

However, if the student puts $100,000 into super, they will now only be taxed on the $20,000. The amount put into super will be taxed at the 15% contributions tax instead. This still leaves them with $85,000 in their superannuation.

The student can still claim the full $100,000 as a tax deduction if it is his first year of contributing to super, as they can access the catch-up concessional contributions (and carry them forward). This can be done using the concessional caps of up to the past five years.

The $85,000 will compound at a rate of return up until the student reaches their preservation age. Assuming that it will be about 47 years until that point, and at a rate of return of 7% per annum, the initial $100,000 could be transformed into $2,404,570.

WATCH OUT FOR THE TRAPS!

You need to be careful about how the contributions are classified - in some cases, the contributions may count towards your income (such as amounts contributed by salary-sacrificing or making personal deductible contributions) and result in potential Division 293 issues.

Under the Division 293 tax rules, if your income and concessional contributions total more than $250,000 in a financial year, you may have to pay an additional 15% tax on some or all of your super contributions.

Before making additional contributions to your super, it is highly recommended to speak with a professional adviser for guidance on eligibility, benefits and whether it is the right course of action for you.

While a work Christmas party may have been a previous method that you have employed to demonstrate this, the expense of it could be a deciding factor. Christmas parties are regarded as "entertainment" expenditures, which means they are not tax-deductible, and the employer may have to pay FBT if the party costs $300 or more per person.

An end-of-year party may not be feasible for your business this year, with rising costs amid the ongoing inflation rates.

Instead, it may be a better idea to thank your staff through the act of giving certain items known as "non-entertainment" gifts. These non-entertainment gifts cost less than $299.99, are fully tax-deductible and carry no FBT.

Non-entertainment gifts are usually exempt from FBT when the total cost of the gift is less than $299.99 (inclusive of GST). An employer can also claim tax deductions and GST credits for every non-entertainment gift to staff members. These gifts could include beauty or skincare products, flowers, wine, gift vouchers or hampers.

Preparing Your Business For Its Office Closedown

At the end of this calendar year, you may be looking to shut down your business and give yourself and your employees a break after a long and drawn-out year.

Whether it is a few days over Christmas and New Year or a couple of weeks between December and January, preparing your business and staff for a holiday closedown needs to consider the following for potentially smoother operations handling.

EFFECTIVE COMMUNICATION IS KEY

Notifying Your Employees

It is always wise to notify your employees formally of the shutdown, whether that be through a printed memo, email, etc. It also gives them time to contact clients and/or customers to organise any necessary alternative arrangements.

Legally you need to give them 14 days of notice, and as this time of year can be very busy and chaotic, it can be quite easy for them to forget a quick conversation. By having the closedown plans in writing, you can also prove you have given adequate notice should any legal issues arise.

Organise Staff Leave Ahead Of Time

To avoid issues with staffing and conflicts resulting from pending staff leave (such as disputes etc), it's also best to give plenty of notice in preparation.

Since the end of the year can be an expensive time for employees, it's best to head off conflicts about taking time off before they can escalate.

You may give priority to seniority, notice given or have another system in place.

Availability To Clients

Your clients need to understand that there will be a time during the holidays when your staff and your business will be unavailable. To do that, there should be clear communication of your expected closure dates and prospective timeframes that you may be available before that to organise when they can be seen or purchase your services.

MAKE SURE EVERYONE KNOWS WHAT NEEDS TO BE DONE

The lead-up to the end-of-year shutdown can be chaotic, but ensuring everyone does their part can be as simple as assigning specific tasks to employees. These might include:

- Notifying clients of the office's closing dates and reminding them that there won't be anyone to help them for the set time frame
- Diverting calls and emails or setting up a vacation responder letting clients and people know when a response may be likely.
- Wrapping up any projects before leaving for the time off
- General office clean up such as cleaning out the fridge, taking out the rubbish (no one wants to smell last year's milk when they come back), turning off appliances, etc.
- Documentation is either stored safely or disposed of to prevent lost data.
- If working in areas during public holidays, knowing and applying the appropriate payroll for staff is important (e.g. employing cleaners)
- Automating systems specifically for customer service and/or payments (e.g. purchases, renewals) while people are out of the office

Parties & Gifts – How Does FBT Work At The End Of The Year?

A company car, travel expenses, workplace discounts. These are a few of the ways that your business can reward employees (or provide a bit of a perk throughout the course of employment).

But if you are considering giving your employees a treat this year as a thank-you for their hard work, make sure you understand the tax obligations! Certain gifts given to your employees may be claimable as a tax deduction under strict conditions and rules.

What Kinds Of End-of-Year Gifts Might Be Tax Deductible?

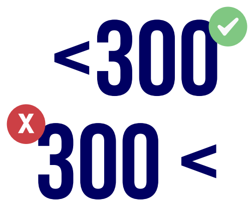
Any gift classified as entertainment cannot be claimed on your tax, regardless of the time of year. If you wish to claim your gifts as a tax deduction (generally a good idea), it's best to give items classified as non-entertainment gifts.

These types of gifts that are given to staff or associates are usually exempt from fringe benefits tax (FBT), with the item cost, as well as the GST, being claimable.

Certain gifts fall within the ATO's guidelines on what is a tax-deductible gift. If you're looking for ideas on what to give your staff this Christmas, consider

- Hampers
- Skincare
- Beauty products
- Flowers
- Wine
- Computers
- Crockery
- Gardening Equipment
- Gift Vouchers
- Groceries
- Games

However, these gifts should not be valued at more than $300 to claim the GST credit and to not incur FBT. If the gift costs more than $300, you will still be able to claim a tax deduction and the GST credit. FBT will, however, be payable at the rate of 49% on the grossed-up value of the gift.



If you're feeling more generous and want to thank your staff, bear in mind that any gifts that you give to your staff that could be considered a personal gift may not be claimed as a tax deduction. Those items that cannot be claimed under the minor benefits rule generally fall under the entertainment or recreational classification and could include:

- Tickets to the theatre or sporting events
- Movie tickets
- Holidays
- Accommodation
- Flights
- Club memberships
- A trip to the amusement park
- Live Events

Keep records of all of the expenses associated with purchasing gifts this holiday season for your staff so that we can assist with your business's tax return.

What About A Christmas Party?

If your business holds a Christmas party:

- on a working day, on your business premises, and only for your current employees, you don't pay fringe benefits tax (FBT) for the food and drink
- off your business premises, or the party includes associates of employees (such as their partners), you don't pay FBT if the party is a minor benefit – that is, the cost for each person is less than $300 and it would be considered unreasonable to treat it as a fringe benefit
- that includes clients, you don't pay FBT for the costs relating to the clients.

If the Christmas party is not subject to FBT, you can't claim income tax deductions for the cost of the party.

Make Sure You're Doing The Right Thing

Make sure your gift is less than $300 (including GST)	Make sure the gift is classified as non-entertainment	Make sure your gift is a once-off	Make sure your gift does not incur FBT

Keep your records to prove that the gift was bought for and given so that you can claim your tax deductions.

Some fringe benefits (such as entertainment gifts) may need to be included in payment summaries. When the value of certain fringe benefits amounts to more than $2,000 in an FBT year, it is your responsibility to record that amount in your payment summary.

Do you have more questions about your FBT gifting or party-related deductions occurring at the end of the year? For further information, you can consult with us. We're here to help you check the list (and get it right).

Preventing HR Nightmares At End Of Year Events

At the end of the year, parties, events and workplace celebrations prevail, offering great opportunities to mingle with your team. But care must be taken to ensure that your end-of-year event doesn't become too eventful.

While good times and fun can produce amusing stories, more serious incidents can become an HR nightmare.

Employers should understand that their liability extends to outside events affiliated with their staff's employment (such as employer-sponsored events, training workshops or even office parties).

Vicarious liability means that, as an employer, you can be held legally responsible for acts of discrimination or harassment that occur in the workplace or in connection with a person's employment.

Employers can be liable for acts by their employees that occur at work-related events, such as conferences, training workshops, business trips and work-related social events, such as Christmas parties.

Employers owe a duty of care to their employees and must take **reasonable steps** to identify and reduce potential risks. The nature of workplace functions and consumption of alcohol heightens the threshold for what is required of employees to take 'reasonable steps.'

By undertaking pre-event planning, you can implement precautionary measures to minimise potential risks while ensuring that your staff and yourself can have a good time.

To achieve this balance, it is recommended that the following reasonable steps be taken by employers and employees alike:

LAY DOWN THE LAW

Remind employees that workplace policy and appropriate behaviours are not only applicable to the events but also expected. Employees need to have been provided access to training on workplace policies related to bullying, sexual harassment, discrimination and OH&S and informed of behaviour expectations. Breaches during workplace events may result in disciplinary action. Make sure that.

Ensure that policies related to bullying, sexual harassment, discrimination, and work health and safety are up-to-date and accessible. All employees must receive appropriate training regarding these policies.

- Advise employees that workplace policies could apply to planned and unplanned workplace events.
- Remind employees that workplace policies will apply to behaviour at these functions even when held off-site.
- Ensure that workplace policies allow for internal complaints and properly investigate all complaints.

SET RULES AROUND ALCOHOL

- Remind employees of the dangers of excessive alcohol consumption and drunk driving.
- Remind employees that 'Secret Santa' gifts must be appropriate. There can be a risk of harassment or discrimination claims if gifts are inappropriate.
- Responsible service of alcohol must also be taken into account to reduce the risks of sexual harassment, bullying and accidents. Ensure that food and non-alcoholic drinks are available. Consider the needs of staff with dietary or cultural requirements.
- If employees become too intoxicated at a work party, they should be told to stop drinking. If necessary, they should leave the function with safe transport arranged.

EMPLOYEE SAFETY

- Ensure that the chosen venue and activities do not present inappropriate risks.
- Undertake a risk assessment of the venue to identify safety hazards.
- Set specific start and finish times for workplace functions, and note that parties following after the function are not endorsed by the employer.
- Ensure that employees can get home safely. You could provide taxi vouchers or organise a shuttle bus.
- Check your employee insurance policy to see if the function is covered.

The Tax-Deductible Cost Of Giving

Charitable giving and the holiday spirit go hand in hand at the end of the year, with plenty of information about the taxable consequence of donations available to taxpayers.

But are there other tax benefits available for donations besides a straightforward deduction?

WHEN CAN A DEDUCTION BE CLAIMED?

Firstly, a tax deduction is only available for donations of $2 or more that are:

- Made to a deductible gift recipient (DGR)
- Made without receipt of material benefit or advantage (eg buying a raffle ticket or items at a charity auction)
- Evidenced by a record of donation

Whether or not an entity is classified as a DGR can be searched on the ABN Lookup, with some entities classed as such concerning a particular fund, authority or institution that it operates. No tax deduction is available for donations made to social media or crowdfunding platforms unless the platform is a registered DGR.

HOW CAN DONATIONS OCCUR

Deduction As A Normal Business Expense

Subscriptions and donations to various kinds of organisations purely for business purposes, for example, as a form of advertising, may be deductible as an ordinary business expense.

Similarly, a business that supports a DGR through advertising or sponsorship may be entitled to a tax deduction as a business expense.

Salary-Sacrificing Arrangements

As an employer, you can arrange and facilitate donations to DGRs for their employees (with their consent) through workplace giving programs or salary-sacrifice arrangements.

Under a workplace giving program, an employer forwards a portion of an employee's salary to a nominated DGR (for example, $20). The employee claims a deduction for the donations in their tax return and may be eligible to have PAYG withheld at a lower rate.

Under a salary sacrifice arrangement, an employee agrees to have a portion of their salary donated to a DGR in return for the employer providing them with benefits of a similar value. The employer generally incurs no FBT, but the employee cannot claim the deduction.

Political Contributions

There are additional conditions that apply for donations (including membership fees) to political parties, independent candidates and members of political parties. Individuals can claim back up to $1,500 from donations made to a party or candidate, but businesses cannot claim a deduction for the same donations made. They may be subject to FBT if they donate on behalf of an employee.

Crowdfunding Platforms

A business may be entitled to an input tax credit for such a payment if it is registered for GST and the acquisition is made for a creditable purpose, eg where advertising rights are received in return. If payments are made toward a crowdfunding campaign in exchange for goods, services or rights, these are not considered donations.

WHAT RECORDS NEED TO BE KEPT?

Taxpayers should keep records of all tax-deductible donations made. DGRs will typically issue a receipt for donations made, however, there is no requirement for a DGR to provide a receipt.

If you made donations of $2 or more to bucket collections – for example, to collections conducted by an approved organisation for natural disaster victims – you can claim a tax deduction for gifts up to $10 without a receipt. To claim contributions of more than $10, you need a receipt.

Donations made through a workplace giving program can be evidenced by an employee's income statement or payment summary or by written records from the employer.

Important Tax-Related Reminders About Holiday Homes

If you own a holiday home in Australia, the Australian Taxation Office (ATO) has some important reminders and guidelines for you during the upcoming and possibly busy summer season.. It's crucial to know what you can claim and when it's valid.

ATO WHAT TO EXPECT FROM THE ATO

The ATO may ask you questions to determine the validity of your deductions. These questions can include:

- How many days was your holiday home rented out, and was the rent in line with market values?
- Where do you advertise your property for rent, and were there any restrictions placed on tenants?
- Have you, your family, or friends used the property?

Answering these questions helps the ATO assess the validity of your deductions.

TIMING MATTERS

When it comes to your holiday home, it's not just about the total rent received or expenses incurred. The timing of rentals and expenses also plays a role. The ATO wants to ensure that you're accurately reporting your income and expenses throughout the year.

RENTING YOUR PROPERTY VIA DIGITAL PLATFORMS:

If you use platforms like Airbnb, Home Away, or Flipkey to rent out your property, you need to keep the following in mind:

- Keep records of all income earned and declare it in your income tax return.
- Keep records of expenses that you can claim as deductions.
- You don't need to pay GST on the amounts of residential rent you earn.

UNDERSTANDING TAX IMPLICATIONS:

Your holiday home's tax implications depend on how you use the property:

- **If It Is Not Rented Out:** If you own a holiday home and don't rent it out, you don't need to report anything until you decide to sell it. When you do sell, you'll need to calculate your capital gain or loss. Accurate records from the time of purchase to the sale are crucial in this process.
- **If It Is Rented Out:** If you rent out your holiday home, you must report the rental income in your tax return. You can also claim expenses incurred for the purpose of producing rental income.

However, there are some nuances to consider:

- If your property is genuinely available for rent only part of the year.
- If you use your property for private purposes for part of the year.
- If only a portion of your property is used for rental purposes.
- If you charge less than market rent to family or friends.

In these cases, you will need to apportion your expenses accordingly.

Genuinely Available for Rent:

To claim expenses for periods when the property is not rented out, it must be genuinely available for rent. The ATO looks for signs that indicate whether the property is genuinely available for rent, such as:

- Limited advertising.
- Unfavorable property location, condition, or accessibility.
- Unreasonable or strict conditions imposed on the property.
- Refusal to rent out the property without adequate reasons.

These factors help the ATO assess your intention to earn rental income from the property.

Available for Part of the Year:

If you rent out your holiday home and also use it for personal purposes, you must apportion your expenses. Deductions cannot be claimed for expenses related to private use or periods when the property was not genuinely available for rent.

Renting to Family or Friends:

If you rent your holiday home to family, relatives, or friends at rates below market prices, your deductions are limited to the amount of rent received during that period.

Understanding the taxation rules for your holiday home in Australia is crucial to ensure compliance and maximise your benefits. Keep clear records, be aware of timing, and if you're unsure about any aspect of your holiday home's tax situation, consult with a tax professional (like us) for guidance.

Paying Out Staff Leave

From the very first day of employment, annual leave should accumulate for employees. This leave gradually accumulates throughout the year, with any unused annual leave rolling over each year.

However, though the concept of paying out leave has become a more common concept, it's not an item that has come out of nowhere.

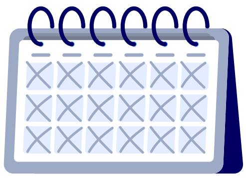
Leave payout, where employees receive a monetary equivalent for accrued and unused leave, can be for multiple reasons, including the following:

RESIGNATION OR TERMINATION:

When an employee leaves a job, whether voluntarily or due to termination, any accrued and unused leave can be paid out as part of their final paycheck. This can serve as a financial cushion during the transition to a new job and acknowledges the value of the leave entitlements they've earned. Failing to pay out any accumulated leave at the end of employment could leave you, as the employer open to legal action.

ANNUAL LEAVE PAYOUT:

Employees often accrue annual leave throughout the year. In some cases, employers may allow employees to request a payout of a portion of their annual leave, providing them with extra income when needed. This can be particularly beneficial when facing unexpected financial challenges.



EXCESSIVE ACCRUALS

To maintain a healthy work-life balance, it's essential that employees take regular breaks and time off. In cases where employees accumulate excessive leave and face difficulties in finding the time to utilise it, employers may offer the option to receive a payout for a portion of their leave. This can also help companies manage their leave liability.

In certain circumstances, the employer can direct an employee to take annual leave when they have an excessive annual leave balance.

Some awards and registered agreements give employees who have an excessive annual leave balance the right to notify their employer that they will take leave.

Generally, an annual leave balance is considered 'excessive' if an employee has more than:

- 8 weeks of annual leave, or
- 10 weeks of annual leave if they are a shift worker.

INDUSTRY AWARD OR AGREEMENT:

Many industries in Australia have specific awards or agreements that include provisions for leave payout. These agreements outline the conditions under which leave may be paid out, such as when it exceeds a certain accrual limit or during specified circumstances. Employers must comply with these regulations.

Award and agreement-free employees may agree with their employer to cash out annual leave at any time.

However, whether or not an employee is award and agreement-free, the following applies:

- the employee must retain at least 4 weeks of annual leave
- there must be a written agreement between the employee and employer on each occasion
- the payment for the cashed-out leave has to be at least the amount that the employee would have been paid if they took the leave.

FINANCIAL HARDSHIP:

Employees may request leave payouts in instances of financial hardship, such as to cover medical expenses or educational costs. While such requests are typically at the discretion of the employer, they can demonstrate empathy and support for employees facing challenging situations.

HOW CAN LEAVE PAYOUT OPTIONS BE BENEFICIAL?

- **Financial Relief:** Leave payouts can provide employees with much-needed financial relief, helping them navigate unexpected expenses or changes in employment.
- **Compliance:** Employers must adhere to industry-specific awards and agreements as well as relevant labour laws when paying out leave. Non-compliance can result in legal consequences.
- **Cost Management:** Employers should carefully manage leave payout requests to ensure they maintain an accurate record of leave balances and budget accordingly. Managing leave liability is essential to financial stability.
- **Employee Satisfaction:** Offering the option of leave payout can enhance employee satisfaction and demonstrate flexibility and empathy, which can, in turn, improve retention and workplace morale.

Paying out leave can serve as a vital tool for supporting employees in various circumstances, from financial difficulties to changes in employment.

However, whether or not an employee is award and agreement-free, the following applies:

- the employee must retain at least 4 weeks of annual leave
- there must be a written agreement between the employee and employer on each occasion
- the payment for the cashed-out leave has to be at least the amount that the employee would have been paid if they took the leave.

Annual leave does not accumulate for a period of annual leave that has been cashed out.

An award or registered agreement may also limit the amount of annual leave an employee can cash out or the timeframe in which it can be cashed out. For example, in most awards, the maximum amount of accrued annual leave that may be cashed out in any 12-month period is 2 weeks.

Bear in mind that it is unlawful for an employer to force (or try to force) an employee to make (or not make) an agreement to cash out annual leave.

Make sure that any agreements made regarding leave payout or any circumstances that result in leave payout abide by the conditions set out by Fair Work. If unsure, consult with your trusted business advisor for assistance.

Alternative Leave Options For Employees

There is an increasing recognition by employers of the importance of offering flexible and alternative leave options to their employees.
These options go beyond the traditional annual and sick leave, catering to the diverse needs and preferences of a modern workforce.

Let's delve into some alternative leave options that (if feasible for your business) you could provide to enhance employee satisfaction and work-life balance.

PAID PARENTAL LEAVE:

Australia's Paid Parental Leave (PPL) scheme provides new parents with up to 18 weeks of government-funded leave. However, many progressive employers are going a step further by offering additional paid parental leave on top of the government scheme. This support not only helps new parents in their transition but also promotes family-friendly workplaces.

VOLUNTEER OR COMMUNITY LEAVE:

Volunteer leave allows employees to take paid time off to volunteer for causes they're passionate about. By encouraging employees to give back to their communities, businesses can create a positive social impact while fostering a sense of purpose among their workforce.

STUDY LEAVE:

Supporting employee growth and development, study leave permits employees to take time off to pursue educational opportunities, such as degree programs, professional certifications, or short courses. Employers can also consider offering financial assistance or scholarships to further incentivise continuous learning.

MENTAL HEALTH AND WELL-BEING LEAVE:

Mental health is a critical aspect of overall well-being. Australian employers increasingly recognise the need to provide dedicated mental health and well-being leave. This allows employees to take time off for mental health days, counselling, or well-being activities, destigmatizing these issues and ensuring a healthier, more productive workforce.

LONG SERVICE LEAVE:

While long service leave is a well-established Australian employee benefit, some companies are taking it a step further by allowing employees to take their long service leave in shorter increments. This approach allows employees to enjoy the benefits of their service more flexibly.

REMOTE WORK LEAVE:

In the age of remote work, employers can provide specific remote work leave, allowing employees to work from a location of their choice. This especially benefits employees who may want to visit family or work in a different environment.

CULTURAL AND RELIGIOUS LEAVE:

Acknowledging the diverse cultural and religious backgrounds of their employees, companies can offer cultural and religious leave to allow staff to celebrate important holidays and traditions without compromising their annual leave allocation.

By offering these alternative leave options, Australian employers can attract and retain top talent, boost employee morale, and contribute to a healthier work-life balance. Importantly, this flexibility demonstrates an understanding of the changing needs and expectations of the modern workforce, ultimately contributing to a more inclusive and productive work environment. As workplaces continue to evolve, embracing alternative leave options can be a win-win for both employers and employees in Australia.