



## e-News

Monday, 4th December 2023

Newsletter No 122

# Christmas Shutdown & New Rules for Employee Annual Leave



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It is very common for businesses Australia-wide to close down for the festive period, that being Christmas, Boxing Day, and New Year's Day. Some businesses can close for

a longer period following the festive period depending on the industry. These closures are known in payroll circles as "shutdowns".

If a business has employees, they will typically take annual leave during the shutdown period. While this may sound obvious, there are new rules set by Fair Work that affect how leave is taken and how you, the employer are allowed (or not allowed) to influence your employees during the leave application process.

In May 2023, 78 modern awards were amended to insert a new "model clause" to replace existing shutdown clauses. This model clause provides that if an employer intends to temporarily shut down all or part of its operation and wants affected employees to take annual leave during that period then:

- The employer must give affected employees **28 days written notice** of the temporary shutdown period (or a shorter period agreed upon between the employer and the majority of relevant employees).
- The employer may direct employees to take accrued annual leave during the temporary shutdown period. **The direction must be in writing and must be reasonable. "Reasonableness" includes the employer's enterprise being shut down for a period (for example, between Christmas and New Year).**
- If an employee does not have sufficient annual leave accrued, then the employer and employee may agree to take leave without pay, accrued time off, or take annual leave in advance.

Importantly, the new shutdown rules require employers to manage annual leave requests during the year to ensure the existence of sufficient leave to cover the shutdown period. Otherwise, there must be an **agreement for an employee to take leave in advance or leave without pay.**

For employees **who are not covered by a modern award or enterprise agreement**, the *Fair Work Act 2009* (Cth) (**FW Act**) will apply.

Section 94(5) of the FW Act provides that an employer can require an employee to take paid annual leave, but only if the requirement is reasonable.

Under section 94(6) of the FW Act, an employer and an employee may agree on when and how paid annual leave may be taken – **including taking paid annual leave, in advance of accrual.**

With Christmas only 21 days away, employers and employees should have arranged their leave requirements by now. However, if you are an employer and this important payroll function has not yet been planned, you must get it done ASAP given the new rules that stipulate news of a shutdown must be given 28 days prior to shutdown. You can [read more about these new rules on the Fair Work website.](#)

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## In Other Bookkeeping\_BAS News...

**Your Online Services - you will Control who has Access from 13 Nov:** If you engage a new agent, change to a new agent, or need to make changes to what your agent is authorised to do for you, you will need to go through the Agent nomination process. [Read more here for further details.](#)

**New Rules for Fixed Term Contracts:** From 6th December 2023 new rules apply to the use of fixed-term contracts. Learn more [at this Fair Work page.](#)

**Next BAS due date:** The next quarterly BAS for **October to December 2023**, is due by **28th February 2024**. This applies regardless of the way you or your agent lodge BAS.

**ATO Scam Alert:** The ATO is aware of an impersonation email in circulation. This email references ATO security updates and asks recipients to update their multifactor authentication (MFA) by scanning a QR code. This code links to a **fake** myGov sign-in page and is designed to steal myGov sign-in details.

If you or your staff receive this email, do not scan the QR code, click on any links, open any attachments, or download any files. Forward the email to [reportscams@ato.gov.au](mailto:reportscams@ato.gov.au), and then delete it.

The ATO will never send you an email with a QR code or a link to log in to their online services. Visit [www.ato.gov.au/scamalerts](http://www.ato.gov.au/scamalerts) to find out more.

### **Issue impacting pay as you go instalment variations**

The ATO has advised there may be an issue impacting pay as you go (PAYG) installment variations.

If you have lodged a variation on your activity statement **since 25 August 2023**, please check your activity statement prior to your next lodgment. You may need to complete a new variation on the impacted activity statement.

**PayDay Super is Coming:** From 1 July 2026, employers will be required to pay their employees' super at the same time as their salary and wages. This will be known as "Payday Super".

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## **Latest Articles**



**Managing MyGovID when Devices are Upgraded or Added**



**Upcoming Changes to Workplace Laws**

Fair Work frequently updates payroll rules, and

Learn how to set up MyGovID on a new device or if you want to set it up on multiple devices.

the current situation is no exception. Numerous aspects of payroll have recently changed or will soon change. For more information, please read our blog.



### 10 Ways Bookkeepers Can Use ChatGPT

AI is here and ChatGPT is here. Read more here about how bookkeepers can use ChatGPT to help run their businesses.



### Xero Tips & Tricks

Here is my list of useful tips and tricks that I use when wrangling Xero. I'll try to keep adding new tips etc as I discover them. I hope you find them useful.

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