
# Practice Update

Please read this update and contact this office if you have any queries

JANUARY/FEBRUARY 2021

## New measures applying from 1 January 2021

The Government has provided an update of a number of new measures which came into effect from 1 January 2021, including (among others):

- The most significant changes to Australia's insolvency framework in 30 years, which are intended to reduce costs, cut red tape and help more small businesses recover from the pandemic. The reforms introduce a new, simplified debt restructuring process. These measures apply to incorporated businesses with liabilities of less than $1 million — covering around 76% of businesses subject to insolvencies today, 98% of which have less than 20 employees.
- Australians will have more power to choose their own superannuation fund: *'Your Superannuation, Your Choice'* allows around 800,000 Australians to decide where their retirement savings are invested, representing around 40% of all employees covered by a current enterprise agreement.
- The Government's HomeBuilder program has been extended to 31 March 2021. The scheme is expected to support the construction or major rebuild of an additional 15,000 homes.
- Major reforms to Australia's foreign investment framework take effect, with new requirements for foreign investors.

## Shortcut rate for claiming home office expenses extended

The ATO has extended (again) the ability to utilise the "shortcut rate" for claiming home office running expenses to 30 June 2021 (it previously only applied until 31 December 2020).

The ATO's guideline allows certain taxpayers to claim a fixed rate per hour (80 cents per hour) for most additional running expenses incurred when working from home by keeping a record of the number of hours they have worked from home, rather than needing to calculate specific running expenses.

The expenses included in the shortcut rate include lighting, heating, cooling and cleaning costs, the decline in value and repair of home office items (such as furniture and furnishings in the area used for work, computers and laptops, etc.), and phone and internet expenses.

However, the guideline does not cover "occupancy expenses", such as rent, mortgage interest, property insurance and land taxes.

## AAT decision on JobKeeper and backdated ABNs

On 21 December 2020, the AAT handed down its decision in a case relating to a taxpayer's eligibility for JobKeeper payments, in circumstances where the Registrar of the Australian Business Register decided to reactivate a previously cancelled ABN after 12 March 2020, with a backdated effective date on or before 12 March 2020.

The AAT held that the taxpayer met the JobKeeper requirement to have an ABN on 12 March 2020.

However, the ATO disagrees with this decision and has lodged an appeal in the Federal Court.

While the appeal outcome is pending, the ATO will postpone finalising decisions regarding an entity's eligibility for JobKeeper where the entity has backdated its registration in order to qualify.

The ATO is taking a similar position in regard to eligibility for the Cash Flow Boost.

Note that the AAT's decision has not changed the need to satisfy all other eligibility conditions.

## SMSF related party rental income deferrals due to COVID-19

The ATO has made a determination to ensure that trustees of SMSFs do not inadvertently breach the "in-house asset rules" where the fund allows a related party to defer the payment of rent under a lease agreement (on arm's length terms) because of the financial impact of COVID-19.

Where the requirements of the determination are met, the deferral of rent will not be treated as a "loan" or "financial accommodation" to the related party in either or both of the 2019/20 or 2020/21 income years.

The determination also applies where an SMSF owns interests in a "non-geared" company or unit trust that allows a tenant to defer the payment of rent under a lease (on arm's length terms) because of the financial impact of COVID-19.

## ATO data-matching programs

The ATO has announced it will engage in the following data-matching programs:

- it will acquire **motor vehicle registry data** from state and territory motor vehicle registry authorities for 2019/20 through to 2021/22, with records relating to approximately 1.5 million individuals to be obtained each financial year; and
- it will acquire data on Australian sales made through **online selling platforms** for the 2018/19 through to 2022/23 financial years, collecting 20,000 to 30,000 account records each financial year (with around half of the matched accounts relating to individuals).

These records will be electronically matched with ATO data holdings to identify non-compliance with registration, lodgment, reporting and payment obligations under taxation laws.

## JobMaker Hiring Credit scheme: Claims open from 1 February 2021

The JobMaker Hiring Credit is being administered by the ATO and provides a wage subsidy payment directly to employers as an incentive to employ additional job seekers aged 16 to 35 years.

Registrations for the JobMaker Hiring Credit scheme opened on 7 December 2020, and claims for the first JobMaker period can be made from 1 February 2021, provided employers are registered and meet all eligibility requirements.

Employer eligibility requirements include that applicants:

- are up to date with their tax and GST lodgment obligations for the last 2 years;
- have not claimed JobKeeper payments for a fortnight that started during the JobMaker period; and
- are reporting through Single Touch Payroll.

The ATO will be writing to employers who have registered for the JobMaker Hiring Credit from 15 January 2021, encouraging them to check that they meet all JobMaker Hiring Credit eligibility criteria before they claim, to ensure that registrants can make a claim from 1 February 2021 and there are no delays in them receiving their payments.

*Editor: Please contact us if you need any help with these claims.*

## Cash payment limit Bill shelved

It appears that the Government has decided not to proceed with its proposal to limit cash payments in Australia to $10,000.

This measure was originally raised as part of the 2018/19 Budget, and the Government subsequently introduced a Bill to the House of Representatives, proposing to make it an offence for entities to make or accept cash payments of $10,000 or more.

That Bill passed the House and was then introduced to the Senate on 11 November 2019, but proceeded no further, and the Government withdrew the Bill from the Senate on 3 December 2020.