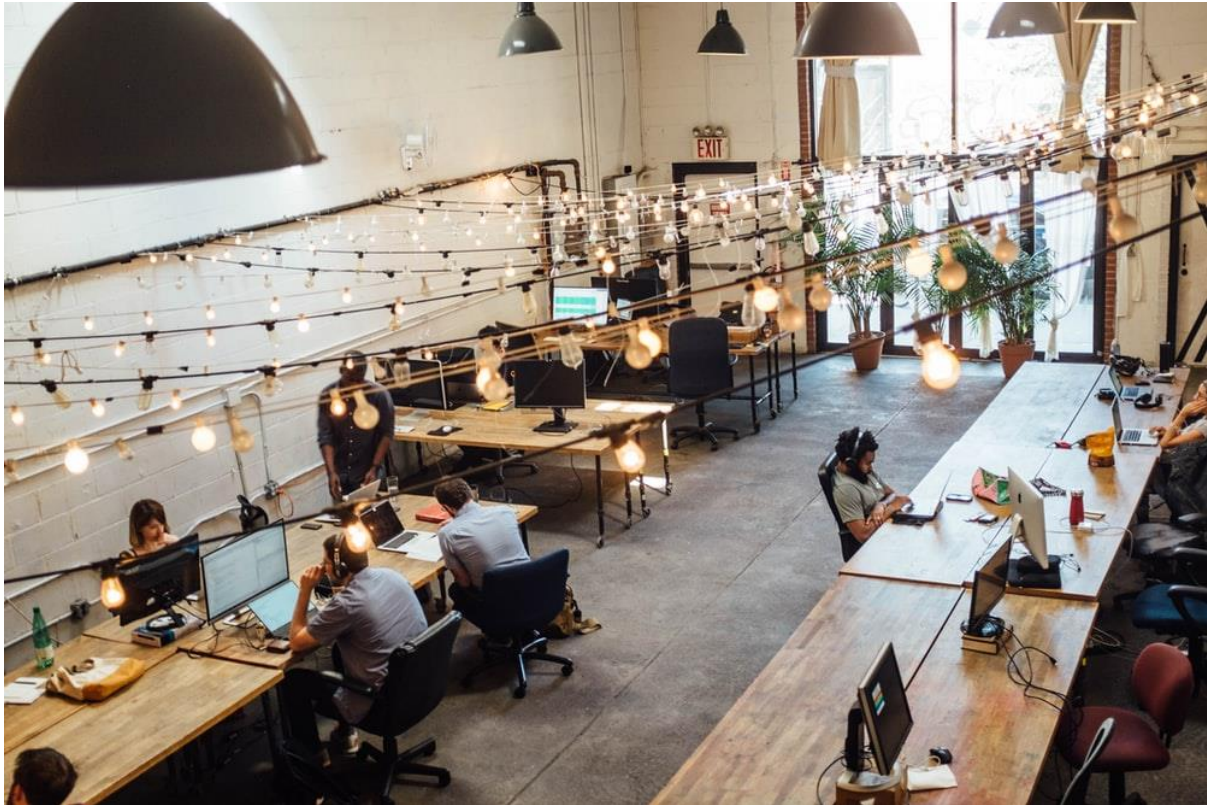




# TaxWise

## Business News

February 2021



## COVID-19 measures

### JobMaker hiring credit

The JobMaker Hiring Credit scheme (“JobMaker”) is a new government incentive in response to the COVID-19 economic crisis. Eligible employers can access JobMaker for each eligible additional employee aged 16 to 35 they hire between 7 October 2020 and 6 October 2021. The program will last for 2 years until 6 October 2022.

#### *Are you eligible?*

To be eligible for JobMaker, you must:

- operate a business in Australia (not-for-profit organisations operating in Australia and certain deductible gift recipients (DGRs) are also eligible);
- hold an active ABN;
- be registered for PAYG withholding;
- satisfy the payroll increase and the headcount increase conditions – see below;
- not have claimed JobKeeper payments for a fortnight that started during the JobMaker period (see the table below for the JobMaker periods);

- be up to date with income tax and GST returns for the 2 years up to the end of the JobMaker period for which you are claiming (this requirement is adjusted for new businesses);
- be registered with the ATO for the scheme – see below; and
- satisfy reporting requirements, including up to date Single Touch Payroll (STP) reporting (see the table below).

Certain categories of employer are not eligible, for example, companies in liquidation or provisional liquidation, individuals who have entered bankruptcy, major banks and Australian government agencies.

#### *Payroll and headcount conditions*

You must employ one or more eligible additional employees, resulting in a genuine increase in both:

- your total employee headcount from 30 September 2020 (a different reference point applies for the last 4 JobMaker periods); and
- your payroll for the JobMaker period, compared to the 3 months up to 6 October 2020.

An individual is an “eligible additional employee” if they:

- were employed by you at any time during the JobMaker period;
- commenced employment between 7 October 2020 and 6 October 2021;
- were aged between 16 and 35 years at the time they commenced employment;
- worked or were paid for an average of 20 hours a week for each whole week they were employed by you during the JobMaker period; and
- received certain income support payments, e.g. JobSeeker or Parenting Payment, for at least 28 consecutive days (or 2 fortnights) within the 84 days (or 6 fortnights) before being hired.

The employee must also provide you with a notice containing relevant information.

Certain individuals cannot qualify as an eligible additional employee, including:

- relatives;
- partners if your business is operated through a partnership;
- directors and shareholders if your business is operated through a company; and
- anyone who, at any time between 6 April 2020 and 6 October 2020, you engaged as a contractor or a subcontractor and who performed substantially similar duties to those performed by the individual as an employee.

#### *Registration and claims*

You must register before the end of the first JobMaker period you are claiming for (see the key dates below). For example, if you want to make a claim for the first JobMaker period (7 October 2020 to 6 January 2021), you must register by 30 April 2021.

You can claim JobMaker from 1 February 2021. You can only claim JobMaker for each additional eligible employee for up to 12 months from the time they commence employment.

You will need to provide certain information to the ATO about each additional eligible employee, including their full name, date of birth and tax file number. You will also need to provide certain information about your business, such as headcount and payroll expenses.

*How much do you receive?*

The amount of JobMaker you receive depends on the age of the eligible additional employee when they commence employment with you.

You may receive up to \$200 per week for each eligible additional employee aged 16 to 29 and up to \$100 per week for each eligible additional employee aged 30 to 35.

**Key dates**

Dates for JobMaker periods, STP reporting and claim periods			
Period	JobMaker period	STP reporting due date	Claim period
1	7 October 2020 – 6 January 2021	27 April 2021	1 February 2021 – 30 April 2021
2	7 January 2021 – 6 April 2021	28 July 2021	1 May 2021 – 31 July 2021
3	7 April 2021 – 6 July 2021	28 October 2021	1 August 2021 – 31 October 2021
4	7 July 2021 – 6 October 2021	28 January 2022	1 November 2021 – 31 January 2022
5	7 October 2021 – 6 January 2022	27 April 2022	1 February 2022 – 30 April 2022
6	7 January 2022 – 6 April 2022	28 July 2022	1 May 2022 – 31 July 2022
7	7 April 2022 – 6 July 2022	28 October 2022	1 August 2022 – 31 October 2022
8	7 July 2022 – 6 October 2022	28 January 2023	1 November 2022 – 31 January 2023

(Table from the [ATO website](#))

*Integrity measures*

You will not be eligible for JobMaker if you enter into an arrangement to artificially inflate your headcount or payroll, by terminating or reducing the hours of an existing employee in an attempt to access JobMaker or increase payments.

If you claim JobMaker, you will not be able to claim other Australian Government wage subsidies, such as the Supporting Apprentices and Trainees Wage subsidy and the Australian Apprentice Wage subsidy.

*Tax consequences*

All JobMaker payments are assessable as ordinary income. Salary and wages paid to employees that are subsidised by JobMaker continue to be deductible.

JobMaker is:

- not subject to GST; and
- does not need to be included in your business activity statements (BAS).

**Tip!** Talk to your tax adviser if you think you may qualify for JobMaker.

**JobKeeper**

Don't forget that the JobKeeper scheme ends on 28 March 2021.

The second JobKeeper extension has started and covers the JobKeeper fortnights between Monday 4 January and Sunday 28 March 2021.

If eligible, you can enrol for the second JobKeeper extension until the end of the program. To be eligible you will need to show that your actual GST turnover declined in the December 2020 quarter relative to a comparable period (generally the December 2019 quarter).

You might be eligible for the second JobKeeper extension even if you weren't eligible for the first extension.

The payment rates for your eligible employees in the second extension period are:

- Tier 1 – \$1,000 per fortnight (before tax)
- Tier 2 – \$650 per fortnight (before tax).

## Investment incentives

We have previously told you about 2 temporary measures to encourage business investment:

- full expensing for the cost of new depreciating assets acquired from 7:30pm (AEDT) on 6 October 2020 (i.e. 2020–21 Budget night) and first used or installed by 30 June 2022 (see *the October 2020 Special Budget Edition of TaxWise News*); and
- an accelerated rate of depreciation for new depreciating assets first held on or after 12 March 2020 and first used or installed ready for use on or after 12 March 2020 and before 1 July 2021 (see *the April 2020 edition of TaxWise News*).

The law has been changed so that you can now choose not to apply full expensing or accelerated depreciation to particular depreciating assets. But once you make that choice, you are locked in (i.e. you cannot reverse it).

**Tip!** Talk to your tax adviser if you are contemplating buying new assets for your business.

## Victorian business support

Just before Christmas, the Federal Government declared that various COVID-19 related business grants provided by the Victorian Government are not taxable (technically, they are non-assessable non-exempt income). These are:

- Alpine Business Fund;
- Business Support Fund 3;
- Licensed Hospitality Venue Fund;
- Melbourne City Recovery Fund – Small business reactivation grants;
- Outdoor Eating and Entertainment Package; and
- Sole Trader Support Fund.

## Varying your PAYG instalments

To assist taxpayers experiencing financial difficulty as a result of COVID-19, the ATO is providing added flexibility to manage your instalments to suit your circumstances. If you are a PAYG instalment payer, you can vary your PAYG instalments on your activity statement.

You can vary your instalments if you think using the current amount or rate will result in you paying too much by instalments when compared to your estimated tax for the year.

The ATO has said that it will not apply penalties or charge interest to varied instalments that relate to the 2020–21 income year (including if you have a substituted accounting period) when you have made your best attempt to estimate your end of year tax liability.

You should review your tax position regularly. You can vary your instalments multiple times throughout the year. Your varied amount or rate will apply for all your remaining instalments for the income year or until you make another variation.

If you realise you've made a mistake working out your PAYG instalment, you can correct it by lodging a revised activity statement or varying a subsequent instalment.

**Tip!** Talk to your tax adviser if you think you may need to vary your PAYG instalments or if you have made a mistake working out your instalments.



## What has the ATO been doing?

### Trading stock taken for private use

It is common in a number of industries for trading stock to be used for private purposes. If you do this, you are treated as having sold it for its cost just before you use it and as having bought it back for the same amount.

Because it is difficult in many cases to keep accurate records of transactions involving goods taken from stock for private use, the ATO publishes each year standard values (excluding GST) that can be used by proprietors of certain businesses. The latest amounts (for the 2020–21 tax year) were published in early January.

Type of Business	Amount (excluding GST) for Adult/Child over 16 years	Amount (excluding GST) for Child 4 to 16 years old
Bakery	\$1,350	\$675
Butcher	\$900	\$450
Restaurant/café (licensed)	\$4,640	\$1,810
Restaurant/café (unlicensed)	\$3,620	\$1,810
Caterer	\$3,830	\$1,915
Delicatessen	\$3,620	\$1,810
Fruiterer/greengrocer	\$930	\$465
Takeaway food shop	\$3,670	\$1,835
Mixed business (includes milk bar, general store and convenience store)	\$4,460	\$2,230

(Table taken from Taxation Determination [TD 2021/1](#))

## Property sales

The ATO regularly receives data relating to the purchase and sale of properties from State and Territory revenue offices around Australia.

Where property transfers are made by businesses, they are potentially taxable, and the ATO matches this information against what has been reported on activity statements. If you sold property and did not include it in your activity statement, the ATO may contact you. You will be asked to review your records and revise the relevant activity statement, without penalty, by a specified date.

**Tip!** Talk to your tax adviser if you have sold property.

## Online sales – data-matching

The ATO will acquire data on Australian sales made through online selling platforms through to 2022–23. The collected data may include business names, ABNs, addresses (e.g. business, postal and email), contact details, account names, account registration information and the number and value of monthly and yearly sales transactions.

The ATO estimates the total number of account records obtained will be between 20,000 and 30,000 each financial year. It expects around half of the matched accounts will relate 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.

**Tip!** If you have online sales transactions, talk to your tax adviser to make sure you are complying with all your taxation obligations.

## Vehicle registrations – data-matching

The ATO will acquire motor vehicle registry data from State and Territory motor vehicle registry authorities through to 2021–22. The collected data may include identification details (e.g. names, addresses and ABNs) and transaction details (e.g. date and type of transaction, sale price of the vehicle and market value of the vehicle).

The ATO estimates that records relating to approximately 1.5 million individuals will be obtained each financial year.

The data will be acquired and matched to the ATO's internal data holdings to identify relevant cases for administrative action. For example, the data may be used to identify taxpayers buying, selling or acquiring motor vehicles who are at risk of not complying with their taxation obligations. That could be a licensed motor vehicle dealer who may not be complying with luxury car tax obligations or a business with little reported income buying a very expensive vehicle.

Don't forget that if you are contemplating buying a new car for your business (e.g. to take advantage of full expensing), your deduction cannot exceed the car limit (\$59,136 for 2020–21).

**Tip!** Buying a car for your business can have various tax implications, e.g. depreciation, GST and FBT. If you are contemplating buying a car, discuss the potential tax implications with your tax adviser.

## ATO prosecutions

The ATO has publicised a number of successful prosecutions for tax fraud, presumably to remind taxpayers that dishonesty does not pay.

In one case, a concreter from New South Wales was fined for making false and misleading statements.

The concreter originally lodged his 2017 income tax return via a tax agent, but he lodged an amendment via myGov four months later. In the amendment, he falsely claimed he had worked for a second employer, where he received wages and had tax withheld. He also reported additional amounts for work-related expenses and the cost of managing tax affairs.

The false claims would have given the concreter a \$7,974 refund, but an ATO audit revealed the truth.

He was fined \$2,000 and ordered to pay a further \$5,000 directly to the ATO. He was also placed on a 2-year good behaviour bond.

In another case, a Queensland bricklayer was sentenced to 2 years and 6 months in jail for evading nearly \$100,000 in tax.

Over the course of a year, the bricklayer reported sales of \$85,359 in his quarterly business activity statements (BAS). But an audit found he had actually received more than 4 times this amount, resulting in a GST shortfall of \$26,570.

Data from the taxable payments reporting scheme (TPRS) also showed that he had quoted the ABN of his bricklaying trust to a number of entities, despite telling ATO officers it was no longer trading.

In addition to this, the bricklayer understated income on his income tax return, which caused a tax shortfall of \$70,441.





## Other News

### Insolvency reforms

Important changes to Australia's insolvency laws commenced on 1 January 2021. The Assistant Treasurer has said that they are the most important changes to Australia's insolvency framework in 30 years.

The changes introduce a new, simplified debt restructuring process for eligible small businesses. The process allows financially distressed small businesses to access a single, streamlined process to restructure their debts, while allowing the owners to remain in control of their business. According to a Treasury fact sheet, this will support more small businesses to survive, meaning better outcomes for businesses, creditors, employees and the economy.

[Link to fact sheet](#)

#### *Simplified debt restructuring process*

To be eligible to access this new process, your company must:

- be incorporated under the Corporations Act (so the new rules do not apply to partnerships and sole traders);
- have total liabilities (excluding employee entitlements) that do not exceed \$1 million on the day the company enters the process;
- resolve that it is insolvent or likely to become insolvent at some future time and that a small business restructuring practitioner should be appointed; and
- appoint a small business restructuring practitioner to oversee the restructuring process, including working with you to develop your debt restructuring plan.

A list of restructuring practitioners that can undertake this work is available on ASIC's website.

#### *The debt restructuring plan*

The debt restructuring plan sets out how a company's creditors are to be repaid. For example, the plan could specify how creditors will be repaid as a proportion of the debt owing to them, or what "cents in the dollar" they will receive.

The company must put the debt restructuring plan to its creditors for a vote within 20 business days of entering the process (an extension of up to 10 business days may be allowed if reasonable). Once the plan is put to creditors, they have 15 business days to vote to accept or reject the plan.

A plan is accepted if more than 50% of the creditors by value that vote, vote to accept the plan. Once a plan is made, payments must be disbursed to a company's creditors in accordance with the terms set out in the plan.

All admissible debts and claims rank equally upon repayment of the plan. That means that all creditors are paid the same "cents in the dollar" and all are paid at the same time.

If the restructuring plan is not accepted, the restructuring process ends.

### *Giving you time*

The Government recognises you may need some time to find a small business restructuring practitioner and has therefore extended the temporary insolvency relief (including relief from liability for trading while insolvent) for up to 3 months.

To access this relief, you can declare your intention to access the restructuring process by publishing the declaration on the published notices website from 1 January 2021. Your company's period of temporary restructuring relief begins on the day the declaration is published.

You also need to notify ASIC within 5 business days that you've made this declaration. The appropriate form is available on the ASIC website.

### *Staying in control*

Once your company enters the restructuring process, it remains in control of the process and may undertake transactions that are in the ordinary course of business.

## **\$10,000 + cash transactions**

Do you remember the Government's proposal to ban cash transactions in excess of \$10,000? It was contained in a Bill – the *Currency (Restrictions on the Use of Cash) Bill 2019* – which we discussed in the November 2019 edition of TaxWise. The Bill had been passed by the House of Representatives, but it was stuck in the Senate.

The Bill would have made it a criminal offence for businesses to make or accept cash payments of \$10,000 or more. Fines would have applied up to 60 penalty units (300 penalty units for corporations), and 120 penalty units or a 2-year prison for offences involving a greater level of culpability. The measures would not have applied to consumer-to-consumer transactions.

Well it seems that the Government has decided to scrap the proposal, as the Bill has been discharged from the Senate Notice Paper. Of course, the measures could be re-introduced at a later date, but it is probably safe to assume this will not happen during the current Parliament.



## Key tax dates

Date	Obligation
14 Feb 2021*	January JobKeeper monthly business declaration due
21 Feb 2021*	Lodge and pay January 2021 monthly BAS
28 Feb 2021*	Lodge and pay December 2020 quarterly BAS
	Lodge and pay December 2020 quarterly instalment notice
	Lodge annual GST return (if no tax return due)
	Lodge and pay December 2020 SGC (if required)
	Lodge and pay SMSF annual return for new SMSFs (unless otherwise advised)
14 Mar 2021*	February JobKeeper monthly business declaration due
21 Mar 2021*	Lodge and pay February 2021 monthly BAS
31 Mar 2021	Lodge and pay tax return for companies and super funds with income >\$2 million (unless due earlier)
14 Apr 2021	March JobKeeper monthly business declaration due
21 Apr 2021	Lodge and pay March 2021 monthly BAS
28 Apr 2021	Lodge and pay March 2021 quarterly BAS Pay March 2021 quarterly instalment notice Employee super guarantee contributions due
21 May 2021	Lodge and pay April 2021 monthly BAS Lodge and pay annual FBT return (if your business lodges one)
28 May 2021	Lodge and pay March 2021 quarterly SGC (if required)

\*Next business day

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