HARDINGMARTIN
CHARTERED ACCOUNTANTS

TaxWise

Business News September 2020

Changes to JobKeeper

The JobKeeper scheme was discussed in the June 2020 edition of *TaxWise News*. Since then, the Government has announced a number of changes.

- The scheme will continue for an additional 6 months until 28 March 2021.
- More employees are eligible for JobKeeper.
- The eligibility rules will be revised.
- The payment rates will be reduced.

At the date of publication of this edition of TaxWise News, not all of the changes had been implemented.

Eligible employees – from 3 August 2020

A person is an eligible employee for a JobKeeper fortnight starting on or after 3 August 2020 if they are:

- employed by an eligible employer (including if they were stood down or re-hired) at any time in the JobKeeper fortnight; and
- an eligible employee for a JobKeeper fortnight ending before 3 August 2020 using either the 1 March 2020 or 1 July 2020 employment test.

To meet the 1 July 2020 employment test, the employee must, on 1 July 2020:

- be employed by the eligible employer (or another entity in their wholly owned group), either as a non-casual employee (whether full-time, part-time or fixed-term) or a long term casual employee (employed on a regular and systematic basis during the 12 month period that ended on 1 July 2020);
- not be a permanent employee of any other employer; and
- be aged 18 years or older (a person aged 16 or 17 can also qualify if independent or

not undertaking full time study on 1 July 2020).

The employee must also meet the existing residency tests and not be in receipt of parental leave, dad and partner pay or workers compensation for total incapacity for work.

If a person started work with their current employer after 1 July 2020, the employer will not be eligible to claim JobKeeper payments for that employee.

Additional turnover test – from 28 September 2020

From 28 September 2020, your business (including if you are a sole trader) will be required to re-assess its eligibility with reference to actual GST turnover in the September 2020 quarter. The business will need to demonstrate that it has met the relevant decline in turnover test in this quarter to be eligible for JobKeeper from 28 September 2020 to 3 January 2021.

Your business will need to further reassess its eligibility in January 2021. The business will need to demonstrate that it has met the relevant decline in turnover test in the December 2020 quarter to remain eligible for JobKeeper from 4 January to 28 March 2021.

Revised payment rates – from 28 September 2020

The JobKeeper payment rates will reduce from 28 September 2020 as shown in the table below.

Period	Full rate per fortnight	Lower rate per fortnight
28 Sep 2020 to 3 Jan 2021	$1,200	$750
4 Jan 2021 to 28 Mar 2021	$1,000	$650

The full rate applies to:

- eligible employees who, in the 4 weeks before 1 March 2020 or 1 July 2020 (as appropriate), were working for 20 hours or more a week on average; and
- eligible business participants (eg sole traders) who were actively engaged in the business for 20 hours or more per week on average in February 2020 or in June 2020 (as appropriate).

The lower rate will apply to all other eligible employees/business participants.

Other requirements

If you are enrolling for JobKeeper payments for the first time, you must enrol your business and business participant (if appropriate) by the end of the month you wish to claim for.

Don't forget you must make a business declaration each month (no later than the 14th day) to claim JobKeeper payments for the previous month.

Tax consequences

Don't forget to include JobKeeper payments in your business' tax return (or your tax return if you're a sole trader) as assessable income. But the wages that are effectively subsidised by JobKeeper payments are deductible.

JobKeeper payments received by your business are not subject to GST, and do not have to be taken into account in working out the decline in turnover.

Tip! The JobKeeper scheme is complicated. Talk to your tax adviser to see if your business is eligible.

Cash flow boost change

Legislation has been enacted to clarify that the cash flow boost is available to eligible small and medium businesses that are required to pay an amount to the ATO because they receive an alienated personal services payment. Broadly, this is a payment received by a personal services entity (eg a company or trust) that is ultimately treated as forming part of the income of an individual under the personal services income rules and has not been promptly paid to the individual as salary or wages.

Payment of an amount to the ATO in these circumstances gives rise to an entitlement to the cash flow boost in the same way as payment to the ATO of an amount withheld from an employee's salary or wages.

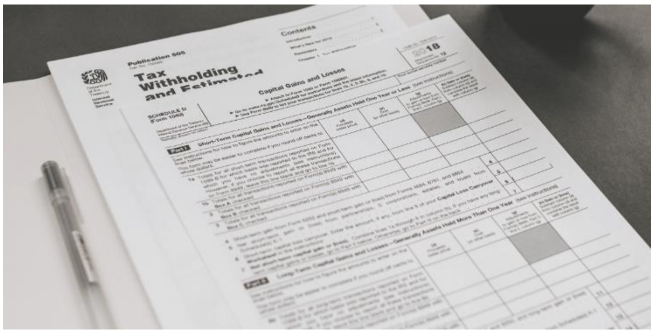
As discussed in the April 2020 edition of *TaxWise News*, the cash flow boost allows eligible small and medium businesses to receive up to a maximum of $100,000 in total in cash flow boost amounts by lodging their activity statements up to the month or quarter of September 2020.

Cash flow boosts are tax-free and not subject to GST. However, this can give rise to later tax consequences when the tax-free amounts are paid out of companies and unit trusts. This is complicated so talk to your tax adviser.

No GDP adjustment to PAYG instalments for 2020-21

The GST and PAYG instalment amounts are usually adjusted every year using a formula known as the gross domestic product (GDP) adjustment.

A recent law change means there is no GDP adjustment to work out quarterly GST and PAYG instalment amounts for the 2020-21 income year. This change is in response to the COVID-19 pandemic.



It's Tax Time again!

Your business has to lodge its income tax return for the 2019-20 tax year by 31 October 2020 – unless you use a registered tax agent (your tax agent will be allowed to lodge your return at a later date, even as late as May next year in some cases).

This edition of *TaxWise News* outlines some tax changes for 2019-20 and provides a few tax tips.

Lodging a tax return

Are you a sole trader?

- Even if your income is below the tax-free threshold of $18,200, you still need to lodge a tax return.
- Do you pay PAYG instalments? Lodge your activity statements and pay all due PAYG instalments before you lodge your tax return so your income tax assessment takes into account the instalments you've paid throughout the year.

Are you a partnership?

If you operate your business in a partnership:

- the partnership lodges the partnership tax return, reporting the partnership's net income or loss (assessable income less allowable deductions).

As an individual partner, you report on your individual tax return:

- your share of any partnership net income or loss
- any other assessable income, such as salary and wages, dividends and rental income.

The partnership doesn't pay income tax on the income it earns. Instead, you and each of the partners pay tax on the share of net partnership income you receive.

Are you a trust?

- If you operate your business through a trust, the trust reports its net income or loss (this is the trust's assessable income less allowable deductions).

- The trustee is required to lodge a trust tax return.
- As a trust beneficiary, you report on your individual tax return any income you receive from the trust.

Are you a company?

- If you operate your business through a company, you need to lodge a company tax return.
- The company reports its taxable income, tax offsets and credits, PAYG instalments and the amount of tax it is liable to pay on that income or the amount that is refundable.

The company's income is separate from your personal income.

Tip! Registered tax and BAS agents can help you with your tax obligations.

Tax changes for 2019-20

Some of the 2019-20 tax changes for small businesses include:

- Instant asset write-off;
- Accelerated depreciation;
- PAYG withholding obligations;
- Restructuring a small business;
- Bushfire payments;
- Single Touch Payroll;
- Director penalties; and
- Closely held trusts.

Instant asset write-off

As discussed in the June 2020 edition of *TaxWise News*, the instant asset write-off (IAWO) for depreciating assets has been expanded. Since then, the IAWO has been extended by 6 months to 31 December 2020.

The cost caps for **small and medium businesses** (total annual turnover under $50m) are:

Date asset first used or installed ready for use by a small or medium business	Cap (asset must cost less than)
1 July 2019 – 11 March 2020	$30,000
12 March 2020 – 31 December 2020	$150,000

You should note that:

- the increased caps apply to assets acquired by small business entities (total annual turnover less than $10m) at or after 7.30 pm (AEST) on 12 May 2015;
- a medium business (total annual turnover $10m or more and under $50m) can access the instant asset write-off for depreciating assets first acquired in the period beginning at or after 7.30 pm (AEST) on 2 April 2019 and ending on 31 December 2020. The threshold depends on when the asset was first used or installed ready for use. If the asset was first used or installed ready for use:
  - before 12 March 2020 — the threshold is $30,000;
  - on or after 12 March 2020 to 31 December 2020 — the threshold is $150,000;
- the threshold for a "low value" pool for a small business entity (total annual turnover under $10m) is $150,000 for 2019-20 (and also 2020-21 if the entity's income year ends on or before 31 December 2020) - the total value of the pool is deductible at the end of the income year if it is below the threshold; and
- the lock-out rule – which locks a small business entity out of the simplified depreciation rules for 5 years if the business stops using those rules - will begin to apply again from the first income year that ends after 31 December 2020 (ie 2021-22 for businesses that balance at 30 June).

The cost caps for **larger businesses** (total annual turnover $50m or more and under $500m) are:

Date asset first used or installed ready for use by a large business	Cap (asset must cost less than)
12 March 2020 – 31 December 2020	$150,000

You should note that:

- the increased cap applies to assets acquired in the period beginning at or after 7.30 pm (AEST) on 2 April 2019 and ending on 31 December 2020; and
- a large business that has adopted a substituted accounting period can access the $150,000 instant asset write-off for depreciating assets first acquired in the period beginning on 2 April 2019 and ending on 31 December 2020.

Accelerated depreciation

The June 2020 edition of *TaxWise News* also discussed the accelerated rate of depreciation. This applies to **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. The asset must be used principally in a business in Australia or located in Australia.

The accelerated rate for small businesses is 57.5% (instead of 15%). The accelerated rate does not apply if you deduct immediately the cost of the asset using the instant asset write-off.

Failure to comply with PAYG withholding obligations

If your business fails to comply with a PAYG withholding obligation, eg failing to withhold an amount from an employee's salary or wages or failing to report the withheld amount to the ATO, your business won't get a deduction for the relevant amount (eg the amount not withheld or the amount not paid to the ATO).

You may be able to reinstate the lost deduction by making a voluntary disclosure to the ATO.

Restructuring a small business

If you are a small business owner and you restructure the business, capital gains or losses that would arise from transferring the business assets to another entity are deferred where there is no change in the ultimate economic ownership of the asset. This is called the *small business restructure roll-over*. It may apply where, for example, you are a sole trader and you transfer the business to a company you control.

Roll-over relief can apply to an asset used in a business carried on by your affiliate or a connected entity (that is also a small business).

A legislative amendment in 2020 fixed up a drafting error which incorrectly set the turnover threshold for an affiliate or entity connected with a small business at $2 million instead of $10 million. The change to set the threshold at $10 million goes back to 1 July 2016, which is when this roll-over commenced.

Bushfire payments

Government payments and non-cash benefits (including local government payments and benefits) made directly as a result of bushfires in Australia in 2019-20 are not taxable (they are what is called non-assessable non-exempt income).

Director penalties

The director penalty regime has been extended to cover unpaid GST, luxury car tax and wine equalisation tax owed by a company, in relation to GST instalment quarters and tax periods (as appropriate) that start on or after 1 April 2020. The ATO has issued guidelines (PCG 2020/2) explaining how it intends to administer these changes.

Closely held trusts

A "closely held trust" is a discretionary trust or a trust where 20 or fewer individuals have between them, directly or indirectly, and for their own benefit, fixed entitlements to 75% or more of the income or capital of the trust.

Family trusts and trusts that are interposed entities are now classified as closely held trusts (from the 2019-20 tax year) for the purposes of applying a set of complex integrity rules.

The effect of the change is that the trustee of a closely held trust may be liable to pay trustee beneficiary non-disclosure tax (TBNT) in relation to a "circular trust distribution". This is where a share of the net income of a trust is included in the assessable income of a trustee beneficiary, the trustee of the closely held trust becomes presently entitled to an amount that is reasonably attributable to the whole or a part of the untaxed part of that share and TBNT has not previously been payable in respect of that share, and that pattern continues through a chain or trusts. This is not a common arrangement.

Tip! Contact your tax adviser to find out about all the tax changes in 2019-20 that might affect your business.

Personal services income

If you operate your business through a company or a trust, income earned by the company or trust from the provision of your personal services (personal services income or PSI) will be attributed to you unless:

- the company or trust is carrying on a personal services business (PSB); or
- the PSI was promptly paid to you as salary or wages.

The company or trust will be conducting a PSB if at least one of a number of tests are satisfied. These are:

- the results test (the most important test) - this is based on common law criteria for characterising an independent contractor (in contrast to an employee/employer relationship);
- the unrelated clients test – this requires the PSI to be earned from at least 2 unrelated clients who contract your services as a direct result of an advertisement or other public offer of your services. A recent Full Federal Court case has confirmed that the test can be satisfied if your services are advertised through LinkedIn and the work is obtained as a direct result of that advertising;
- the employment test – this requires at least 20% (by market value) of your work to be performed by employees who are not your associates;
- the business premises test – this requires you to use business premises that meet certain conditions (eg you have exclusive use of the premises and the premises must be physically separate from any premises you use for private purposes).

If 80% or more of your PSI (with certain exceptions) is income from one client (or the client and their associate(s)) and the results test is not met, the company or trust will need to obtain a PSB determination from the ATO. Otherwise, the company or trust will not be conducting a PSB.

The company or trust cannot deduct amounts that relate to gaining or producing your PSI, unless you could have deducted the amount as an individual or the company or trust received the PSI in the course of carrying on a PSB.

If the company or trust does not conduct a PSB, additional PAYG withholding obligations can arise.

Even if you don't use a company or trust to derive your PSI, there are limitations on the deductions that you may claim against your PSI. For example, you may not be able to deduct certain home office expenses, eg occupancy expenses such as mortgage interest or rent.

Tip! The PSI rules are complicated so talk to your tax adviser if you provide your services through a company or trust.

Home office

A lot more people are working from home because of the COVID-19 pandemic. If you operate your business from a home office, you can deduct the expenses of running that office. A home office is a room in your home that is used exclusively (or almost exclusively) for business activities.

Expenses you can claim a deduction for include:

- occupancy expenses – these include rent, mortgage interest, water rates, land taxes and house insurance premiums. Occupancy expenses are usually calculated by apportioning the expenses between the home office and the rest of the property on a floor area basis;

- running expenses – these are the increased costs from using your home for your business, including electricity or gas charges for heating, cooling and lighting, cleaning costs and the decline in value and the cost of repairs of deprecating assets such as furniture, furnishings and equipment; and
- work-related phone and internet expenses, including the decline in value of the handset – an apportionment will be required if the phone or computer is not used exclusively for work.

If you are an employee working from home, you may be able to claim a portion of your running expenses and work-related phone and internet expenses.

To make it easier for people to claim deductions for working from home due to the COVID-19 pandemic, the ATO will allow a rate of 80 cents per hour from 1 March 2020 until 30 September 2020 for all additional running expenses. This also applies to anyone working from home, even if not operating a business.

This is different from the 52 cents per hour claim that covers fewer types of expenses. Talk to your tax adviser about what method is most appropriate for your circumstances.

Government grants

If your business has received a grant or payment from the Australian Government or a State or Territory government, you will need to include it in your tax return if it is assessable.

Grants and payments that are assessable income include:

- JobKeeper payments;
- fuel tax credits and product stewardship for oil benefit;
- wine equalisation tax producer rebate;
- grants, such as an amount you receive under the Australian Apprenticeships Incentives Program; and
- subsidies for carrying on a business.

There are some government grants and payments that you do not need to pay tax on. One example of this is the cash flow boost.

Company tax rate

The 2019-20 tax rate for a company whose total annual turnover is less than $50m (called a "base rate entity") is 27.5%. This rate reduces to 26% for 2020-21.

However, if more than 80% of the company's assessable income is "base rate entity passive income" (eg dividends, rent, interest, royalties and net capital gains), the standard 30% rate applies.

Small business tax offset

A sole trader, an individual who is a partner in a partnership or an individual who is a beneficiary of a trust may qualify for the small business tax offset if the sole trader, partnership or trust qualifies as a small business entity (total annual turnover less than $10m). The offset is not available to an individual acting as a trustee of a trust.

The offset for 2019-20 is equal to 8% of the income tax payable on the sole trader's or other individual's taxable income that qualifies as their net small business income (the offset rate is 13% for 2020-21). The offset is capped at $1,000.

Taxable payments annual report

Businesses that pay contractors for certain services may need to lodge a taxable payments annual report (TPAR) with the ATO. This is the first year that businesses that pay contractors to provide road freight, information technology, security, investigation, or surveillance services may need to lodge a TPAR with the ATO. This is in addition to those businesses providing building and construction, cleaning, or courier services that are already required to report.

The TPAR for 2019-20 should have been lodged by 28 August 2020.

Scammers abound

It was recently Scams Awareness Week and the ATO published a reminder about keeping personal and financial information safe.

Scammers will often try to "phish" for information by impersonating government agencies like the ATO. They can use the information to drain their victim's bank account, take out loans in their name, or gain access to their online government services. Besides having a devastating financial impact, it can take years to recover a stolen identity.

Businesses should:

- ensure their computer security systems are up to date;
- discuss the importance of securing personal information with their staff;
- check their staff understand what is appropriate to discuss on social media or via email;
- make sure their staff have the appropriate access and permissions associated with their myGovID.

The ATO said that scammers have more opportunities than ever to trick people into handing over their valuable information.

Check out the Scamwatch website for helpful tips and resources.

Key tax dates

Date	Obligation
7 Sep 2020	Deadline for application for superannuation guarantee amnesty
14 Sep 2020	August JobKeeper monthly business declaration due
21 Sep 2020	August monthly BAS due
30 Sep 2020	Finalisation due date by payers of PAYG withholding payments reporting through STP for closely held payees where the employer has 20 or more employees. Small employers (19 or fewer employees) who only have closely held payees have until the payee's income tax return due date to lodge their STP finalisation for the financial year ended 30 June 2020.
6 Oct 2020	2020-21 Federal Budget
14 Oct 2020	September JobKeeper monthly business declaration due
21 Oct 2020	September monthly BAS due Payment of annual PAYG instalment for 2019-20
28 Oct 2020	September quarter BAS due Payment of first PAYG instalment for 2020-21 by quarterly payers
31 Oct 2020*	2019-20 income tax return due
	PAYG withholding annual reports due (no ABN withholding; interest, dividend and royalty payments paid to non-residents; and payments to non-residents)
14 Nov 2020*	October JobKeeper monthly business declaration due
21 Nov 2020*	October monthly BAS due

*Next business day.

Note! Talk to your tax agent to confirm the correct due dates for your own tax obligations. For example, you may have more time to lodge and pay if impacted by bushfires or COVID-19.

DISCLAIMER

TaxWise® News is distributed by professional tax practitioners to provide information of general interest to their clients. The content of this newsletter does not constitute specific advice. Readers are encouraged to consult their tax adviser for advice on specific matters.

HARDING MARTIN

CHARTERED ACCOUNTANTS

E: admin@hardingmartin.com.au
T: +61 7 3812 2233
F: +61 7 3812 2386 -
W: www.hardingmartin.com.au

A: 221 Brisbane Street, Ipswich, QLD 4305
PO Box 763, Ipswich, QLD 4305