MTS

MY TAX SAVERS

JOBKEEPER – EXTENDED!

INVESTMENT INCENTIVE
FOR BUSINESS!

SUPER AMNESTY –
LAST CHANCE

PLUS ALL THE LATEST TAX NEWS...

MyTaxSavers

SEP/OCT
2020

ISSN 2651-8627

Index

Print Post Approved 100019425

Published by ***My Tax Savers***, P.O.Box 2255 Southport BC 4215 Email: info@mytaxsavers.com.au **Phone: 1800 SAVETAX**
Web: www.mytaxsavers.com.au. My Tax Savers is a trading name of My Tax Savers Pty Ltd ABN 85 059 305 976.

20

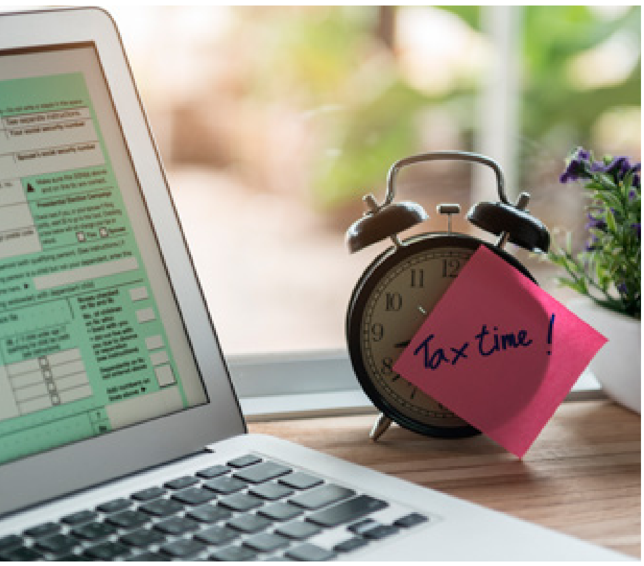
COVID-19 *SMSF ISSUES*

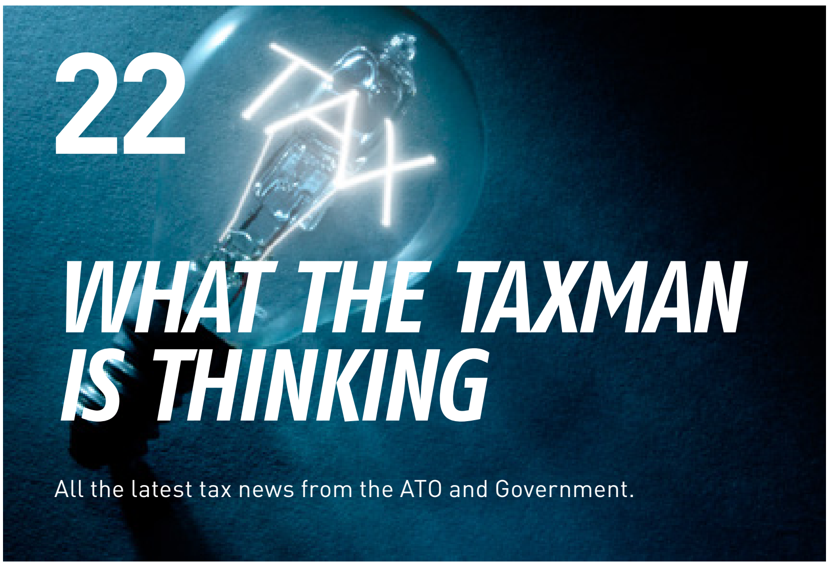
The COVID-19 pandemic has affected super funds in a number of ways. This article details the issues that SMSF trustees/members need to be across.

17

JOBKEEPER EXTENDED BUT MODIFIED

The Government's wage subsidy program has been extended, but reduced. Is your business still eligible?





22

WHAT THE TAXMAN IS THINKING

All the latest tax news from the ATO and Government.

KEY DATES

Many key dates are looming for business including those relating to Activity Statements, GST, superannuation, income tax returns, and more.

SEPTEMBER 2020

21 SEPTEMBER

August monthly Activity Statements – due for lodgement and payment

30 SEPTEMBER

Annual TFN Withholding Report for closely-held Trusts where a Trustee has been required to withhold amounts from payments to beneficiaries during 2019/2020 – due date for lodgement

OCTOBER 2020

21 OCTOBER

September monthly Activity Statements – due for lodgement and payment

28 OCTOBER

Final date for eligible quarterly GST reporters to elect to report GST annually

28 OCTOBER

Due date for Superannuation Guarantee contributions for July-September to be made to employee funds

31 OCTOBER

PAYG Withholding Where ABN Not Quoted – Annual Report – due date for lodgement
These amounts are also reported at W4 on your Activity Statement

31 OCTOBER

Due date for 2019/2020 individual tax returns (unless you are lodging via a Tax Agent and are on their lodgement list by this date)

Where the due date falls on a weekend or public holiday, it is deferred until the next business day (except in the case of Superannuation Guarantee deadlines).

INSTANT ASSET WRITE-OFF – INCREASED AND EXTENDED

The instant asset write-off has once again boosted. This article provides you with the details, and what it may mean for your business.

INTRODUCTION

In order to generate business investment and stimulate the economy, in the past few years a number of changes have been made to the Small Business instant asset write-off threshold as well as the turnover qualification threshold as follows:

ELIGIBLE BUSINESS	DATE RANGE FOR WHEN ASSET FIRST USED OR INSTALLED READY FOR USE	THRESHOLD
Less than $500 million aggregated turnover	12 March 2020 to 31 December 2020	$150,000
Less than $50 million aggregated turnover	7:30pm (AEDT) on 2 April 2019 to 11 March 2020	$30,000
Less than $10 million aggregated turnover	29 January 2019 to 7:30pm (AEDT) on 2 April 2019	$25,000
Less than $10 million aggregated turnover	1 July 2016 to 28 January 2019	$20,000
Less than $2 million aggregated turnover	7:30pm (AEST) on 12 May 2015 to 30 June 2016	$20,000
Less than $2 million aggregated turnover	1 January 2014 to prior to 7:30pm (AEST) 12 May 2015)	$1,000
Less than $2 million aggregated turnover	1 July 2012 to 31 December 2013	$6,500
Less than $2 million aggregated turnover	1 July 2011 to 30 June 2012	$1,000

The following table outlines how the landscape looks over the coming months:

NEW LAW	FROM 1 JANUARY 2021
Immediate Deduction (Write-Off for Depreciating Assets)	
Small Business Entities (SBEs with an aggregated turnover of less than $10 million) can claim an immediate deduction (total write-off) for depreciating assets that cost less than $150,000, provided the asset is first acquired on or after 12 March 2020, and first used or installed ready for use on or before 31 December 2020. Businesses that are not SBEs (because their aggregated turnover is above $10 million) but have turnover below $500 million can claim the following deductions: • Bonus 50% of the cost (or adjustable value if applicable) of the asset in the year that the asset is first used or installed ready for use, and • The amount of the usual depreciation deduction that would otherwise apply but calculated as if the cost or adjustable value of the asset were reduced by 50%.	Small Business Entities (SBEs turnover less than $10 million) can claim an immediate deduction (total write-off) for depreciating assets that cost less than $1, 000 in the income year the asset is first used or installed ready for use. Alternatively, if the entity is not an SBE (turnover above $10 million) they must depreciate under the under the Uniform Capital Allowance (UCA) regime where the threshold is $100.
Write-Off for Second Element Costs (e.g. improvements)	
SBEs can claim an immediate deduction for amounts included in the second element of the cost of depreciating assets (e.g. improvements) where the asset is first used or installed ready for use in a previous income year. The cost (of the improvement) must be less than $150,000 and be incurred between 12 March 2020 and 31 December 2020.	SBEs can claim an immediate deduction for amounts included in the second element of the cost of depreciating assets (e.g. improvements) where that asset is first used or installed ready for use in a previous income year. The cost (of the improvement) must be less than $1,000 Alternatively, if the entity is not an SBE (turnover above $10 million), the improvement will be dealt with under the UCA regime
Write-Off for General Pools	
Standard small business depreciation treatment applies to assets that are equal to or exceed the $150,000 threshold. These assets are placed into the general small business pool to be depreciated at 57.5% in the first year, and 30% in subsequent years. In keeping with the increased $150,000 threshold, the general small business pool can be written-off once the balance of that pool falls below $150, 000 at the end of an income year that ends on or after 12 March 2020 where the $150,000 applies. Alternatively, if the entity is not a small business (turnover below $10 million), the asset cannot be pooled and must be depreciated under the Uniform Capital Allowance (UCA) regime	Assets costing $1, 000 or more are allocated to the general small business pool to be depreciated at 15% in the first year, and 30% in subsequent years. If the balance of an SBE's general small business pool is less than $1, 000 at the end of an income year, it can be written-off. Alternatively, if the entity is not a small business (because its aggregated turnover is above $10 million), the asset cannot be pooled and must be depreciated under the Uniform Capital Allowance (UCA) regime.

There are several important points in the above table:

- Pooling is still only available for SBEs (aggregated turnover of less than $10 million). Therefore, clients using the UCA rules, will depreciate the asset in the standard way (except with an upfront 50% bonus deduction)
- There is a new small business general pool rate of 57.5% for the first year that an asset equals to or more than $150,000.

NON-SBEs

As noted, while non-SBE's (businesses with an aggregated turnover of $10 million or more) are not in fact eligible for the $150,000 write-off, they are eligible for more favourable tax treatment on assets that cost less than this as a result of the 12 March 2020 changes. That favourable treatment is in form of a bonus 50% upfront deduction.

EXAMPLE

XYZ Co has a turnover of $12 million. On 18 May 2020, it purchases a depreciable piece of machinery for $110,000 (excluding GST) and starts to use that machinery a week later. As the machinery was purchased on or after 12 March 2020, it qualifies for the bonus 50% deduction (but not for the $150,000 write-off because XYZ's turnover exceeds $10 million and therefore it is not an SBE. Thus, the $55,000 bonus depreciation could be claimed in the 2020 financial year. The remaining $55,000 can be depreciated over the life of the asset under the general Uniform Capital Allowance rules.

THE BENEFIT?

- **CASHFLOW** – The $150,000 write-off improves small business cashflow by bringing forward deductions rather than having them spread out over more than one year. Cashflow can be a significant issue for small business, particularly start-ups.
- **TIMING** – The "pay day" on the cashflow relief in income tax payments could however be as much as 22 months (longer if the client has a tax loss). That is, an asset may be purchased in July 2020 for example, but the tax agent may not lodge the tax return until the due date which can be as late as May 2022.
- **PERSPECTIVE** – You are only getting back an amount equivalent to the tax rate on the asset, not the full value of the asset. This is the same as the old law. You don't get any extra cash than you would otherwise have received under the old rules (you simply get it sooner). Consequently, you should not let tax distort or blur your commercial instincts – as you don't get any extra cash than you would otherwise have under the old rules, you should continue to only buy assets that fit within your wider business plan.
- **SIMPLIFICATION** – There is a reduction in compliance costs, particularly for those businesses that are capital intensive, through simplifying their tax arrangements and the record-keeping required.

EXAMPLE

An SBE company that purchases an eligible asset for $120,000 under the standard small business pooling rules (which will apply after the $150,000 threshold is reduced back down), would depreciate the asset by $18,000 (15% of $120,000) in the first income year and $30,600 (30% of $102,000) in the second income year. The cashflow the company would receive from these depreciation claims is $4,680 for the first year (assuming a 26% small business company tax rate in 2020/2021) and $7,956 in the second year. The company would continue to depreciate its general pool at 30% until the pool was under $1 000, at which point the entire pool could be written-off.

By contrast, under the new $150,000 threshold, the company would be able to immediately deduct the entire $120,000 in the first income year. The cashflow benefit the company would receive from this is $31,200 in the first year ($26,520 more than standard small business pooling) – i.e. the benefit is brought forward rather than spread out). The company is then free to apply this brought-forward cash immediately (e.g. pay off debt or suppliers, or re-invest in the business etc.). In the second income year, there is no further depreciation of this asset as it has been written-off completely. This means that the company is paying more tax ($7,956) in the second year relative to the scenario under the old law (but no more and no less tax overall).

If we take the example a step further, assume the asset cost $160,000 and therefore could not be written-off in the first year. Under the new rules, the asset would be placed in a small business general pool to be depreciated at 57.5% in the first year (rather than 15%) and the standard 30% in subsequent years. This too assists first-year cashflow.

ELIGIBILITY

To properly treat the asset, you need to determine if your business is eligible in the first place. To qualify for the $150,000 write-off you must be carrying on a business, that has first acquired an asset on or after 12 March 2020 (the start time), and used that asset or had it installed ready for use on or before 31 December 2020 (the end time).

1. CARRYING ON A BUSINESS

The requirement to be 'carrying on a business' excludes taxpayers who are merely carrying on a hobby (see the ATO Fact Sheet and video, Business or Hobby? and Taxation Ruling TR 97/11 at paragraph 26 for the factors which indicate that a business is being carried on). Please note that Taxation Ruling TR 2019/1 – When does a company carry on a business? – is only relevant for the purposes of accessing the lower corporate tax rate (not the write-off).

2. SMALL BUSINESS ENTITY

Broadly, an SBE has an aggregated turnover of less than $10 million (including the turnover of connected and affiliated entities).

3. ASSET MUST BE FIRST ACQUIRED ON OR AFTER 12 MARCH 2020

For a depreciating asset to qualify for the $150,000 write-off, it must be 'first acquired' on or after the start time 12 March 2020. The 'first acquired' concept is a new concept not previously a feature of the depreciation law. This additional requirement limits access to the $150,000 writeoff to new business investments made on or after this day.

EXAMPLE

An SBE ordered and paid for a $35,000 motor vehicle for use in its business on 1 March 2020. It took delivery of the vehicle and commenced using it in the business on 15 March 2020. Despite first using the vehicle after the start time of 12 March, the vehicle will not qualify for the instant write-off as it was not first acquired on or after the start time – it was not a new investment made on or after 12 March 2020.

The 'first acquired' requirement does however in some cases allow pre-owned assets to qualify – provided those assets are not pre-owned by the business claiming the write-off. To be eligible in these circumstances, the asset will need to be acquired by a different legal entity.

EXAMPLE

John has a $40,000 vehicle that is 5 years old that he wishes to contribute to his business. If he were a sole trader, his business couldn't claim the immediate write-off as the vehicle was not "first acquired" after on or after 12 March 2020. As a sole trader John and his business are for tax purposes the same entity.

On the other hand, if John sold the vehicle to a company that he controlled and the company was carrying on the business, the "first acquired" criterion would be met (provided the sale was at market value) as the company is a different legal entity to John.

Consistent with the objective of the $150,000 threshold only applying to newly acquired assets, assets acquired under artificial or contrived arrangements will not be eligible (for example, where a number of related SBEs that earned income from similar income sources sold their assets to one another after the start date in order to satisfy the 'first acquired' requirement).

4. Asset Must be First Used or Installed ready for use on or before 31 December 2020

In addition to being acquired after the start time, assets must be either used or installed ready for use in your business on or before the end time of 31 December 2020. If the end time requirement is not met, whereby an asset is first used or installed ready for use on or after 31 December 2020, then the $1,000 threshold applies irrespective of when the asset was first acquired.

ASSET ELIGIBILITY

Having determined that a business is eligible, the asset itself must be eligible for the write-off. Basically, all depreciable assets (including second-hand assets) used in a business are eligible for the $150,000 write-off – including motor vehicles, furniture, computer equipment, machinery etc. The following assets are however specifically excluded from the write-off as they have their own unique depreciation treatment:

- Horticultural plants
- Buildings (these are dealt with under the Capital Works provisions)
- Assets allocated to a low-value pool or software development pool
- Primary production assets for which an entity has chosen to use the Uniform Capital Allowance (UCA) depreciation rules rather than the small business depreciation rules, and
- Assets leased out to another party on a depreciating asset lease.

Financed assets are also eligible. Assets that are the subject of a commercial loan, chattel mortgage or hire purchase would all qualify. Assets that are the subject of a lease however do not qualify for the write-off due to the fact that the ownership of the asset under a lease remains with the finance company.

$150,000 THRESHOLD

The $150,000 threshold is applied to the 'cost' of a depreciating asset. 'Cost' consists of the purchase price in addition to amounts paid to bring the asset to its present condition and location including installation costs. Whilst the threshold has been touted as $150,000, the actual cost must be less than $150,000 to claim the write-off.

EXAMPLE

Fred purchases a new $145,000 (plus GST) computer server for his business.

He then engages an IT consultant to set-up and configure the server at a cost of $6,000 (plus GST).

The costs of the IT consultant count toward the 'cost' of the asset for depreciation purposes.

As the asset's 'cost' is $151,000, it is ineligible for the write-off, and must therefore be allocated to the general pool (in the event that Fred is a small business entity).

CARS

Please note that although a car may cost less than $150,000, the ability to write-off the full value of a car is capped at the depreciation limit of $59,136 (for 2020/2021) (or $57,581 for 2019/2020).

EXAMPLE

ABC Constructions is an SBE. On 1 September 2020, the business purchases a fleet of vehicles to be used 100% for business purposes:

- two (five seater) station wagons costing $80,000 each and
- three new work utes (with carrying capacity over one tonne) costing $70,000 each, for use only in the business.

The amounts shown here exclude GST.

As the fleet station wagons are passenger vehicles (a car designed to carry a load of less than one tonne and fewer than nine passengers) they are subject to the car limit. Consequently, before ABC can calculate its depreciation for 2020/2021, it must first reduce the cost of each car to the 2020/2021 car limit of $59,136. The $150,000 write-off is not available. Rather, the depreciation is capped at the car limit for each of the two cars.

However, the car limit does not apply to the work utes, as these vehicles have a load carrying capacity of over one tonne. Therefore, as these utes cost less than $150,000 each, they are subject to the $150,000 write-off. Therefore, they can both be written-off in full in 2020/2021.

GST

If a business is GST-registered, the write-off threshold is the GST-exclusive cost of the asset. Therefore, the threshold on a taxable asset is $165,000 (including GST). By contrast, if a business is not GST registered, the threshold is GST-inclusive ($150,000, including GST).

PER ASSET

The threshold is applied on an asset-by-asset basis. Even where the assets purchased are identical or form part of a set, each is entitled to its own $150,000 threshold. This is in contrast to nonbusiness taxpayers (such as rental property owners). Where a bulk purchase is made, you should ensure that tax invoices separately itemise each asset that is purchased or at least the quantity of assets where they are identical:

EXAMPLE

Constance owns a large restaurant and is in need of some new furniture. She acquires 400 identical chairs at $400 each, totalling $160,000 (GST-exclusive). Despite the assets being identical, Constance can write-off the entire $160,000 provided all other criteria are met. She should ensure that the number of chairs purchased is indicated on the invoice.

TRADE-INS

Because the $150,000 threshold is applied to the cost of a newly-acquired asset, the value of any traded-in asset is irrelevant. A trade-in simply reduces the net amount to be paid for the newly-acquired asset, not the cost of the new asset. For example, if you purchase a $160,000 business piece of equipment which, after a trade-in of $15,000 on your old equipment, only requires a further $145,000 payment, the new equipment is not eligible for the $150,000 write-off as the 'cost' is still $160,000. This is even though the net amount to be paid is less than the $150,000 threshold.

BAS TREATMENT

To recap, G10 and G11 require you to separately report capital and non-capital purchases respectively at these labels.

Despite the increase of the threshold to $150,000, the ATO's BAS instructions and requirements have not changed.

For purchases of $1,000 or below the ATO advises that if you already record these purchases separately in the records, you can use this existing breakdown to fill in the **G10** and **G11** labels.

If you do not record capital and non-capital purchases separately and the business's turnover is expected to be less than $1 million then:

- You only need to record capital items costing more than $1,000 at **G10**
- Capital and non-capital items costing $1,000 or less can be recorded at **G11**.

HOMEBUILDER

On 3 June 2020, the federal government announced the Homebuilder grant to encourage individuals to build a new home or substantially renovate their existing home. Are you eligible for the $25,000, tax-free grant?

INTRODUCTION

Homebuilder is a time-limited tax-free grant targeted at owner occupiers who will be provided with a $25,000 grant to build a new home or renovate an existing home. Under the scheme, owner-occupiers (including but not limited to first home buyers) will be provided with the grant if they sign a contract between 4 June and 31 December 2020 to carry out construction work (to the value of at least $150,000) which must commence within three months of the contract date.

Homebuilder complements existing state and federal schemes including the first home owner grant programs, and the Commonwealth's First Home Loan Deposit Scheme and First Home Super Saver Scheme. Information on how and when Homebuilder can be accessed will become available through state and territory revenue offices.

ELIGIBILITY

An applicant must:

- be a natural person (companies, trusts etc. are ineligible)
- be 18 or older
- be an Australian citizen
- enter into a building contract between 4 June 2020 and 31 December 2020 to either
  - » build a new home as a principal place of residence, where the property value (house and land) does not exceed $750,000
  - » substantially renovate your existing home as a principal place of residence, where the renovation contract is between $150,000 and $750,000 and where the value of your existing property (house and land) does not exceed $1.5 million
- construction must commence within three months of the contract date.

Thus, investors and also owner builders are not eligible when seeking to build a new home or renovate an existing property as an investment property.

Additionally, applicants must meet one of the following income caps: (i) must earn less than $125,000 per annum for an individual applicant based on your 2018-19 tax return or later or (ii) $200,000 per annum for a couple based on both 2018-19 tax returns or later.

RENOVATION TYPE

Eligible renovations must be of a certain type. The renovations must improve the accessability, liveability, and safety of the property. Specifically excluded additions to the property include swimming pools, outdoor spas and saunas, tennis courts, and sheds and garages (unless these are connected to the property). Further, the licensed or registered builder must, if the purchaser requests, demonstrate that the contract for the build or renovation is no more than a comparable deal as at 1 July 2019.

INTEGRITY PROVISIONS

The contract with the registered builder must be entered into at arm's length – absent special relationships, such as relatives. The contract terms should reflect the market value of the construction works. This is aimed those who seek to inflate the value of the works up to the threshold, in order to qualify for the grant.

TREASURY EXAMPLES

FIRST HOME OWNER – HOUSE AND LAND

Emma and Liam enter into a house and land contract for $550,000 on 25 September 2020. Emma and Liam's bank applies on the couple's behalf to the relevant State or Territory State or Territory to receive the HomeBuilder $25,000 grant. The State or Territory conducts the eligibility checks and reviews the couple's documentation and confirms that both Emma and Liam are Australian citizens, over the age of 18, have a combined taxable income under $200,000 based on their 2018-19 tax return and the value of the contract is under the $750,000 contract price cap.

As the couple are both first home buyers, Emma and Liam may also be entitled to their State's first home owner grant and stamp duty concessions as well as the Commonwealth's First Home Loan Deposit Scheme and First Home Super Saver Scheme.

SUBSTANTIAL RENOVATION BY OWNER OCCUPIER

Cassidy enters into a contract on 31 December 2020 to substantially renovate her home, with renovations valued at $400,000. The value of her home is $900,000 (this includes the value of the house and the land). Cassidy pays the builder $150,000 of the cost of renovation of her home on 2 February 2021. Cassidy then applies directly to her State or Territory to receive the $25,000 HomeBuilder grant.

The State or Territory conducts the eligibility checks and confirms that Cassidy owns the property, is an Australian citizen, over the age of 18, and has a taxable income under $125,000 based on her 2019-20 tax return. The State or Territory also confirms the value of the renovations is between $150,000 and $750,000, and the value of her home (house and land) is less than $1.5 million pre-renovation, and Cassidy has made a payment of at least $150,000 for the renovations. The State or Territory approves the application.

As Cassidy already owns her own home, she is not eligible for the first home owner grant, the First Home Loan Deposit Scheme or the First Home Super Saver Scheme.

OFF THE PLAN PURCHASE

First home buyer Rebecca enters into a contract to purchase an off-the-plan apartment valued at $550,000 on 6 October 2020.

Rebecca's bank applies on her behalf to the relevant State or Territory State or Territory to receive the HomeBuilder $25,000 grant. The State or Territory conducts the eligibility checks and reviews Rebecca's application documentation. The State or Territory confirms that Rebecca is an Australian citizen, over the age of 18, has a taxable income under $125,000 based on her 2018-19 tax return and the value of the off-the-plan apartment is under the $750,000 contract price cap.

As Rebecca is a first home buyer, she may also be entitled to their State's first home owner grant and stamp duty concessions as well as the Commonwealth's First Home Loan Deposit Scheme and First Home Super Saver Scheme.

OWNER OCCUPIERS KNOCK DOWN AND REBUILD

Jacqui and Henry enter into a building contract to knockdown and rebuild their existing home on 24 August 2020, with the knockdown and rebuild contract valued at $400,000. The value of the property is $800,000 (including the current value of the dwelling and land). Jacqui and Henry's bank applies on the couple's behalf to the relevant State or Territory State or Territory to receive the HomeBuilder $25,000 grant.

The State or Territory conducts the eligibility checks and confirms that the couple own the property, are Australian citizens, over the age of 18, have a combined taxable income under $200,000 based on their 2018-19 tax return, and the value of their existing home and land pre-renovation is less than $1.5 million. The building contract is also within the HomeBuilder renovations price range (between $150,000 and $750,000) and the couple have made payments of at least $150,000 for the contract price. The State or Territory approves the application.

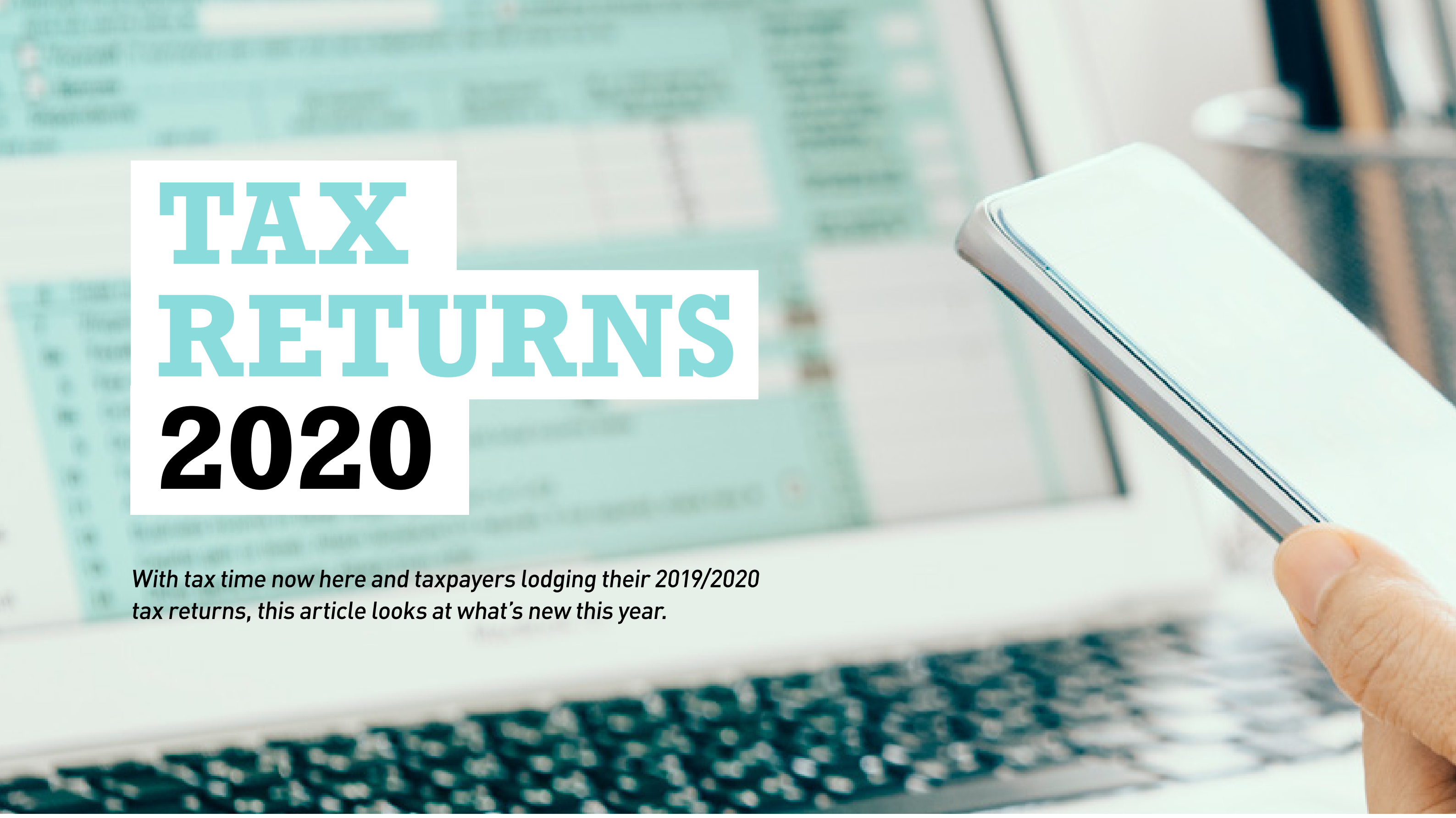
As Jacqui and Henry already own their own home, they are not eligible for the first home owner grant, the First Home Loan Deposit Scheme or the First Home Super Saver Scheme.

OWNER OCCUPIERS BUILD NEW HOME ON VACANT BLOCK

Carla and Andrew decide to build a new home on a vacant block of land that they already own. The value of the vacant block is $400,000 and the building contract that Carla and Andrew sign is for $300,000. Carla and Andrew enter into the building contract on 4 July 2020 and make the first progress payment when construction commences on 2 August 2020.

The State that Carla and Andrew live in signs the HomeBuilder National Partnership Agreement on 23 August 2020 and starts to receive HomeBuilder applications through the State or Territory on 27 August. Carla and Andrew apply for HomeBuilder via the relevant State or Territory which conducts the eligibility checks and confirms that both Carla and Andrew are Australian citizens, over the age of 18, have a taxable income under $200,000 based on their 2018-19 tax returns, the value of the property (house and land) is less than $750,000, the contract was signed on or after 4 June 2020 and before 31 December 2020, and they have made the first progress payment. The State or Territory approves the application.

As Carla and Andrew are not first home buyers, they are not eligible for the first home owner grant, the First Home Loan Deposit Scheme or the First Home Super Saver Scheme.



TAX RETURNS 2020

With tax time now here and taxpayers lodging their 2019/2020 tax returns, this article looks at what's new this year.

PAYMENT SUMMARIES

If your employer has started using Single Touch Payroll (STP), your payment summary information is called an 'income statement' in myGov. This is now the equivalent of your payment summary (some people may still refer to it as a group certificate).

Your employer is not obliged to give you an end-of-year payment summary for the information they report through STP (the law has changed).

Your payment summary information will now be available in myGov. The ATO will send a notification to your myGov inbox when your income statement is 'tax ready' so you, or your tax agent, can complete your tax return. You can contact the ATO for a copy of your income statement.

You can continue to lodge your tax return as you do now.

WORK FROM HOME DEDUCTIONS

The ATO has extended its shortcut method for claiming work from home deductions.

As the COVID-19 pandemic continues to affect the community and there will be an impact on some taxpayers' working arrangements after 30 June 2020, the ATO has now announced that the date of effect of this guideline has been extended by three months from its original cut-off date of 30 June 2020. The concession now applies from 1 March 2020 to 30 September 2020. However, the Commissioner reserves the right to extend this date past the September cut-off.

Taxpayers eligible to use the shortcut rate are employees and business owners who:

- work from home to fulfil their employment duties or to run their business during the period from 1 March 2020 to 30 September 2020 and
- incur additional running expenses that are deductible under the Income Tax Act.

The shortcut method provides a rate of 80 cents per hour for running expenses and will only require taxpayers to keep a record of the number of hours worked from home. This could be in the form of timesheets, rosters, a diary or similar document that sets out the dates and hours worked. As with claims for the 2019-2020 income year, a notation stating "COVID-hourly rate" will need to be placed next to their deduction for home office expenses in the eventual 2020-2021 return.

Running expenses include: electricity, gas, telephone, internet, depreciation on computers and other equipment (e.g. chairs, desks, filing cabinets).

Claims for working from home expenses prior to 1 March 2020 cannot be calculated using the shortcut method, and must use the pre-existing working from home approach and requirements as follows:

- **Method 2 the fixed rate method.** Under this method, you claim all of the following:
  - a rate of 52 cents per work hour to cover heating, cooling, lighting, cleaning and depreciation of office furniture;
  - the work-related portion of your actual phone and internet expenses, computer consumables, stationery, etc.;
  - the work-related portion of depreciation on a computer, laptop or similar device.
- **Method 3 – the actual cost method.** Under this method, you claim the actual work-related portion of all your running expenses, which need to be calculated on a reasonable basis.

The methods are not mutually exclusive across each financial year. Indeed, it may be the case that you use more than one method during the 2019-2020 and 2020-2021 financial year. For example,you could choose Methods 2 or 3 for the period July through February, and then choose Method 1 for the period March through September 2020.

TAX TIP

If you elect to use the shortcut method, you will be unable to claim any other expenses for working.

PRIVATE HEALTH CLAIMS

Private hospital insurance coverage will ensure you are not liable for the Medicare Levy Surcharge (MLS). Having "extras" or "ancillary" cover only is not sufficient.

The MLS will apply where a taxpayer's income is above $90,000 (singles) or $180,000 (families).

Health insurers no longer have an obligation to send members a private health insurance statement. If you are lodging your return online, your health fund details should be prefilled online via myGov.

You may need to reach out to your provider to obtain a statement directly if the details are not flowing through by July 2020.

NET MEDICAL EXPENSES TAX OFFSET - GONE

From 1 July 2019, the tax offset for net medical expenses for disability aids, attendant care or aged care is no longer available. Therefore, this label is removed from the tax return.

DEDUCTIONS FOR VACANT LAND

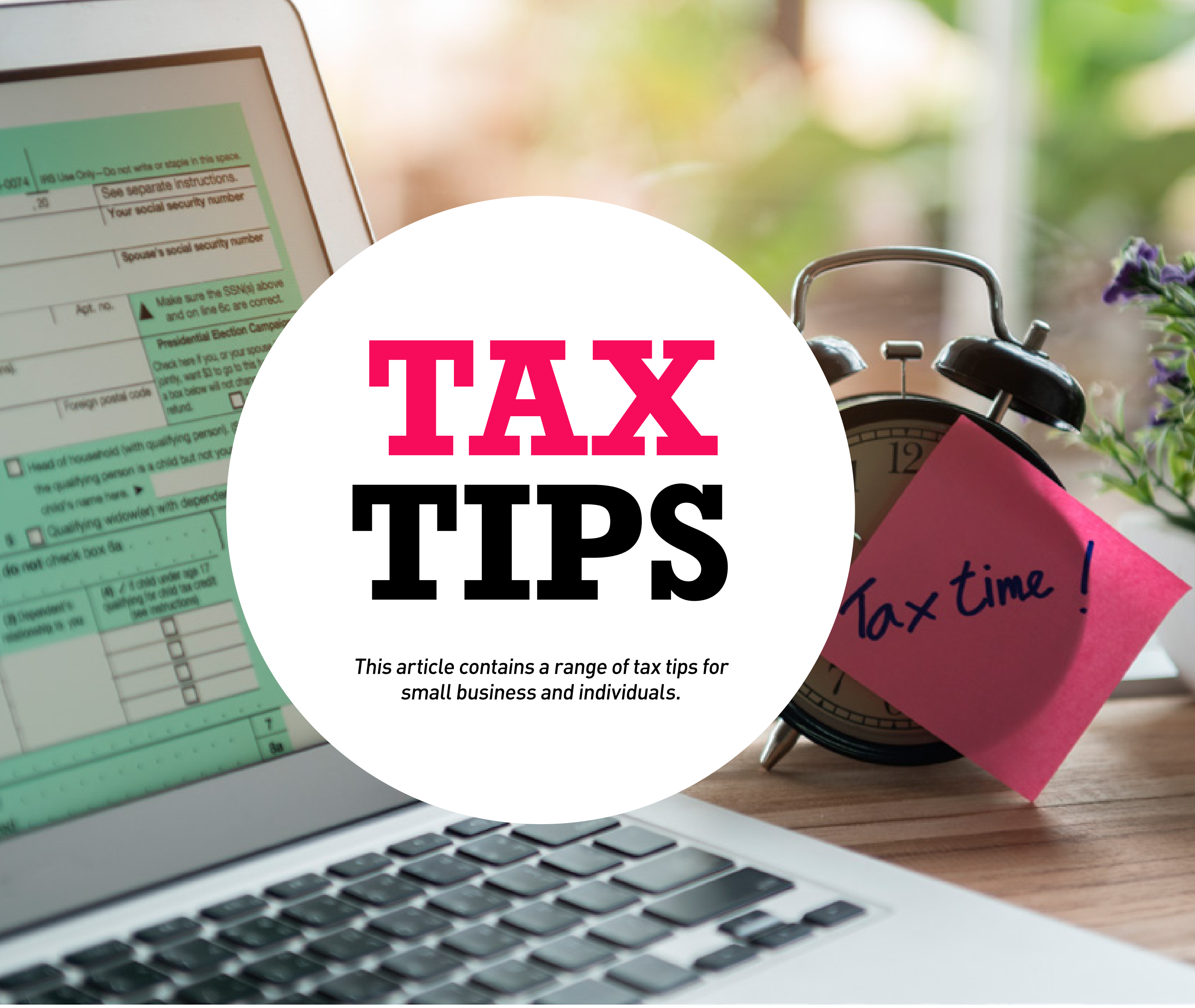
You can no longer claim tax deductions for the cost of holding vacant land, such as:

- interest incurred on loans to acquire the land
- land taxes
- council rates
- maintenance costs.

These changes apply to costs incurred from 1 July 2019, even if you held the land before that date.

However, deductions for vacant land can still be claimed where, for example:

- the land is used by you in a business carried on for the purpose of gaining or producing assessable income
- the land is used or available for use in carrying on a business (for example, primary production)
- the land is vacant due to an exceptional circumstance (such as fire, flood, or substantial building defects) that occurred within the last three years.



TAX TIPS

This article contains a range of tax tips for small business and individuals.

CLOUD RECORD-KEEPING

Business tax records are normally required to be retained for five years from the time the records are prepared or the transactions to which they relate, are completed - whichever is the later. A trap to be aware of is Capital Gains Tax (CGT) Assets, as the ATO require the 5-year period would start from the *disposal date* of the CGT asset and not the acquisition date. So if you acquired a CGT asset back in 1985 when CGT started do not throw those cost base records out until 5 years after it has been sold!

Most businesses have progressively moved away from manual record-keeping (keeping records in hard copy, paper form), and embraced electronic record-keeping. Records kept in electronic form must be readily accessible and convertible into English. The full requirements are set out in ***Taxation Ruling TR 2005/9*** which you can access on the ATO website.

For the many of you who do store your records electronically, have you considered storing your records "in the cloud" rather than on your computer's internal hard drive? In simple terms cloud computing is simply using the internet to access software and storage, rather than physically installing it on your computer. Cloud accounting, also known as "online accounting", serves the same function as cloud computing. You might install the software on your computer but it runs on servers and you can access it anywhere that you have an internet connection – not just at your office as with desktop systems. In some instances, you won't need to install the software on your computer at all and can access it via web browsers.

By storing your records 'in the cloud' rather than on your desktop, not only are they more accessible, but there is no need to have external backups. The cloud provider (e.g. MYOB) backs up user data itself on its own various servers. Talk with your Accountant about storing your records "in the cloud" and the advantages of cloud accounting more generally.

PAYING PRINCIPALS

As the owner of a small business, it's important to pay yourself (some say pay yourself first) because this puts pressure on your business to meet a fair rate of return for a principal's labour. In the longer-term if your business cannot do this, then you have to question why you are in business in the first place, and the very viability of your business.

So how much do you pay yourself? At least as much as you would pay an employee to do what you do. In the case of a Partnership or Sole Trader, such payments would be termed 'drawings'. This is not a wage and there is no requirement to withhold PAYG from it. Rather, you will need to make provision for your income tax liability on these drawings by paying PAYG instalments throughout the year, most likely quarterly. Drawings also do not attract superannuation. You will need to make your own superannuation contributions if you so choose. These contributions will generally be tax deductible.

In the case of a company or trust, the payment is likely to be in the form of a wage subject to PAYG Withholding and Superannuation Guarantee.

CAN'T PAY?

It may be the case on some occasions (particularly in the early days) that the business cannot afford to remunerate the principal. In these instances, process the payment anyway as a normal pay run, (i.e. withhold PAYGW) and post the net amount due to you as a loan and repay the loan at a later date when the business is generating the cash flow. However, remember, if you adopt this strategy you would need to still actually pay the Superannuation Guarantee as the ATO deem the wage as paid. Further, the wage would be deemed assessable income to the individual to include on their personal income tax return.

DIFFERING INPUTS?

It will often happen that principals will put in different amounts of time or values for their time. To keep things absolutely equitable, you should not stress about paying different amounts to principals. Paying different amounts (reflective of input, for example an amount per hour worked) removes a 'de-motivator' i.e. your fellow principal drawing the same amount of return for a lesser input as well as any feelings of guilt a person may experience in drawing an equal profit where their input was less.

SALARY SACRIFICING SUPER VERSUS CONTRIBUTING TO SUPERANNUATION

As we've written about previously, from 1 July 2017 the rules surrounding claiming deductions for personal superannuation contributions have been severely relaxed. From this date, a great opportunity now exists for all individuals up to age 75 to claim an income tax deduction for personal superannuation contributions. Before this date, you could only claim a deduction for your personal contributions where less than 10% of your assessable income, your reportable fringe benefits and your reportable employer superannuation contributions (e.g. salary sacrifice contributions) for the year were from being an employee – this was known as the '10% Rule'. This rule prevented most employees from claiming a tax deduction for this type of contribution.

This reform will benefit the many employees whose employers do not offer them the ability to salary sacrifice into superannuation. It will put you in the same tax position as those who are able to sacrifice. However, individuals who salary sacrifice will enjoy the cashflow advantage in that the tax benefit (i.e. not having your sacrificed amounts subject to income tax) will be enjoyed progressively throughout the year…rather than having to wait until year-end to claim a tax deduction.

Therefore, the take-away message is that whilst the 1 July 2017 reforms put all employees on an equal footing, those who are sacrificing their pay into superannuation may wish to keep their arrangements on foot rather than cancelling them and making after-tax contributions. By doing so, you can enjoy a cashflow benefit.

SACRIFICING LEAVE ON TERMINATION

We've had a number of questions come to us from subscribers via our free Tax Advice email service info@mytaxsavers.com.au around whether annual leave or long service leave owing on termination of employment (whether by resignation or being fired) can be salary sacrificed to superannuation.

To salary sacrifice annual leave or long service leave during employment, you can only salary sacrifice future leave entitlements. That is, a salary sacrifice agreement must be in place before the leave that you are sacrificing has been accrued (you cannot salary sacrifice leave that has already accrued). However, on termination, even where a salary sacrifice agreement was in place, annual leave and long service leave that is owing can never be salary sacrificed into superannuation. These amounts are assessable to the employee and cannot be sacrificed.

RENTAL PROPERTY BUSINESSES

If you are deemed to be "carrying on a business" and that business has a turnover of less than $10 million (including connected entities and affiliates) then you may be able to access the Small Business Entity tax concessions which provide for a range of FBT, income tax, and GST concessions. If you are "carrying on a business" this may also enable you to access the Small Business CGT concessions, however the turnover threshold for those concessions is $2 million (or, alternatively, less than $6 million in net assets).

In the residential rental property context, it is relatively rare that owners of these properties will be deemed to be "carrying on a business". This is because of the limited scope of rental property activities and the degree to which an owner participates in these activities. In its 2020 ***Rental Properties Guide*** the ATO attempts to draw a line between when a business is being carried on, and when it isn't. It does this by providing two hypothetical scenarios. The first of these is an example of not carrying on a business. This example involves a husband and wife who co-own, as joint tenants, two units and a house from which they derive rental income. They also:

- Perform repairs and maintenance personally
- Personally clean the properties when tenants move out
- Receive weekly rent paid directly into their bank account
- Have other full-time jobs, which are their main sources of income.

The second example illustrates when, according to the ATO, a rental property business will be deemed to be carried on, and is reproduced below:

EXAMPLE

The D'Souzas, own a number of rental properties, either as joint tenants or tenants in common. They own eight houses and three apartment blocks (each apartment block comprising six residential units) making a total of 26 properties.

The D'Souzas actively manage all of the properties. They devote a significant amount of time, an average of 25 hours per week each, to these activities. They undertake all financial planning and decision making in relation to the properties. They interview all prospective tenants and collect all the rents. They carry out regular property inspections and attend to all of the everyday maintenance and repairs themselves or organise for them to be done on their behalf. Apart from income Mr. D'Souza earns from shares, they have no other sources of income.

The D'Souzas are carrying on a rental property business. This is demonstrated by:

- The significant size and scale of the rental property activities
- The number of hours the D'Souzas spend on the activities
- The D'Souzas' extensive personal involvement in the activities, and
- The business-like manner in which the activities are planned, organised and carried on.

Mr. and Mrs. D'Souza have a written partnership agreement in which they agreed to carry on a rental property business. They have agreed that Mrs. D'Souza is entitled to a 75% share of the partnership profits or losses and Mr. D'Souza is entitled to a 25% share of the partnership profits or losses.

Because the D'Souzas are carrying on a rental property business, the net profit or loss it generates is divided between them according to their partnership agreement (in proportions of 75% and 25%), even if their legal interests in the rental properties are equal, that is, they each own 50%.

While we appreciate that the ATO is attempting to illustrate the two extremes – of carrying on and not carrying on a business – you need not own 26 properties as in the case of the D'Souzas in order to be carrying on a business. In YPFD and Commissioner of Taxation [2014] AATA 9, a decision of the Administrative Appeals Tribunal of Australia, a taxpayer who owned 9 residential rental properties was deemed to be carrying on a business. She also:

- Worked full-time as an industrial chemist
- Used real estate agents to manage the properties and collect the rents
- Inspected each property quarterly, which would take at least half an hour per property, and involved additional time, being travel time, depending on the location of the property. All up she estimated that she spent nine hours every three months inspecting properties
- Checked accounts and carry out other tasks such as advertising for tenants in order to lease the properties.

In finding that a business was being carried on, the AAT noted that:

> *In coming to a decision, I have taken into account the 'ATO - Guide for rental property owners' which assists decision makers and taxpayers. I have considered the role of estate agents in services provided to owners of real estate, and in particular to the Applicant in this case. I am satisfied that certain reliance on estate agents to manage real property does not preclude the Applicant from being characterised as carrying on a business of letting rental properties.*

The take-away point is that for taxpayers who do have a portfolio of residential rental properties, the bar set by the ATO in order to be carrying on a business in its ***Rental Property Guide*** may be a little overstated. According to the AAT, far less properties can be owned, and you may even engage a real estate agent to part manage the properties on your behalf. If in doubt it is always prudent to obtain a Binding Private Ruling from the ATO before making any claims on your Income Tax Return.

ABN LOOKUP

Are you aware of ***ABN Lookup?***

This site is the public view of the ***Australian Business Register*** (ABR). It provides access to publicly available information supplied by businesses when they register for an Australian Business Number (ABN). By simply searching by the name of the business, you can use ***ABN Lookup*** to:

- Verify ABN's (this is recommended when you are dealing with a new supplier/customer)
- Check whether a business is GST-registered. (There have been a number of recent incidences of GST fraud whereby businesses are charging GST on their invoices, but are not actually registered. They then pocket this GST amount. Where this occurs, you may not be able to claim a GST credit, and therefore would be out of pocket).
- To check whether an organisation is a Deductible Gift Recipient (DGR). (You can only claim a deduction for a donation if the recipient is a DGR. If you are planning on making a donation to an organisation, you should check its DGR status before you do so).

For your part, it is essential that you keep your ABN details up to date. This includes the legal name of your entity, addresses (postal, business location, email), ANZIC (main business activity and industry code), entity type (e.g. company, trust etc.), contact details. You have 28 days to update this information at abr.gov.au if it changes

THE MAIN RESIDENCE 2 HECTARES RULE

With the recent property boom, the ATO is taking a big interest in house and land sales. Most people believe that the CGT provisions allow a blanket exemption from Capital Gains Tax when they dispose of their Main Residence. It is subject to several conditions. One that is often overlooked is the “2 Hectares Rule”.

This basically means if the house is situated on a block of land that is equal to or less then 2 hectares (or 4.94 acres), then the house and land could qualify for the exemption. If the land is greater then 2 hectares, then the land portion over the 2 hectares is subject to the Capital Gains Tax provisions.

SACRIFICING LEAVE ON TERMINATION

David buys a house on a block of land that is 2.5 hectares for $250 000 in 2010. The house is worth $150 000 and the land $100 000. He sells the property 5 years later for $1.1 million. A fair apportionment of the selling price is that the house is worth $250 000 and the land $850 000. The profit on the house is still CGT free (assuming the other CGT conditions are met). However, the land is caught and has to be apportioned. A simple apportionment of the taxable land component would be:

Cost = $100 000 x 0.5 hectares/2.5 hectares

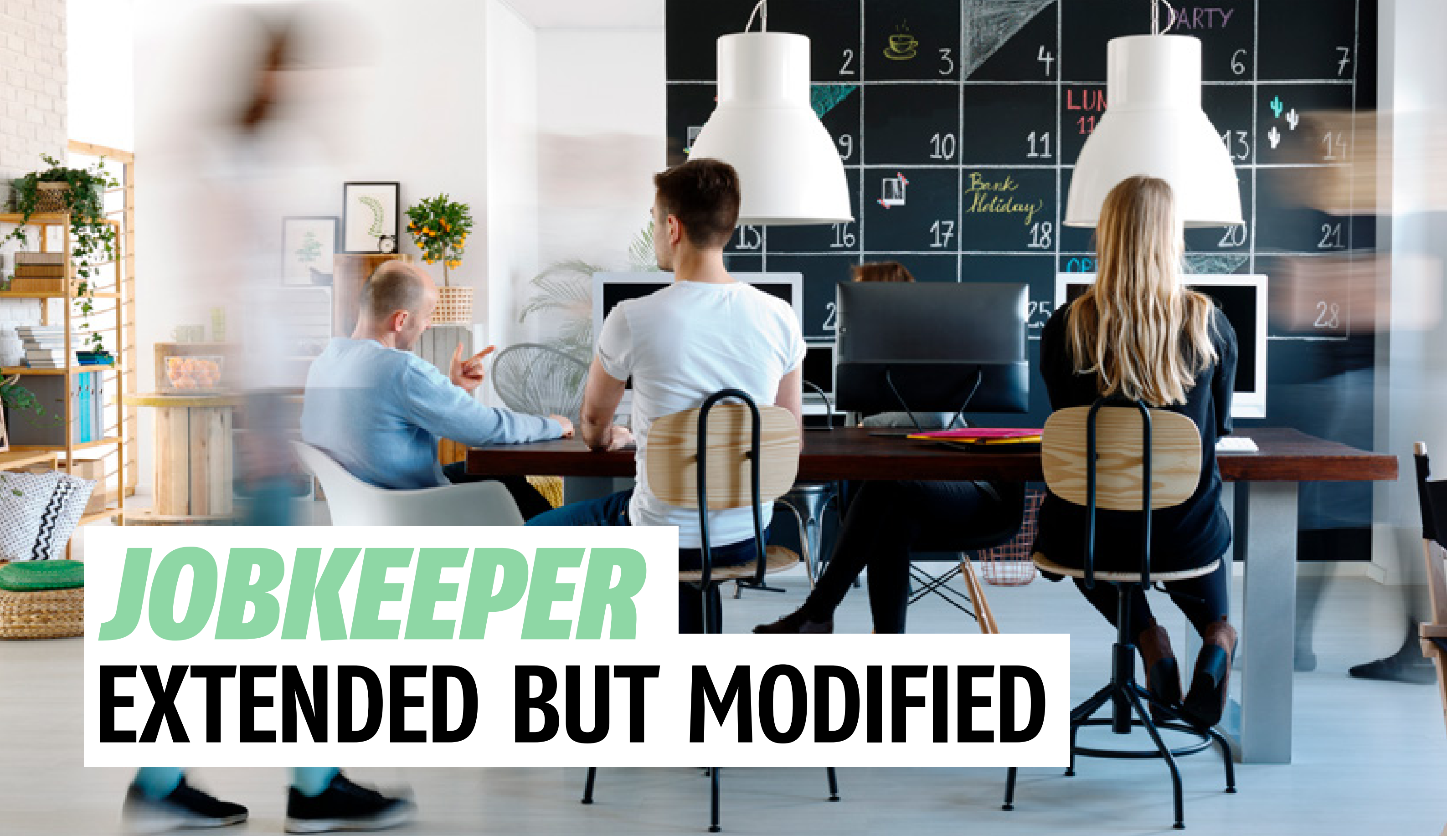
= $20 000

Selling Price = $850 000 x 0.5 hectares/2.5 hectares

= $170 000

Profit = $150 000 ($170 000 - $20 000)

A 50% discount for holding the property for greater than 12 months will reduce the taxable gain to $75 000.



JOBKEEPER EXTENDED BUT MODIFIED

In good news for both employers and employees, the Government's wage subsidy program, JobKeeper, will continue past its original end date. However, the program has been modified.

SUMMARY

On 21 July, the federal Government announced changes to the JobKeeper program.

The JobKeeper Payment, which was originally due to run until 27 September 2020, will now continue to be available to eligible businesses (including the self-employed) and not-for-profits until 28 March 2021.

The payment rate of $1,500 per fortnight for eligible employees and business participants will be reduced to $1,200 per fortnight from 28 September 2020 and to $1,000 per fortnight from 4 January 2021. From 28 September 2020, lower payment rates will apply for employees and business participants that worked fewer than 20 hours per week.

From 28 September 2020, businesses and not-for-profits seeking to claim the JobKeeper payment will be required to demonstrate that they have suffered an ongoing significant decline in turnover using actual GST turnover (rather than projected GST turnover).

From 28 September 2020, businesses and not-for-profits will be required to reassess their eligibility with reference to their actual GST turnover in the September quarter 2020. They will need to demonstrate that they have met the relevant decline in turnover test to be eligible for the JobKeeper payment from 28 September 2020 to 3 January 2021.

From 4 January 2021, businesses and not-for-profits will need to further reassess their turnover to be eligible for the JobKeeper Payment. They will need to demonstrate that they have met the relevant decline in turnover test with reference to their actual GST turnover in the December quarter 2020 to remain eligible for the JobKeeper Payment from 4 January 2021 to 28 March 2021.

To be eligible for JobKeeper Payments under the extension, businesses and not-for-profits will still need to demonstrate that they have experienced a decline in turnover of:

- 50 per cent for those with an aggregated turnover of more than $1 billion;
- 30 per cent for those with an aggregated turnover of $1 billion or less; or
- 15 per cent for Australian Charities and Not for profits Commission-registered charities (excluding schools and universities).

If a business or not-for-profit does not meet the additional turnover tests for the extension period, this does not affect their eligibility prior to 28 September 2020.

The JobKeeper Payment will continue to remain open to new recipients, provided they meet the existing eligibility requirements and the additional turnover tests during the extension period.

Employee eligibility rules have also changed (see later).

NEW PAYMENT RATES

From 28 September 2020 to 3 January 2021, the JobKeeper Payment rates will be:

- $1,200 per fortnight for all eligible employees who, in the four weeks of pay periods before 1 March 2020, were working in the business or not-for-profit for 20 hours or more a week on average, and for eligible business participants who were actively engaged in the business for 20 hours or more per week on average in the month of February 2020; and
- $750 per fortnight for other eligible employees and business participants.

From 4 January 2021 to 28 March 2021, the JobKeeper Payment rates will be:

- $1,000 per fortnight for all eligible employees who, in the four weeks of pay periods before 1 March 2020, were working in the business or not-for-profit for 20 hours or more a week on average and for business participants who were actively engaged in the business for 20 hours or more per week on average in the month of February 2020; and
- $650 per fortnight for other eligible employees and business participants. Businesses and not-for-profits will be required to nominate which payment rate they are claiming for each of their eligible employees (or business participants).

The Commissioner of Taxation will have discretion to set out alternative tests where an employee's or business participant's hours were not usual during the February 2020 reference period. For example, this will include where the employee was on leave, volunteering during the bushfires, or not employed for all or part of February 2020.

Guidance will be provided by the ATO where the employee was paid in non-weekly or non-fortnightly pay periods and in other circumstances the general rules do not cover.

The JobKeeper Payment will continue to be made by the ATO to employers in arrears. Employers will continue to be required to make payments to employees equal to, or greater than, the amount of the JobKeeper Payment (before tax), based on the payment rate that applies to each employee. This is called the wage condition.

ADDITIONAL TURNOVER TESTS

In order to be eligible for the JobKeeper Payment after 27 September 2020, businesses and not-for-profits will have to meet a further decline in turnover test for each of the two periods of extension, as well as meeting the other existing eligibility requirements for the JobKeeper Payment.

In order to be eligible for the first JobKeeper Payment extension period of 28 September 2020 to 3 January 2021, businesses and not-for-profits will need to demonstrate that their GST turnover has significantly fallen in the September quarter 2020 (July, August, September) relative to comparable period (generally the corresponding quarter in 2019).

In order to be eligible for the second JobKeeper Payment extension period of 4 January 2021 to 28 March 2021, businesses and not-for-profits will again need to demonstrate that their GST turnover has significantly fallen in the December 2020 quarter relative to comparable periods (generally the corresponding quarter in 2019).

The Commissioner of Taxation will have discretion to set out alternative tests that would establish eligibility in specific circumstances where it is not appropriate to compare actual turnover in a quarter in 2020 with actual turnover in a quarter in 2019, in line with the Commissioner's existing discretion.

As the deadline to lodge a BAS for the September quarter or month is in late October, and the December quarter (or month) BAS deadline is in late January for monthly lodgers or late February for quarterly lodgers, businesses and not-for-profits will need to assess their eligibility for JobKeeper in advance of the BAS deadline in order to meet the wage condition (which requires them to pay their eligible employees in advance of receiving the JobKeeper payment in arrears from the ATO). The Commissioner of Taxation will have discretion to extend the time an entity has to pay employees in order to meet the wage condition, so that entities have time to first confirm their eligibility for the JobKeeper Payment.

To be eligible for JobKeeper Payments under the extension, businesses and not-for-profits will need to demonstrate that they have experienced the following decline in turnover (which remains the same as existing rules):

- 50 per cent for those with an aggregated turnover of more than $1 billion;
- 30 per cent for those with an aggregated turnover of $1 billion or less; or
- 15 per cent for Australian Charities and Not-for-profits Commission-registered charities (excluding schools and universities).

Registered religious institutions responsible for religious practitioners will continue to be eligible to receive the JobKeeper Payment provided they meet existing eligibility requirements and the additional turnover tests during the extension period.

EMPLOYEES

The eligibility rules for employees remain unchanged. This means you are eligible if you:

- are currently employed by an eligible employer (including if you were stood down or rehired)
- were for the eligible employer (or another entity in their wholly-owned group) either: –
  - » a full-time, part-time or fixed-term employee at 1 July (changed from March) 2020; or
  - » a long-term casual employee (employed on a regular and systematic basis for at least 12 months) as at 1 July 2020 and not a permanent employee of any other employer.
- were aged 18 years or older at 1 July 2020 (if you were 16 or 17 you can also qualify for fortnights before 11 May 2020, and continue to qualify after that if you are independent or not undertaking full time study).
- were either:
  - » an Australian resident (within the meaning of the Social Security Act 1991); or
  - » an Australian resident for the purpose of the Income Tax Assessment Act 1936 and the holder of a Subclass 444 (Special Category) visa as at 1 March 2020.
- were not in receipt of any of these payments during the JobKeeper fortnight:
  - » government parental leave or Dad and partner pay under the Paid Parental Leave Act 2010; or

- a payment in accordance with Australian worker compensation law for an individual's total incapacity for work.

Only one employer can claim the JobKeeper Payment in respect of an employee.

The self-employed will be eligible to receive the JobKeeper Payment where they meet the relevant turnover test, and are not a permanent employee of another employer.

Employees will continue to receive the JobKeeper Payment through their employer during the period of the extension if they and their employer are eligible and their employer is claiming the JobKeeper Payment. However, the amount of the JobKeeper Payment will change at the rates set out above.

RE-TESTING TURNOVER

Carmen owns and runs the City Café. Carmen started claiming the JobKeeper Payment for her eligible staff and herself as a business participant when the JobKeeper Payment commenced on 30 March 2020. At the time, Carmen estimated that the projected GST turnover for City Café in April 2020 would be 70 per cent below its actual GST turnover in April 2019. To be eligible for the JobKeeper Payment from 30 March 2020 to 27 September 2020, Carmen needed to show the turnover for the City Café was estimated to decline by at least 30 per cent.

As a monthly BAS lodger, Carmen submitted her BAS for the City Café in April, May and June. For each of these, her actual turnover was as follows:

	2020	2019
April	20,000	200,000
May	50,000	200,000
June	100,000	200,000
Total for June quarter	**170,000**	**600,000**

Decline in turnover = 72 per cent.

From July to September, actual turnover improved as follows:

	2020	2019
July	110,000	200,000
August	140,000	200,000
September	150,000	200,000
Total for September quarter	**400,000**	**600,000**

Decline in turnover = 33 per cent

The actual turnover decline for the September 2020 quarter was still greater than 30 per cent, so City Café was eligible for the Jobkeeper Payment for the period of 28 September 2020 to 3 January 2021.

Business continued to improve for the City Café, and actual turnover for the December 2020 quarter was 20 per cent less than the December quarter 2019, so the City Cafe was no longer eligible to claim the JobKeeper for the second extension period starting from 4 January 2021.

WORKING OUT THE RATE TO BE CLAIMED

In the scenario above, Carmen also needs to calculate how much to claim for each of her staff, and for herself as a business participant.

As Carmen was working full-time at the café herself throughout February 2020, she is entitled to claim $1,200 per fortnight from 28 September 2020 to 3 January 2021, as an eligible business participant.

She has three full-time employees who are also eligible to be paid $1,200 per fortnight because they each worked 20 hours or more per week throughout February 2020.

Carmen has an employee, Chris, who works part-time with different hours every other week: 14 hours one week; and 22 hours the next week. During the two pay fortnights prior to 1 March 2020, Chris was employed for 36 hours in each fortnight. On average, Chris worked less than 20 hours per week for City Café. Carmen is eligible to claim $750 per fortnight for Chris, from 28 September 2020 to 3 January 2021.

Cathy is an eligible employee who worked on a long-term casual basis during February 2020. To determine what rate of JobKeeper Payment to claim for Cathy, Carmen looks at pay records for the two fortnightly pay periods before 1 March 2020. She sees that Cathy was employed on average less than 20 hours per week, so Carmen claims $750 per fortnight for Cathy, from 28 September 2020 to 3 January 2021.

Carmen also started employing Charles from September 2020. Because Charles was not employed at City Café on 1 March 2020, Carmen cannot claim the JobKeeper Payment for Charles.

COVID-19 SMSF ISSUES

The COVID-19 pandemic has affected super funds in a number of ways. This article details the issues that SMSF trustees/members need to be across.

EARLY RELEASE

The Government has extended the time for which taxpayers who are impacted financially by COVID-19 can request early access to their superannuation.

By way of background, Australian citizens and permanent residents of Australia or New Zealand, can take advantage of this measure where they meet any of the following criteria:

- You are unemployed (not just unemployed as a result of COVID-19)
- You are eligible to receive one of the following:
  - » Jobseeker payment
  - » Youth allowance for jobseekers (unless you are undertaking full-time study or are a new apprentice
  - » Parenting payment (which includes the single and partnered payments)
  - » Special benefit
  - » Farm household allowance
- On or after 1 January 2020 either:
  - » You were made redundant
  - » Your working hours were reduced by 20% or more (including zero)
  - » You were only a sole trader (not an employee also) and your business was suspended or there was a reduction in turnover of 20% or more.

Eligibility is self-assessed by each individual applicant. Just like tax returns, there is no need to attach any evidence to support your application. However, you should keep any evidence on file in the event that your eligibility is later questioned by the ATO. While in most cases eligibility will be self-evident (e.g. such as where you are receiving JobSeeker) criteria such as a sole trader establishing a 20% downturn will require detailed proof. Penalties apply should it later be determined that you are ineligible.

Originally, the application dates (submitted through myGov) were as follows:

Applications should be submitted online through myGov:

- Until 30 June 2020 for the 2019/2020 financial year, and
- Between 1 July and 24 September for the 2020/2021 financial year.

The 24 September deadline has now been extended to 31 December.

For any release of payments from superannuation savings, the SMSF auditor will require the relevant documentation and ATO release authority.

MINIMUM PENSION AMOUNTS

The temporarily reduced minimum drawdown rate set out below applies to the year ending 30 June 2021, as well as last financial year up to 30 June 2020.

Trustees must ensure the reduced minimum pension factor is applied to 30 June 2020 pension account balances and paid to members before 30 June 2021. The 50% reduction in pension payments also applies to Market Linked Income Streams.

AGE	MINIMUM ANNUAL DRAWDOWN	
	2019/20 and 2020/21 Minimum Annual Account Balance Percentage	Standard Minimum Annual Account Balance Percentage
Under 65	2%	4%
65-74	2.5%	5%
75-79	3%	6%
80-84	3.5%	7%
85-89	4.5%	9%
90-94	5.5%	11%
95 or more	7%	14%

MARKET VALUATION OF ASSETS

When SMSF trustees are preparing annual financial accounts and statements, these accounts must include the market value of any property asset in an SMSF (regulation 8.02B Superannuation Industry (supervision) regulations (1994. To be clear, it is a trustee's responsibility to provide evidence to support the market value of the assets, and for the auditor, if they are satisfied, to then sign off on those values in the annual audit.

Although real estate investments are generally less susceptible to short-term market volatility compared with shares or certain other financial instruments, values can fluctuate significantly in the short-term, particularly when the economy experiences an unexpected shock as is currently the case with COVID-19 which may necessitate a fresh valuation.

For real property, the valuation must be based on objective and supportable data. This does not necessarily have to be a paid valuation. Rather, in the property context this may include sales of similar property in the area. In the past few years there has been a rise of online valuation providers. The ATO has stated that a valuation from this source would be acceptable.

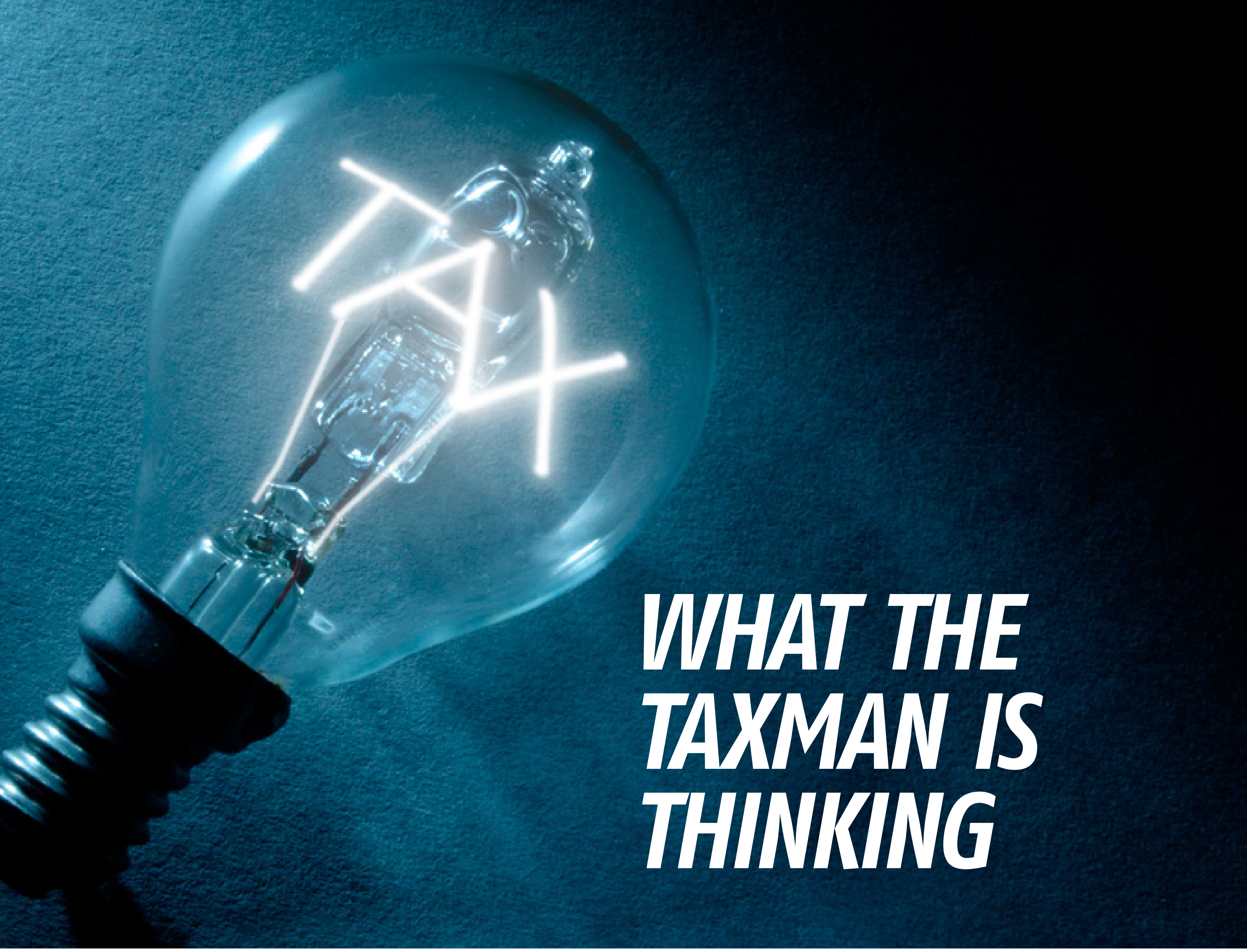
Unlisted assets (such as shares in a private company, units in a unit trust etc.) are inherently difficult to value, even without the challenges thrown up by COVID-19. . In respect to the valuation of unlisted property, the ATO state that evidence to support the valuation can include:

- an independent expert valuation of assets held in the company or unit trust. If this is not available, evidence of how the market valuation was substantiated by the directors or trustees including objective and supportable data on which they relied, the valuation method they used and any assumptions made
- a property valuation where property is the only asset of the company or unit trust
- the date and price of the most recent sale and purchase of a share or unit between unrelated parties.

Other evidence may include the cost price of shares or units (reliable only in the first year that an SMSF made the acquisition, and the share/unit price of equity/new units raised or issued in the previous 12 months.

Superannuation auditors generally recommend an external, independent valuation of any property assets in an SMSF at least once every three years. However, a fresh valuation may also be required where the value may have materially changed, or an event has occurred which could impact the value of the property (such as the current pandemic). The valuation may be undertaken by anyone provided it is based on objective and supportable data. It obviously however carries more authority, and is more likely to be accepted by the auditor, if undertaken by an expert.

For the in-between years (if the property is valued every three years), trustees may consider that nothing material has occurred since the last external valuation and therefore the property should remain at the value included in last year's statement of financial position. This approach is permissible, however the SMSF auditor needs evidence of this consideration to fulfil their audit duties. Therefore, a decision to leave a property value unchanged from one year to the next, must be documented by the trustees and provided to the SMSF auditor.



WHAT THE TAXMAN IS THINKING

JOB SEEKER

Changes have been made to the Coronavirus supplement payment.

By way of background, this payment commenced on 20 March 2020 and provides an additional $550 dollars per fortnight on top of the standard Newstart payment of that same amount (total $1,100 per fortnight). It was introduced to provide additional support for the increased number of individuals unemployed during the COVID-19 pandemic – however it is available to all unemployed individuals, subject to meeting the qualification criteria.

In an economic update in July, the Government announced sweeping changes to the fortnightly payment. The Government will continue to pay the Coronavirus Supplement to eligible income support recipients until 31 December 2020. The amount of the Supplement will be adjusted to reflect the gradually improving economic and labour market conditions.

- The Coronavirus Supplement will continue to be $550 per fortnight for payments up to and including the reporting period ending 24 September 2020.
- From 25 September 2020 to 31 December 2020, the Supplement amount will be $250 per fortnight.

Changes are being made to the JobSeeker Payment and Youth Allowance (other) income tests to improve incentives for individuals to re-enter the workforce or take on additional work as the economy recovers.

From 25 September 2020 until 31 December 2020, the income free area for JobSeeker Payment and Youth Allowance (other) will increase from $106 per fortnight for JobSeeker Payment and $143 per fortnight for Youth Allowance (other) to $300 per fortnight for both.

This means that recipients of these payments can earn income of up to $300 per fortnight and still receive the maximum payment rate of JobSeeker Payment or Youth Allowance (other).

The previous JobSeeker Payment income test of 50 cents for each dollar between $106 and $256 per fortnight, and 60 cents for every dollar over $256 per fortnight, will be replaced with a single income test of 60 cents for every dollar of income earned above $300 per fortnight.

For Youth Allowance (other) the income test of 50 cents for each dollar between $143 and $250 per fortnight, and 60 cents for every dollar over $250 per fortnight, will also be replaced with a single income test of 60 cents for every dollar of income earned above $300 per fortnight.

The Coronavirus Supplement will remain outside the income test, meaning that anyone eligible for the Coronavirus Supplement will receive the full rate of the Supplement.

A lower income taper rate of 40 cents in the dollar continues to apply for JobSeeker Payment recipients who are principal carer parents. The current income free area for principal carer parents also continues to apply.

RETURN OF JOB-SEEKING REQUIREMENTS

Jobseekers' mutual obligation requirements were suspended from 24 March 2020 until 8 June 2020. During this time unemployment payment recipients were not required to attend appointments, look for work or participate in activities.

The gradual reintroduction of mutual obligation requirements commenced on 9 June 2020, including:

- voluntary job searches;
- at least one phone or online appointment with a jobseeker's employment services provider;
- voluntary participation in activities, either online or in person; and
- no payment suspensions or penalties for failure to comply.

When determining a jobseeker's mutual obligation requirements, an employment services provider will take into consideration the jobseeker's capacity to comply with requirements and the state of the local labour market

VARIATION OF PAYG INSTALMENTS

Though the ATO's nil PAYG variation concession has now ceased, the deputy commissioner is reminding businesses that they can still vary their PAYG instalments downwards if need be.

To recap, in response to the economic impact of COVID-19, the ATO allowed businesses to vary PAYG instalment amounts to zero for the April to June 2020 quarter. Moving forward post COVID concessions with the economy still very 'soft', variations are still very much a live issue that needs to be considered where your business is provided with a dollar amount payable by the ATO. In this case, variations come into play where net profit is likely to be less than expected (as compared to last financial year). Any downwards variation should be done in close consultation with your accountant because penalties can apply where variations result in a taxpayer paying at least 15% less than the tax that is actually payable at year-end.

Note that where a business is provided with an instalment rate by the ATO, it too will be eligible to vary that rate. However, it makes little sense to vary the rate just because a client's current instalment income is going to be less or more than it was last year. This is because the rate is multiplied by the client's instalment income for the quarter or year anyway, and the calculation is therefore designed to take account of fluctuations in a business's instalment income. Rather, a business would really only look at varying the rate where there is a change (as compared to last year) in the percentage of business and investment income that will be paid as tax at the end of the year. For example, a business may have many more deductions that can be claimed this year (as compared to last year). Therefore, all other things being equal, the percentage of that business's and investment income that will be paid as tax will be less. In such circumstances, it would be prudent to look at varying the rate in consultation with your accountant.

FBT TAXI TRAVEL EXTENDED TO RIDESHARING VEHICLES

The FBT legislation has been amended to put ride-sharing vehicles on the same level as taxis for the purposes of an often-used FBT exemption.

The significance of this change is that the S.58Z exemption that applies to taxi travel that begins or ends at an employee's place of work can now also apply when the trip is undertaken using a motor vehicle sourced by a ride sharing app, such as Uber, Ola, Bolt or DiDi. This change applies from 1 April 2019.

SUPER AMNESTY – FINAL WEEKS

The ATO is reminding taxpayers that these are the final weeks to take advantage of the Superannuation Guarantee amnesty.

The amnesty provides tax and financial incentives for non-compliant employers to pay SG that is owing to employees for prior quarters. To qualify for the amnesty, a disclosure of an SG amount owing must be made during the amnesty period. The amnesty period is the period that started on 24 May 2018 and ends 6 months after the day the legislation received Royal Assent. As this was received on 4 March, the amnesty disclosure period ends on 4 September 2020. Any disclosures made during this period (24 May 2018 to 4 September 2020) may qualify. Disclosures are made in this period by lodging an SG Charge Statement with the ATO, and paying the amount owing or entering into a payment arrangement.

quarter (i.e. they had not paid SG in full and on time), then the they were liable for:

1. An administration fee of $20 per employee for which there has been a shortfall
2. The shortfall
3. 10% interest
4. Further penalties of up to 200% of the SG Charge may be imposed at the discretion of the ATO
5. Being denied a deduction for the late payment.

Under the amnesty, components 1 and 4 will be waived, and the employer will be entitled to a deduction for the late payment.

However, if an employer already had an administration component in respect of an employee because of a previous assessment (for example, one that occurred prior to the amnesty), the amnesty does not affect the previous administration component.

There are two alternative ways that employers can take advantage of the amnesty.

1. PAY DIRECT TO THE SUPER FUND

The employer can pay the full amount directly to the employee's superannuation fund. This will consist of the SG shortfall, and interest. Calculators are available on the ATO website. Under this option, the employer is required to complete an approved form and send it to the ATO. This form is the SG Amnesty fund payment form which can be submitted electronically via the Business Portal or, if you have an accountant, via Online Services for Agents. This form must be lodged on the same day payment is made to the superannuation fund.

This option is ideal for employers where the shortfall relates to current or recent employees where the employer can confirm that the superannuation account is open and the details are up to date. Be mindful that under this option, the amount owing must be paid in full.

2. PAY DIRECT TO THE ATO

In the event that an employer is unable to pay the full amount direct to the ATO, it must lodge the earlier-mentioned form with the ATO and make the payment direct to the ATO. In these cases because the amount is not paid in full upfront, the ATO will contact the employer to arrange a payment plan. This method is suitable for employers who cannot pay the amount upfront, or where the amount is owed to a past employee and you cannot ascertain their current superannuation fund details.