



RICARDO ACCOUNTING

2020 Tax Time Newsletter

Trust Deed Updates

New South Wales now deems discretionary trusts to be 'foreign persons' unless the trust deed is amended before midnight on **31 December 2020** to:

- exclude all foreign persons as eligible beneficiaries
- prevent any amendment to the exclusion of foreign persons as beneficiaries, so that the exclusion is permanent and irrevocable.

Even if you never have and don't intend to distribute to foreign persons the trust will be deemed to be a 'foreign person' unless updated.

If a discretionary trust is deemed a 'foreign person', surcharge duty of 8% and surcharge land tax of 2% will be payable on any residential land in New South Wales acquired or owned by the trust since the surcharges were introduced in 2016.

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These rules were delayed from 31st December 2019 so many deeds have been updated and we have reached out to many of you to make this happen however please contact the office URGENTLY if you think this applies to you.

ATO & Super Contributions - Late Payment/s

The ATO have JUST issued a new practice statement (PCLA 2020/4) which will automatically impose a penalty of 200% on late lodgement of SGC (Super Guarantee Charge). This is not a typo, an automatic penalty of 200%.

Lets look at an example of how this might work for a business paying late super:

Your 31 December 2020 quarterly super payment is due on the 28th January, lets assume it is \$10,000 and your tax rate is 30% (just to make the numbers easy)

- Scenario 1: If you pay this on-time you would get a deduction for the super payment and there is no penalty so out of your gross earnings **it would cost you \$10,000** (that's the easy scenario)

So now let's look at what happens if you process this super and it hits the employee super account on the 29th January - only 1 day late. Ok sounds like no big deal, BUT, according to the ATO it is so here's what's meant to happen:

- Scenario 2: You are now officially obligated to lodge a form with the ATO called an SGC statement, this statement tells the ATO how much super you were late by, it backdates interest at 10% to the beginning of the quarter (in this case 1st October) and adds \$20 per employee for ATO administration. Most importantly here you **LOSE your tax deduction**, so you have to earn enough to pay your 30% tax on top ($\$10,000 / (1 - 30\%) = \$14,286$) plus Interest and admin here is minimum \$383.33. For 1 day late it has cost you almost 50% more at **\$14,639**

All of the above are the existing rules and are meant to be followed by businesses. The problem is that most of the time businesses are just paying the late super and hoping that the ATO don't notice (obviously not recommended).

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So lets look at the NEW ATO practice statement in action:

- Scenario 3: If didn't lodge the SGC statement with the ATO and time has past (minimum 12 months for the ATO to follow up here), unfortunately you receive a letter from the ATO requesting further information about the quarter ending 31st December 2020. After swearing to yourself and contacting your accountant (who responds with I told you so) you lodge your SGC statement that should have been lodged BUT NOW the ATO turn around and issue you with a Part 7 penalty (cue the evil music). Ok so you've paid your \$10,000 (now +interest +admin costs after 12 months would be minimum \$1500) and the ATO add on top of this **\$23,000** (\$11,500 @ 200%) and once again because this is not tax deductible (apart from interest & admin) **it costs you \$33,000 / (1-30%) = \$47,142**

THAT IS ALMOST 5 TIMES THE ORIGINAL COST (and only gets worse as time passes with interest)

If you have wondered how the government will pay for all of this Covid-19 stimulus, don't worry they will find a way, Just don't let it be from you!

- Scenario 1: on-time **\$10,000**
- Scenario 2: lodge SGC if late **\$14,639**
- Scenario 3: don't lodge SGC and pay late **\$47,142**

This is one reason businesses fail, they get behind in their obligations and put their head in the sand and the ATO shuts them down.

ALERT: The ATO are now chasing up on any old outstanding super. If they determine that you haven't met your super obligations or reasonably suspect that you haven't paid, they will start an investigation and you could be up for some heavy penalties. I have had 4 inquiries since the ATO re-started auditing in September after covid.

Super contributions need to actually land into employees nominated super fund before the due dates. This means payment of super will need to be paid much earlier to keep you compliant with the ATO.

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Quarterly payment due dates for super payments

Quarter	Period	Payment due date
1	1 July – 30 September	28 October
2	1 October – 31 December	28 January
3	1 January – 31 March	28 April
4	1 April – 30 June	28 July

If your payment is paid on the 28th January for example, this will be classified as a late payment if the super has not reached your employees superfund before the 28th and therefore you are meant to lodge a Super Guarantee statement (SGC) with the ATO within 1 month of the due date.

In lodging your SGC statement you will be denied your super contribution deduction, plus be charged interest and administration fees. However if you don't lodge your form and wait for the ATO to follow up you may have a further 200% penalty on top of your SGC

Stop any late payments: We are now strongly suggesting that you start paying your super at the time you process your pay runs. With Xero clearing house you can process you super as often as you like and by doing this regularly you reduce the risk of falling into the trap of late super penalties.

If we assist with your bookkeeping and pay runs we will be sending off payment authorisations more regularly so don't hesitate in acting on these payments, process them immediately. It also helps with cashflow if you pay super regularly.

If you wish to discuss the above with us, please do not hesitate to contact us via email and or book an appointment.

If you need any assistance, please do not hesitate to contact us on (02) 4365 1717.

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Jobkeeper - The Final Extension

Businesses previously on ORIGINAL Jobkeeper that have had a 30% drop in turnover during the October to December Quarter will be eligible for Jobkeeper Extension 2.

The ATO will be checking on BAS lodgements to ensure you have had a 30% drop compared with the 2019 financial year. This time around the drop is assessed based on your BAS reporting method (Cash/Accrual) and cannot be a forecast but will rely on the actual business performance.

This Extension is available even if you didn't qualify for Extension 1 based on July-September.

Step by Step Process for Jobkeeper Businesses

Step 1 - Cease paying employee top-ups from 4th January

We recommend ALL BUSINESSES CEASE PAYING EMPLOYEE TOP-UPS from payments after the the 4th of January until you are sure that you are going to be eligible so you don't overpay any employees. Employee top-ups can be paid any time up to the 31st of January for Jobkeeper Extension 2. This will allow time for you to calculate your eligibility and check the new employee jobkeeper payment rate.

Employers should continue to process employee pays with their earnings and pay their employees **excluding** any jobkeeper top-up amounts. Until you have assessed eligibility (after 31st December) and updated the employees tiers, STP lodgements may be rejected, if this happens please don't be alarmed, you will be able to re-lodge the STP after the 31st December having assessed your eligibility.

Step 2 - After 31st December - Check if you're eligible

ASSESS YOUR TURNOVER DROP

To properly assess eligibility wait until after the 31st December before checking your turnover.

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The drop required for businesses is again 30% (for most businesses) and eligibility is summarised as follows:

- GST Turnover will be based on your BAS reporting method. So if you are ACCRUAL then you must assess based on your invoices generated and if you are CASH then you must assess based on payments received. This can also include asset sales and basically anything that is reported on your BAS.
- You must wait until after the 31st December so you can ensure all income has been reported and bank transactions for income are reconciled
- You generally need to compare to the same quarter in 2019 (Alternative tests may be available)

For Xero users, once all invoices are entered and banks are reconciled after the 31st December you can assess your eligibility in the Jobkeeper Turnover calculator, which can be found in the Reports area of Xero. Select the period of "Oct-Nov-Dec" and click the "view transactions" to review and ensure that all income is correctly allocated.

If we are currently preparing your jobkeeper we will do this for you.

If you are eligible then go on to Step 3 below.

CEASE EMPLOYEES IF NOT ELIGIBLE

IF you are not eligible then you need to cease jobkeeper for each employee via STP. for Xero users this can be done via the Payroll Support link in the pay employees page, Click "Stop Jobkeeper" for each employee, the fortnight to cease will be Fortnight 20. This should then notify the ATO that you are no longer claiming for these employees.

Step 3 - Nominating Payment Tier for Employees

Once you are sure you are eligible for the Extension Period, you now need to assess how many hours each employee worked to determine which payment tier they are on. Anyone who was eligible for Extension 1 will have already done this so you can skip to Step 4.

Payments have now dropped and are based on hours worked by employees. This is summarised in the table below:

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To assess employee hours you will need to check the 4 weeks prior to 1st March or 1st July. To do this sum up the employees working hours on each payrun during the 4 weeks. If in either period they worked over 80 hours then they will be eligible for Tier 1 otherwise they default to Tier 2.

The 2 payment periods to check are:

1. 4 Weeks before 1st March: 2nd February to 29th February
2. 4 Weeks before 1st July: 3rd June to 30th June

Once you have determined the Employee Tier, you will then need to notify for each employee via STP. For Xero users go to the Payroll Support link in the pay employees page then for each employee click "Set Tier".

Step 4 - Notify the Employee within 7 days of notifying ATO

Once you have determined the correct payment Tier and notified the ATO, within 7 days Employers must notify their employee including their relevant payment Tier (\$1,000 or \$600 per fortnight from 4th January to 17th January).

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Step 5 - Top up Employees by 31st October

You must pay the employees their relevant amount as per their payment Tier (\$1,000 or \$600 per fortnight from 4th January until 28th March 2021).

Their relevant Tier amount should be the minimum gross wages payment before tax regardless of prior or current wages.

Payruns to check for top-ups will be for the periods:

4 January 2021 – 17 January 2021

18 January 2021 – 31 January 2021

To top up employees - If using payroll software for example Xero - run an unscheduled payrun within the fortnight (the pay date during the relevant fortnight) using the "Jobkeeper payment top-up".

Final Step - Continue to pay staff and complete your monthly declarations with the ATO and you should be reimbursed monthly in arrears.

Work Related Expenses - Logbooks

As a result of a recent audit where we were given false information about a logbook we will be asking for more detailed information from logbooks to claim your motor vehicle or ute deductions. It is important to be honest with us because the penalties are steep if you are caught.

Did you know

- If you use a ute you still need a logbook to claim
- For a logbook it only needs to be completed for 12 weeks and it lasts 5 years
- You always need to record your odometer reading at the 30th June each year

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The ATO are continuing to review individual deductions, this year they are looking at trades who are just travelling to and from the same jobsite daily. Often an employer provides tools or somewhere tools can be stored and in these cases you can't claim the trip to and from work.

Click [HERE for an ATO Guide to Motor Vehicle Deductions](#)

Click [HERE for another Guide for Car Expenses and how to fill in a logbook](#)

Fee Schedule

Schedules and Additional Costs

- Hourly Billing Rate for business and accounting services –per hour. Billed between \$200 and \$300*
- Hourly Billing Rate for bookkeeping services – per hour. Billed between \$60 and \$120*
- Trust Account Fee \$30 from 1st Jan 2021
- Individual Returns from \$160
 - Motor Vehicle Schedule from \$30+
 - Investment Schedule from \$30+
 - Depreciation Schedule from \$30+
 - Capital Gains Tax Schedule from \$90+
 - Rental Schedule from \$120+
- ASIC Agent Annual Fee \$120 from 1st Jan 2021
 - ASIC Address updates Included in above
- ASIC change of officeholder/members from \$165*
- ATO Payment plan arrangements \$55 <6 months, \$110 > 6 months
- Professional Letters (e.g. finance, accounting representation) from \$75

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Notes:

*Fees vary depending on who performs the work and the time that is involved, please refer to your engagement letter for more detail, costs on top of standard rate may apply if extra work is involved including administration, debt collection of our fee, audit handling, tax planning and advice. Estimates can be given in most circumstances and please feel free to contact us if you have questions or problems with paying your account. All fees include GST

+ Motor Vehicle, Rental, capital gains, investment & other schedules are charged at our discretion and the price depends on the detail and time spent. If information is well summarised and minimal compilation work is required these charges may be waived. All fees include GST.

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