

# Bookies BULLETIN



AUSTRALIAN  
BOOKKEEPERS  
NETWORK

- OUR ONLINE CONFERENCE – THERE'S STILL TIME TO ATTEND
- CARRYING ON AN ENTERPRISE?
- ALL THE LATEST INDUSTRY NEWS

*....and much more!*

**2020**  
**EDITION 5**

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## Edition 5 2020

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3rd Floor - Plaza Chambers, 15 Dennis Road  
Springwood QLD 4127

**E-mail:** info@austbook.net

**Postal Address:** PO Box 1140, Springwood  
QLD 4127

**Telephone:** (07) 3290 4914

## Company Information:

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**Disclaimer:** The information contained in this edition is current as at time of writing (Nov 2018). Information contained herein is general in nature and is intended to provide guidance to bookkeepers in providing bookkeeping services for their clients. It is not intended to be taken as a substitute for you or your clients seeking professional advice in relation to their own specific circumstances.

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# thank you!

## THANK YOU BOOKIES... YOU OUGHT TO BE CONGRATULATED

Bookkeepers around the country deserve to be showered in praise. So on behalf of all your clients, The Australian Tax Office and The Australian and State Governments let me say....."Well done and thank you" to Bookkeepers everywhere.

The last six or so months has seen Bookkeepers having to deal with a raft of 'firsts' and simply being inundated and sometimes overwhelmed.

Let's take a quick look at just some of these firsts:

- Single Touch Payroll for SMEs
- MyGov ID
- Our generation's first global pandemic
- Lockdowns
- JobKeeper Legislation and testing
- Cashflow Boosts
- Federal Government Stimulus packages (Loans, PAYG variations, Instant Asset writeoffs, etc)
- State Government Stimulus packages (grants, loans, payroll tax, etc)
- Additional TPAR reporting requirements
- Payroll software alterations for Eligible Employees
- Eligible Business participants.... What the hell are they...?
- Changes to HR measures and leave
- Changes to Jobkeeper and further changes in Jobkeeper 2.0 and retesting to be done

Not only did bookkeepers have to come to terms with how all of these measures worked, but they then had to ensure that all the deadlines that were imposed upon them were met, so that none of your clients missed out. Achieving this, all whilst manoeuvring lockdowns, staying healthy and keeping you and your clients' spirits up during the height of the pandemic. None of it easy. So nothing short of a super human effort.

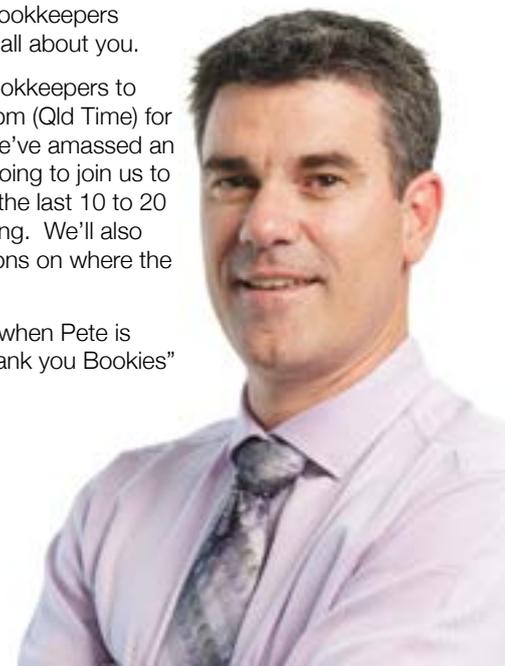
To acknowledge and celebrate these efforts in what has been the most unusual and trying year, Australian Bookkeepers Network has participated in Global Bookkeepers Week and we made our contribution all about you.

I extend a personal invitation to all bookkeepers to join Pete and I on 20 November at 4pm (Qld Time) for a very special Bookkeeper Radio. We've amassed an array of industry stalwarts, who are going to join us to look back over not just this year, but the last 10 to 20 years and the evolution of bookkeeping. We'll also extract from our guests their predictions on where the next 20 will lead us.

It should be a lot of fun... (especially when Pete is involved). So Join us, as we say "Thank you Bookies"

*Kelvin Deer*

**Director**





# what have you done for me lately?

ABN NEVER STOPS  
WORKING FOR ITS  
MEMBERS.  
HERE IS WHAT WE  
ARE UP TO OF LATE!



## *The Digital Bookkeeper Event*

Have you tuned in yet to any of **ABN's Digital Bookkeeper Event**?

We've put together five unforgettable days of content featuring the best speakers in the business. Each speaker has been carefully hand-picked to deliver insights into business, finance, and the bookkeeping industry – ensuring an event like no other. Best of all, you have access to watch all the content for six weeks!

Come back anytime, watch anywhere, and enjoy Australia's best Digital Bookkeeper Event! With over 10 hours of CPE across five unforgettable days, if you only attend one digital event for the rest of the year... make it this one! Head to our [website](#).

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## Industry News And Views – Bookkeeper Radio!

Have you checked out the latest episode of **Bookkeeper Radio**?

In a recent episode we caught up with one of our keynote speakers Gus Balbontin who is just one of five wonderful keynote speakers at our Digital Conference. Gus was the Executive Director and CTO of Lonely Planet, and is now an investor, founder and mentor across the start-up ecosystem in Melbourne. Gus loves sharing a story and making a difference to people – helping them in their own business and life.

In the second part of this episode, we looked in detail at JobKeeper 2.0.

Hosted each month by our very own DJs, Peter Thorp and Kelvin Deer, ABN's Bookkeeper Radio offers a unique and insightful look at your industry. For each broadcast, see and hear your hosts interview a prominent industry figure and then give you the opportunity to ask your own questions. It's a fun, free and interactive way to keep up with industry news and views. View a free sample [here](#).



## Networking

Our **Coffee Clubs** continue to power on throughout the country. Our wonderful Network Leaders have been out in their local area hosting dozens of **Coffee Clubs** throughout recent months. To remain COVID-safe, some of our leaders have pivoted into digital **Coffee Clubs**

**Coffee Clubs** are a community where bookkeepers can connect in what can be an otherwise isolating industry. Meet other like-minded people, share your knowledge, learn from others, and keep up to date with industry developments. You are only a **Coffee Club** meeting away from building your own professional network of friends and creating long-lasting relationships with your industry peers. To find out when the next Coffee Club is being held near you, subscribe to our [Notification List](#).



## Technical Mentoring

In October, we sent you the latest editions of our technical publications [Getting Technical](#) and [Bookkeepers Knowledge Base](#).

Although ABN already provides a wealth of in-depth technical material for members, we appreciate that from time to time very specific technical issues arise that you may need guidance on. This latest edition of **Getting Technical** examined the newly-released alternative JobKeeper turnover test for those whose business has ceased to operate in the turnover test period. This test has relevance for not only the first extension of JobKeeper, but for the next extension from 4 January to 28 March 2021.

The latest edition of our **Bookkeepers Knowledge Base** guides you through the complex issue of agency arrangements. **Bookkeepers Knowledge Base** is ABN's technical publication which focuses on the topics that matter most to bookkeepers. We typically start each edition by examining the theory and any laws or Tax Office rulings surrounding the subject. We then look at things from a bookkeeping standpoint with an emphasis on case studies and examples, pro-forma journal entries, GST tax codes and BAS treatments. **Bookkeepers Knowledge Base** is written for bookkeepers, not the general public.

**Delivering you the best technical resources, that's your ABN.**

# AAT CONFIRMS GST LIABILITY FOR THE SALE OF LAND



*A recent AAT case underscores how difficult it is to demonstrate that you are not carrying on an enterprise for GST purposes when disposing of land.*

## facts

### These were not in dispute as follows:

- The taxpayer's company acquired a parcel of land in San Remo, Victoria in 1962. Due to the passage of time, no evidence was provided as to the purpose of the acquisition
- Over time, parts of the land were subdivided and sold:
  - April 1987 – four lots were created and sold
  - November 1987 – four lots were created of which one was sold in 1989, one in 1995, and the remaining two in 1998
  - June 2000 – four lots were created of which two were sold in 2002 and then in June 2019. The two other lots (which are the subject of the amended assessments) were sold in October and November 2018
- The ATO assessed GST on the sale of the 2018 lots. The Company objected to the assessment; the Commissioner disallowed the objection; and the Company applied to AAT for review of the objection decision
- As to the GST-registered company's other operations... it held various rental properties and operated a sheep grazing business. The rental properties comprised three commercial and four residential properties at various locations in Victoria. The sheep grazing was conducted on parcels of land in San Remo, Victoria
- The two lots in question were not used for grazing land nor were they used for rental purposes. The Company has not claimed income tax deductions or input tax credits for expenses or capital allowances (depreciation) associated with their ownership. Additionally, the company had not previously sought to have the lots rezoned, apply for permits or to sell the lots
- Rather, the AAT found that the sole purpose in selling the two lots was to facilitate the closure of deceased estates of relatives who held shares in the company and who there was a debt owed to by the company
- There was no evidence of a business plan relating the property development or sale and the taxpayer had not registered any business name related to property development and did not employ any employees related to property development
- The evidence was silent as to the manner in which the subdivisions and sales took place. The AAT therefore made no findings regarding whether the sales were systematic, organised or businesslike, other than to note that the lands were not treated as trading stock in the company's 2018 financial statements

*continued*

## issue

Whether the company could discharge the burden of proof imposed by the amended assessment that the sales were not made in the course or furtherance of an enterprise.



## taxpayer

- For its part, the taxpayer argued that the lots were sold to facilitate the winding up of deceased estates and to simplify its affairs. There was no business plan, no employees at that time and no claims for income tax and input tax credits associated with the land's ownership had ever been made. Accordingly, the sales were not made in the course or furtherance of an enterprise that it carried on.
- The taxpayer also cited income tax cases where it was held that activities involving the subdivision and sale of property did not constitute "an adventure or concern in the nature of trade"



## ATO

The Commissioner maintained the taxpayer's enterprise is broader than the rental and grazing activities and encompasses the acquisition, subdivision and sale of the subdivided lots. Even if that is not so, the Commissioner argued that the company had not established that the land sales were not made in the course or furtherance of the rental or grazing enterprises.



## AAT decision

- The sales had no connection with the property rental or grazing enterprises, and were not made in the course or furtherance of either or both of those enterprises. However, there remains the question of whether subdivision and sale for profit alone constitutes the carrying on of an enterprise
- A company structure may face a particular challenge in discharging its burden of proving a supply was not made in the course or furtherance of an enterprise, but that is not an impossible task. Whether any entity's activities constitute an enterprise is ultimately a question of fact – but it requires an evidentiary basis on which to do so
- It was the absence of such a foundation that led the AAT to conclude that the taxpayer had not discharged its burden of proving the relevant elements of a taxable supply were not satisfied in relation to the two sales. The taxpayer was unable to disprove that the subdivision and sale for profit were the carrying on of an enterprise.



## OBSERVATIONS

- Though a company will generally find it more difficult to prove that an enterprise is not being carried on, it's certainly not impossible
- When an amended assessment is issued, it falls to the taxpayer to discharge the burden of proof that the assessment was not excessive. the taxpayer was unable to prove that there was not another enterprise – that of subdivision and sale at a profit
- That a taxpayer may legitimately treat the proceeds as capital for income tax purposes is irrelevant for the GST treatment. An 'enterprise' can include an isolated commercial venture in the nature of trade
- It's as though a taxpayer needs to prove that there is a plan not to have a plan to subdivide and sell for a profit. That there was no property development expenses incurred, no employees/ outside parties related to an development, and no registered business name was insufficient to prove there was no plan for profit
- Seek guidance from the client's accountant should you be uncertain as to whether there is an enterprise being carried on – whether it be with the sale of land, or any other situation.

MYOB Essentials is now  
even more powerful!

There have been some major upgrades!



# MP PROFESSIONAL BOOKKEEPER SEES *efficiency gains* FROM NEW ESSENTIALS

BY MYOB

“ Essentials software is going to be a game changer for bookkeepers. ”

VICKEN MEDZOIAN

Early Adopter of MYOB's new Essentials software, Vicken Medzoian of MP Professional Bookkeepers says the product is going to be “a game changer” for bookkeepers.

Vicken Medzoian has always been progressive. A CPA and experienced financial controller, he entered the bookkeeping arena 10 years ago when he identified the value of building a bookkeeping division to his friend's successful accounting practice.

“We both identified the value we could add for our clients with the addition of a bookkeeping service and could see the potential efficiency gains of closely aligning that with the existing accounting business.”

Which is how MP Professional Bookkeeping was born.

“We dived straight into it. Nowadays, we have nine bookkeepers including me.”

## **Growing a business through strong partnerships**

Vicken credits his success to his team and their ability to keep up with the latest software.

“I brought a lot of experience in the industry and in getting things done with software, but our model works

well because of the team behind us.

“Getting the right structure in place and the right software helps, but it's important to continue to evolve and work with the technology and systems as they develop. I'm looking to be that fully one-stop shop.

With a successful business model in place, the business has gone from strength to strength.

“I think bookkeepers sometimes fail because they don't have the support available.

“Building up something from nothing, we now turnover \$600,000-\$700,000 a year.

“Using good processes and doing things properly from the start, we have been able to deliver the same job, just more efficiently.”

As progressives who recognised the important role technology was playing in their success and continued growth, Vicken and his business partner identified the value of stepping up their involvement with MYOB.

Despite already amassing over 35 years of MYOB Partnership between them, Vicken saw they were a perfect fit to become part of MYOB's Early Adopter Program.

*continued*

"I said: 'We have an accounting arm and bookkeeping arm, we exemplify the connected practice, we should be involved in this stuff'.

"I got onto the right people 18 months ago and since then, we've been on pilot programs and tested new products prior to release," says Vicken.

"Being more front-and-centre with MYOB was important for us, as it means our voices are heard and products developed that meet our needs."

### The switch from AccountRight to Essentials

Most recently, Vicken has been trialling the new MYOB Essentials.

Like many long-term MYOB Partners, Vicken's experience has led him to spend the majority of his time using (and recommending) MYOB AccountRight as his preferred platform.

"I mainly recommend AccountRight because I've always seen it as a better product.

"If someone asked for the 'best' product I'd always say AccountRight. I'd use MYOB Essentials in very few cases."

But, not long after becoming an early adopter for the new Essentials, Vicken's rigorous testing of the product came to shift his perceptions.

"I'm amazed! It's the web-based solution we've always wanted.

"It's a lot more modern and user friendly. The site is clean and makes the processing much easier."

And it's a big step up from the old version, says Vicken.

"The old Essentials looked nice, but the mechanics were no good. This actually works.

"Everything is a lot clearer."

### Identifying tools to boost bookkeeping efficiency

As managing partner of a successful bookkeeping business, Vicken's always looking for efficiency gains and he believes he has found plenty through the streamlined workflows in MYOB Essentials.

"The bank feeds stand out, especially for bookkeepers who use them every day."

Traditionally, bank feeds have been a huge windfall for bookkeepers and their clients, allowing transaction data to get quickly matched and verified against invoices and receipts, reducing the time spent running manual allocations.

"Being able to apply them is a lot quicker. In the past, for it to be fast, you really needed to know who the transaction was from. As soon as it went down the track of only having, say, an invoice number, you had to find the invoice first," says Vicken.

"Now you can search on multiple fields; customer, invoice number, amount."

Not only is the search functionality in MYOB Essentials a hit, there is no need to have to flick between multiple screens.

"I'm testing this functionality heavily as that's what I'm using every day as a bookkeeper. I can clearly see the time saving and ease of use.

"If I had to find a transaction manually it may have taken a minute — now it's 10 seconds.

"You don't need to be a bookkeeper to add up the savings that can make across an entire client base."

Not only is the search functionality increased, reporting is another area where Vicken says he's gained time back in his day.

The new MYOB Essentials contains highly customisable reports; report consolidation across multiple business entities, and a personalised report pack builder allowing you to advise your clients with insights like never before.

When asked if he thought MYOB had fixed the reporting issues that once stood as a barrier for most against recommending MYOB Essentials, Vicken said: "Yes, definitely".

"It's going to be a game changer," he says. "You'll be able to run reports packs and apply them across multiple customers. I can build a report and apply it to other clients with the press of a button.

"That's a huge time and efficiency saving and also a value-add."

The powerful new payroll features also got a tick of approval as a time saver from Vicken. They allow you or your clients to easily manage their employees with integrated superannuation, easy time management and flexible pay.

"The drop down is a lot quicker and easier than the old step by step because it's all on the one screen. That saves time as you can see everything in the one spot and ready to go "

So, what are Vicken's next steps with the new Essentials from MYOB?

"All our new clients will go straight onto this new version. The benefits speak for themselves.

"We are typically the ones doing our clients work and it's going to save us significant amounts of time, time we can put back into adding value for our clients. It's a win-win. New Essentials stands up well against anything else in market."

WANT TO  
learn more?

MYOB offers live, free, interactive Essentials webinars to give you a closer look at upgrades and enhancements. Attend an ABN-exclusive 'MYOB Discover: Essentials' webinar tailored specifically for Bookkeepers, which includes an introductory overview of Essentials workflows, features and benefits. [Save your spot.](#)

Or you can attend an 'MYOB Deep Dive: Essentials' webinar for in-depth, 'how-to' training so you can get the most out of your software.

EXPERIENCE MORE TODAY

myob

# WHAT YOU NEED TO KNOW WHEN outsourcing OR offshoring



BY THE TAX PRACTITIONERS BOARD

Outsourcing and offshoring elements of tax practitioner services is becoming more and more common. Outsourcing involves an entity entering into an arrangement with a third party to provide a specific process, function, service or activity – this could be to reduce costs or to engage specialists. It can involve transferring portions of services an entity provides or even an entire operation to outside providers, contractors or suppliers.

Offshoring on the other hand occurs where an entity enters into an arrangement to transfer a process, function, service or activity to a country other than Australia.

It is important to note that offshoring does not necessarily involve the use of outsourcing. Take a look at our practice note – [Outsourcing and offshoring of tax services - Code of Professional Conduct](#) considerations for some examples of

outsourcing and offshoring activities.

Given the increase in the use of outsourcing and offshoring, it's important we all have a better understanding of the implications that may arise from these types of arrangements and what obligations you have as registered tax practitioner.

While the environment we are working in is changing and evolving, the obligations and responsibilities of tax practitioners remain the same. The role of the Tax Practitioners Board (TPB) in regulating tax practitioners in the digital age also remains consistent with our ongoing focus on consumer protection.

The TPB protect consumers of tax services by regulating tax practitioners, thereby strengthening the integrity of the tax system.

**When entering into any outsourcing or offshoring arrangement, there are various factors to be considered, depending on the nature of the arrangement and your circumstances. We recommend you consider the following factors:**

- Are there clear definitions of duties, obligations and responsibilities?
- Are there details of any limitation of liability and indemnity insurance arrangements?
- Can the provider change terms of the agreement without your input?
- Is there flexibility to allow for changes or developments in technology and operations?
- How is information transferred, stored and accessed between various systems and is data integrity being maintained?
- Are there protections in place to prevent service access from being disrupted?
- Are processes in place for managing and resolving disputes?
- Are processes in place to evaluate and oversee outsourcing or offshoring relationships?
- Can the provider perform the required services competently?
- Are processes in place for you to review the output of the provider?
- Are processes in place for exiting or changing an arrangement?
- Are there any relevant legislative or regulatory requirements

associated with having information held offshore?

**You must also ensure that you comply with your Code obligations, including:**

- Making appropriate disclosure to clients [Code item 6](#)
- Providing services to a competent standard [Code item 7](#)
- Having adequate supervision and control arrangements in place [Code item 7](#)
- Taking reasonable care in ascertaining your client's state of affairs and ensuring that the tax laws are applied correctly to your client's circumstances [Code items 9 and 10](#)
- Maintaining professional indemnity insurance that meets the Board's requirements [Code item 13](#).

In addition to your obligations under the Code, you should also be aware that the Privacy Act 1988 sets out a number of Australian Privacy Principles (APPs) which govern the use of, storage and disclosure of personal information. Some of these APPs may have a direct impact on the requirement to obtain consent from clients. You should seek your own advice about whether the [provisions of the Privacy Act](#) apply to you.

profession. So, it's important to remember that from the time you register with the TPB you are required to comply with your ongoing obligations under the Code of Professional Conduct (Code). Ultimately it is your responsibility to exercise appropriate due diligence when outsourcing or offshoring work.

# SUPPORTING THE TAX PROFESSION

## hear from the Australian Taxation Office at the Digital Bookkeeper Event

Recently, we delivered members our Digital Bookkeeper Event. If you missed it, the good news is that it's available to view online – in your own time, in little pieces if you like – for the next six weeks.

We've put together five unforgettable days of content featuring the best speakers in the business. Each speaker has been carefully hand-picked to deliver insights into business, finance, and the bookkeeping industry – ensuring an event like no other.

Below are some of our ATO speakers.

Head to our [website](#).

### Day 1 Making the most out of Online services for agents

#### David Baker – Director of Digital Service Support

David is a Certified Practising Accountant and Director of the Intermediaries Digital Service Support team at the Australian Taxation Office (ATO), a team of lodgment and systems specialists whose primary role is to support tax professionals using Online services for agents (OSFA) as well as their practice management software, and to facilitate system improvements and deployments such as the annual tax time releases. David is joined by ABN and ABA Director Kelvin Deer to discuss how you can make the most out of Online services for agents. Learn about the services available to you on OSFA, the advantages of interacting with the ATO through this channel and how it can assist you in running your business.

### Day 2 STP Insights & Troubleshooting

#### Angela Lehmann – Assistant Director of STP Design and Policy

Angela is an Assistant Director within the Single Touch Payroll (STP) program focussing on the design, policy and administration of STP. With over 10 years working in the tax profession as an employment tax specialist and more recently having worked as the Legislative Manager for a multinational outsourced payroll company, Angela brings her experience and insight to the project team, having worked first hand with tax practitioners, payroll practitioners and employers of all sizes. Angela is a Chartered Accountant and has a passion for educating people on tax and compliance.

There is considerable industry interest in how BAS agents fared

in their first year of income statements and STP finalisations. Join Australian Bookkeepers Association's Kerrie Jarius to learn how BAS agents performed in their first year, the most common errors seen by the ATO and how to troubleshoot them.

### Day 4 Beyond JobKeeper – Supporting the tax profession

#### Sylvia Gallagher – Assistant Commissioner of Individuals and Intermediaries, Engagement and Support

Sylvia is an Assistant Commissioner for the Individuals and Intermediaries Engagement and Support Branch. She has responsibility for the Schools and Culturally and Linguistic Diverse Community education programs, Tax Time support services for individual taxpayers as well as the tax and BAS agent relationship, Tax Practitioner Lodgment Program and agent support services.

With over 20 years' experience in the ATO, Sylvia has specialist knowledge and skill in user centred design, design facilitation, project management and policy and new measures design and development. Sylvia has led the design of key transformational change programs such as ATO's Reinvention Program and more recently working with agents to transition from the Electronic lodgment system (ELS) to the Practitioner lodgment system (PLS) as well as transition to Online services for agents.

Sylvia is joined by ABA and ABN Director Peter Thorp to discuss what JobKeeper means to the industry and what the ATO is doing to support the tax profession as we return to business as usual. Learn what the impact has been on small business and the tax profession and the resources available if you're experiencing hardship.



# NUTS & bolts



## Tax Cuts Here

In The Taxation Administration Act Withholding Schedules No 2 2020 were registered on 12 October 2020.

The withholding schedules have been updated in response to the changes to tax scales that were announced in the recent Federal budget, and contained in Treasury Laws Amendment (A Tax Plan for the COVID-19 Economic Recovery) Bill 2020, which passed Parliament on 9 October 2020. Three changes were made, backdated to 1 July 2020, which are now reflected in the new withholding schedules:

- the top threshold of the 19% personal income tax bracket has increased from \$37,000 to \$45,000
- the top threshold of the 32.5% tax bracket has increased from \$90,000 to \$120,000
- bringing forward the increase in the amount of the low income tax offset to \$700 (from \$445) to 2020-21 (instead of the 2022-23 income year and later income years)

The ATO has also been working closely with providers of payroll software and employers to ensure the reduced withholding associated with the threshold changes, and the increase of LITO, is reflected in software as soon as practicable.

The changes apply to payments made on and from 13 October 2020, with employers required to make sure they are withholding the correct amount from salary or wages paid to employees for any pay runs processed in their system from no later than 16 November.

While the tax cuts have been backdated to 1 July 2020, the tax table changes do not take into account any over-withheld amounts that individual taxpayers have paid since the start of the financial year. Instead, this over-withheld amount will be factored into an individual's 2020-21 tax return.

These schedules repeal and replace the former Taxation Administration Act Withholding Schedules 2020.

The tax cuts are particularly large for high-income earners. For example, those earning \$110,000 will save \$1,980 in this financial year, compared to what the old rates were. As such, you may wish to factor this on PAYG instalments for clients who are assessed personally on their business's income, such as sole traders.

## key DATES

### 21 November

October monthly Activity Statements – due for lodgement and payment

### 25 November

July-September quarterly Activity Statements – due for lodgement and payment if lodging electronically

### 28 November

Superannuation Guarantee Charge Statement – due for lodgement and payment if required contributions were not made by an employer by the 28 October deadline



*continued*

# NUTS & bolts ● ● ● ● ● ● ● ● ● ●

## JobKeeper Overpayments

Speaking of JobKeeper, with the scheme extended and re-invented to an extent, the ATO has taken on board these concerns and has issued guidance (QC 63309) on possible overpayments made under the scheme, and how it will approach certain circumstances that may arise. The guidance comes with examples and scenarios to aid in describing the ATO's options to manage these outcomes.

“Due to the extraordinary circumstances in the early stages of the JobKeeper program, overpayments may have been made in error as businesses moved quickly to access JobKeeper payments,” the guidance says. “If a JobKeeper overpayment is identified, we may decide the overpayment does not have to be repaid, particularly if there was an honest mistake. This decision is made on the facts and circumstances of each case.”

### Factors the ATO says it may consider include that a business:

- relied in good faith on a statement made by an employee in their nomination notice
- fully passed on the benefit of the JobKeeper payment to the relevant employee
- made the mistake earlier in JobKeeper when there was less public guidance.

Of course not all mistakes are honest, and the ATO has a list (that it notes as not being exhaustive) of where a mistake will not be considered to be so. This includes if:

- fraud was perpetrated by either the JobKeeper recipient or another entity
- there has been intentional disregard of the law or recklessness in its application
- the entity nominated employees, business participants, or religious practitioners that it should have known would not satisfy eligibility requirements
- the employer has deliberately not met the wage condition
- the entity has been contacted by the ATO about its claim potentially being ineligible and has not taken reasonable steps to check the eligibility before making claims in the future.

Generally, the ATO says it will not impose administrative penalties for JobKeeper overpayments that were the result of a mistake. However, administrative penalties will apply if there is evidence of deliberate actions to get JobKeeper payments that an entity would not have otherwise been entitled to.

Where an obvious overpayment is identified, the ATO will require a repayment, and says it will write to the taxpayer stating why it considers an overpayment has been made, how much this is estimated to be, and how repayment can be made. “If you can't pay on time, we can help you. If you're trying to do the right thing, we're committed to understanding your situation and helping you if possible,” the ATO states. “If you do not agree with our decision to require repayment, you can object and ask us to reconsider our decision.”



## TPB Webinars

The Tax Practitioners Board on 29 October hosted two [free webinars](#). Learn about the process of verifying the identity of a client and assessing their suitability, along with the potential risks of illegal intentions towards the business relationship. In the second webinar, the TPB presented the latest information about the new policy guidance it has developed to help registered tax practitioners meet their obligations.

## Final Cashflow Boost

Your business clients, if eligible, will have received the final instalment of the additional cashflow boost when they lodged their September monthly or quarterly activity statements. The ATO says that while the September activity statement is the last one to receive cashflow boosts, it understands some organisations may still be struggling. If your client is concerned they won't be able to pay on time, or if they've already missed a due date, the ATO urges them to contact it as early as possible to discuss the range of support options available. In terms of accounting, Activity Statement, GST treatment, please see our Accounting for COVID-19 Incentives Fact Sheet in the Member Centre of [our website](#).

## Releasing Clients From Tax Debts

Noting that many clients who are doing it tough over the past year may now have substantial tax debts, a recent AAT case highlights the circumstances where a client may be released from those debts. The factors that the Commissioner must take into account when deciding whether to exercise his discretion to release a taxpayer from their debt are:

- (a) a taxpayer appears to have unreasonably acquired assets ahead of meeting their tax liabilities
- (b) a taxpayer appears to have disposed of funds or assets without giving consideration to their tax liability
- (c) release would not alleviate hardship, such as where the person has other liabilities or creditors
- (d) a taxpayer has paid other debts (either business or private), in preference to their tax debt
- (e) the taxpayer, without good reason, has not pursued debts owed to them
- (f) serious hardship is likely only to be short-term
- (g) the taxpayer has a poor compliance history
- (h) the taxpayer is unable to show that they have planned for future debts
- (i) the taxpayer has structured their affairs to place themselves in a position of hardship (for example, placing all assets in trusts or related entities over which they have control)
- (j) the taxpayer has delayed lodgement of returns resulting in the accumulation of a large debt that they are unable to pay.

Given the above criteria, would any of your clients qualify?

*continued*

## NUTS & bolts ●●●●●●●●●●



### STP and Micro Employers

For the many of you with micro employers (one to four employees), those who need more time to move to STP can get their bookkeepers or accountants to report on their behalf on a quarterly basis until 30 June 2021. This concession will only be considered for those micro employers experiencing exceptional or unforeseen circumstances.

### Business Premises – The Benefits

As identified in our 2019 Bookkeeping Business Benchmark Report an increasing number of bookkeepers now operate out of commercial premises that they either own or rent (15% of respondents). This is up by more than 60% from 5 years ago. One of the fallouts from COVID-19 was that, because of Government-imposed lockdowns, many business owners were forced to work from home. This led to predictions that commercial premises may be abandoned (and therefore significant savings made) for those who found they operated equally or more efficiently at home. While this remains to be seen, there are a number of benefits in operating out of separate commercial premises:

- Increased perception of professionalism from clients and other parties such as accountants
  - Can assist in work/life balance
  - Greater ability to mentor staff on the job
  - Can more easily accommodate employees should you decide to expand
  - Possibly more sharing of knowledge
- Having a home-based business will likely mean you are liable for CGT
  - Will increase your prospects of not being caught by the Personal Services Income (PSI) provisions of the Income Tax Act, provided the commercial premises are **(a)** owned or leased by you **(b)** used for personal services work more than 50% of the time **(c)** used exclusively by you **(d)** physically separate from your residence and any associates' residence and **(e)** physically separate from the business addresses of your clients and associates. Not being caught by the PSI rules is advantageous in several respects:
    - The PSI income will be attributed to your trading structure, not you personally. This may result in a lower rate of tax (e.g. 26% if you trade through a company, or possibly lower rates where you trade through a trust and the income is distributed to low earning beneficiaries etc.)
    - You won't be prevented from claiming deductions such as payments to your relatives who you may employ e.g. for secretarial duties, or such as mortgage interest if you operate from home.

### Changing Software Providers

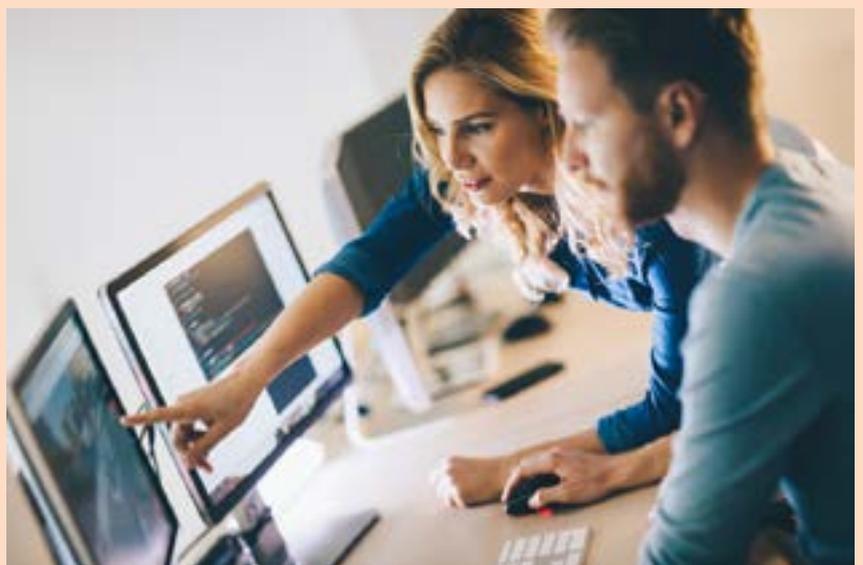
One of the hundreds of questions we answer each year via our email-based [Helpline Service](#) for members

#### Question

I have a client who is changing software programmes. The provider of the software she is moving from has indicated that once the change is made, no access is available to the data. Originally I had negotiated a 12 month access period in their training programme. Now they have indicated this is not available. What right of access does a customer have to their data? Is this usual? My client operates a retail tile business and requires access to batch numbers etc. of tiles that clients have purchased in the past. This is why we asked for 12 months access.

#### Answer

It really comes back to the terms of the access agreement with the software provider. If there's an enforceable agreement (preferably written) then perhaps this could be an avenue to pursue with a view to enforcement of the terms. If there is no enforceable agreement, then you should still go back to the software provider and make a moral case for at least being able to download (e.g. take a PDF) of the historical data which sits with them.



## JobMaker Now Law

The Economic Recovery Package (JobMaker Hiring Credit) Amendment Bill 2020 has passed both houses of Parliament on 12 November, and is now awaiting (the formality of) Royal Assent.

The Bill allows the Treasurer to make rules by way of legislative instrument relating to the Hiring Credit scheme including:

- Which employers qualify for the payment
- The employees to which payments relate
- The amount payable and timing of payments
- The obligations for recipients of the payment.

The Hiring Credit was part of the 2020-21 Budget, which will operate until 6 October 2022. It is designed to improve the prospects of young individuals getting employment following the devastating impact of COVID-19 on the labour market.

Although the legislative instruments have not yet been released, exposure draft material was released on 6 November which details the Treasurer's rules around the scheme as follows.

### Commencement

The scheme will be backdated to commence on 7 October 2020 and provide eligible employers with the following payments for up to 12 months for new jobs created for which they hire the following young workers:

- \$200 a week for hiring a worker aged 16 to 29 on at least 20 hours a week and
- \$100 for those aged 30 to 35.

Although the scheme is slated to run for just 12 months, that period is the hiring period – not the payment period. Eligible employers who hire an eligible employee on the last day of the scheme (6 October 2021), may be eligible for hiring credits for the subsequent 12 months until 6 October 2022.

### Employer eligibility

The criteria are broad (e.g. having an ABN, being registered for PAYG withholding, being up-to-date with lodgement obligations, reporting through STP), however some employers are specifically excluded:

- Employers who are claiming JobKeeper
- Entities in liquidation or who have entered bankruptcy
- Commonwealth, state, and local government agencies (and entities wholly owned by these agencies)
- Employers subject to the major bank levy
- Sovereign entities (except those who are resident Australian entities owned by a sovereign entity).

### Additionality criteria

Key to the scheme is that employers must have hired additional eligible employees.

The additionality criteria for the first four JobMaker periods requires that there is an increase in:

- the business' total employee headcount (minimum of

one additional employee) from the reference date of 30 September 2020; and

- the payroll of the business for the reporting period, as compared to the three months to 30 September 2020.

Treasury example – increase in headcount:

Lisa employs two new staff, Emma aged 28 and Jessica aged 32, who both start on 7 January 2021 and meet the employee eligibility requirements.

Angus resigns from his job at Lisa's business, effective as at 7 January 2021. When claiming for the March quarter reporting period (7 January 2021 to 6 April 2021), Lisa again compares her current situation to her baseline:

- On 30 September 2020, her baseline headcount was 2 and her quarterly payroll was \$30,000.
- On 6 April 2021, her headcount was 4 and her payroll for the reporting period was \$52,000.

For the March quarter reporting period, as her headcount is 2 above her baseline, Lisa can claim for the 2 additional positions. Lisa notifies the ATO through STP of the commencement of Emma and Jessica on 7 January 2021, and that Angus was no longer employed as at 7 January 2021.

Different additionality criteria operate for the final for JobMaker periods. As they are well into the future, they are beyond the scope of this piece.

### Eligible employees

These are those who commenced employment between 7 October 2020 and 6 October 2021; were aged between 16 and 35 years at the time they commenced employment; have worked an average of 20 hours a week for each whole week the individual was employed by the qualifying entity during the JobMaker period. Additionally, the worker must have met the pre-employment condition which requires that for at least 28 of the 84 days (i.e. for 4 out of 12 weeks) immediately before the commencement of employment of the individual, the individual was receiving the following payments

- parenting payment
- youth allowance (except if the individual was receiving thus payment on the basis that they were undertaking full time study or was a new apprentice) or
- JobSeeker payment.

### Participation and notification requirements

To be entitled to the JobMaker Hiring Credit payment in relation to a JobMaker period, employers must have notified the Commissioner in the approved form of its election to participate in the scheme by the end of the period that the entity first elects to participate. For example, for an entity that elects to participate for the JobMaker period of 7 January 2021 to 6 April 2021, the notice must be provided to the Commissioner by 6 April 2021.

The reporting requirements will include the details of employees that have commenced or ceased employment during a JobMaker period and the entity's payroll amount. The Commissioner will also specify that the information must be provided through the STP. We note that 'non-arms length' employees, including family members, are ineligible.

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