COVID-19 - frequently asked questions

Australian Government
Australian Taxation Office

COVID-19 – frequently asked questions

Relying on this Guide

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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Introduction

This document provides a record of the frequently asked questions that were published to the main ATO website (ato.gov.au) in the weeks following the onset of the COVID-19 pandemic in March 2020.

It records the FAQs as last updated on 22 May 2020 and published on the ATO website on 30 June 2020.

The FAQs are being progressively restructured into the primary website advice for that topic or into other COVID-19 website content to improve accessibility. For example, advice in the FAQs relating to the individuals heading can now be found on Tax time essentials 2020 page.

Other COVID-19 material published to this database include:

- Practical Compliance Guideline PCG 2020/3 *Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19*

- Law Companion Ruling LCR 2020/1 *JobKeeper payment – decline in turnover test*
- Practical Compliance Guideline PCG 2020/4 *Schemes in relation to the JobKeeper payment*
- *JobKeeper payment – guide to the modified decline in turnover test*

Individuals

Answers to questions on:

- Working from home
- Work-related car expenses
- Medicare levy surcharge
- At home learning expenses
- Second job
- Not an Australian resident, temporarily in Australia
- Residents temporarily overseas
- Financial hardship
- Buying protective items
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Working from home

Question: My employer is encouraging or requiring me to work from home. Will I be able to claim a deduction for home office expenses?

Answer: Yes, if you work from home because of COVID-19 you may be able to claim a deduction for the additional running expenses you incur. These include expenses associated with heating, cooling and lighting in the area you are working from, phone and internet and other running expenses.

We have introduced a temporary simplified method (shortcut method) for you to calculate the additional running expenses you incur as a result of working from home due to COVID-19. The shortcut method allows you to claim 80 cents for each hour you work from home and covers all deductible running expenses. Multiple people living in the same house can claim this new rate. For example, a couple living together could each individually claim the 80 cents per hour rate.

You may still use one of the existing methods to calculate your running expenses if you would prefer to. This includes calculating your actual running expenses.

See also:

- Employees working from home
- Home office expenses.
- Practical Compliance Guideline PCG 2020/3 *Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19*

This question was last updated on 9 April 2020.

Question: Can I claim working from home expenses when I'm on leave or if I've been stood down during the COVID-19 period?

Answer: No, you can only claim for the actual time that you spend working from home due to COVID-19. Working from home does not include minimal tasks such as occasionally checking emails or taking calls. For example, if you have been stood down and you are occasionally receiving email updates from your employer about the situation, the time you spend checking those email updates will not be treated as time spent working from home.

See also:

- Employees working from home
- Practical Compliance Guideline PCG 2020/3 *Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19*

This question was last updated on 23 April 2020.

Question: I worked from home before COVID-19 and my work pattern has not changed as a result. Am I entitled to claim the shortcut rate of 80 cents per work hour for my additional running expenses?

Answer: Yes, the new shortcut method is intended to cover all taxpayers working from home between **1 March** and **30 June 2020**, whether the working arrangements are a result of COVID-19 or not.

If you normally work from home, you can continue to claim your additional running expenses using one of the existing methods if you prefer:

- the work-related portion of your actual expenses
- the fixed rate of 52 cents per hour plus the work-related portion of expenses not covered by that rate.

See also:

- Employees working from home
- Home office expenses
- Practical Compliance Guideline PCG 2020/3 *Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19*

This question was last updated on 23 April 2020.

Question: If I use the shortcut method to claim my expenses while I work from home, what records do I need to keep?

Answer: If you are using the shortcut method, you need to keep records showing the amount of time you have spent working from home. This could be in the form of timesheets, rosters, a diary or similar document that sets out the hours worked.

This question was last updated on 9 April 2020.

Question: If I claim my actual running expenses, what records do I need to keep?

Answer: If you are claiming your actual running expenses, you need to retain receipts for expenses along with records showing your work-related use. Using myDeductions in the ATO app is an easy and convenient way to keep your records in one place.

See also:

- Employees working from home
- Home office expenses

This question was last updated on 9 April 2020.

Question: Can I claim for my rent or mortgage and will this affect capital gains tax if I sell my house?

Answer: Occupancy expenses relating to your home – such as rent, mortgage interest, property insurance and land taxes – will not become deductible merely because you are required to temporarily work from home due to COVID-19.

People have asked whether working from home will disqualify them from claiming the main residence capital gains tax exemption when they sell their home. Because working from home in the current circumstances does not, in and of itself, create an entitlement to claim deductions for mortgage interest, you will not lose any part of the main residence exemption.

See also:

- Home office expenses
- Employees working from home
- Practical Compliance Guideline PCG 2020/3 *Claiming deductions for additional running expenses incurred whilst working from home due to COVID-19*

This question was last updated on 9 April 2020.

Work-related car expenses

Question: I claim my car-related expenses using the logbook method. Will I need to keep a new logbook for an updated representative period of private and business usage during COVID-19?

Answer: No, you are not required to keep a new logbook for the period in which your travel has been affected by COVID-19 as long as you account for any variation in the use of the car when working out your business kilometres and your business use percentage at the end of the income year.

When working out your business kilometres at the end of the income year, you need to make a reasonable estimate based on any logbooks, odometer records or other records you have.

In relation to the period in which your travel has been affected by COVID-19, you may keep a new logbook if you think it will provide a more accurate indication of your business use of the car. However if your overall business usage has not changed and you are merely using the car less, the odometer readings will reflect this and you will not need to keep another logbook.

This question was last updated on 8 May 2020.

Medicare levy surcharge

Question: If I suspend my private health insurance due to losing my job and my income for Medicare Levy Surcharge (MLS) purposes is above the threshold will I be liable for MLS?

Answer: If you and all of your dependants were not covered by an appropriate level of private patient hospital cover, and your income for MLS purposes is above a certain threshold, you may be required to pay the MLS. The rate of MLS depends on your income for MLS purposes. This applies unless you (and your dependents if you have them) are exempt from paying the Medicare levy (see Surcharge exemption categories).

The base income threshold (under which you are not liable to pay the MLS) is $90,000 for singles and $180,000 for families (plus $1,500 for each dependent child after the first). However, you do not have to pay the MLS if your family income exceeds the threshold but your own income for MLS purposes was $22,801 or less. This amount was increased from $22,398 to $22,801 as part of the Government's economic response to COVID-19.

If you are liable for the MLS, we will work it out based on the information you provide in your tax return. We will include it with your Medicare levy and it will show as one amount on your notice of assessment called Medicare levy and surcharge.

If you want to calculate your Medicare levy surcharge, use the Income tax estimator.

See also:

- Medicare levy surcharge
- Income for Medicare levy surcharge purposes
- Family and dependants for Medicare levy surcharge purposes

This question was last updated on 8 May 2020.

Question: If I lose my job and suspend my private health insurance part way through the year will I get a partial exemption from the Medicare levy surcharge, if my income for MLS purposes is above the threshold?

Answer: If you hold hospital cover but temporarily suspend payments for that cover, then you may have to pay the MLS to account for the days that you did not hold the appropriate private patient hospital cover. This will be determined from the information that you provide in your tax return and that is supplied to the ATO by your private health insurance provider.

If you were in an exemption category (see Surcharge exemption categories) for the whole of the year then you do not have to pay the surcharge.

See also:

- Medicare levy surcharge
- Income thresholds and rates for the Medicare levy surcharge
- Private health insurance rebate
- Appropriate level of private hospital insurance

This question was last updated on 8 May 2020.

At home learning expenses

Question: I am a working parent with school-aged children who are learning from home during the COVID-19 crisis. Will I be able to claim a deduction for the costs associated with setting them up for learning?

Answer: No, costs relating to your children's education are personal expenses and not deductible. Examples of costs include:

- setting them up to do online learning
- teaching them at home
- purchasing school supplies or items like desks, iPads, or sporting equipment.

If you are an employee who is working from home, you can only claim a deduction for expenses that are directly related to your work.

See also:

- Employees working from home
- Home office expenses.

This question was last updated on 17 April 2020.

Second job

Question: I have lost my job as a result of COVID-19 and have found another job. Will I be taxed at a higher rate because it is considered a second job?

Answer: No, if you have lost your job, then you are entitled to claim the tax free threshold to reduce the amount of tax that is withheld from your pay from your new job.

Second jobs usually have a higher amount of tax withheld from your pay because you already have another job from which you are earning income and are claiming the tax-free threshold. Withholding at a higher rate reduces the likelihood of you having a tax debt at the end of the income year.

When you start your new job, your employer will give you a tax file number declaration to complete. Centrelink is also a payer and they will give you this form if you apply for their payments.

You tell your new employer that you want to claim the tax-free threshold by answering 'Yes' at **question 8** 'Do you want to claim the tax-free threshold from this payer?' You do not have to claim the tax-free threshold if you want a higher amount of tax withheld from your pay.

You can see how much tax you employer will withhold from your payment by using the tax withheld calculator.

Find out about:

- Tax withheld calculator
- Claiming the tax-free threshold
- How much tax you employer will withhold from your payment – Tax withheld calculator

This question was last updated on 9 April 2020.

Not an Australian resident, temporarily in Australia

Question: I am not an Australian resident. I am staying in Australia for longer than I expected because of COVID-19. What are my Australian tax obligations?

Answer: If you are not an Australian resident for tax purposes, you will be assessable only on income from an Australian source subject to the application of any applicable Australian double tax agreements (see the question on double tax agreements).

You may need to lodge an Australian tax return if you earn any assessable income from an Australian source. This includes salary or wage income that is assessable in Australia(see the questions on employment income concerning leave and salary and wages below). Your Australian tax obligations will otherwise generally remain unchanged.

You may need to lodge an Australian tax return if you become an Australian resident for tax purposes. As an Australian resident all Australian-sourced income, including salary or wage income and investment income, will be assessable. All foreign-sourced income will also be assessable unless you are an Australian resident who is a temporary resident.

See also:

- International tax for individuals
- Do you need to lodge a tax return?

This question was last updated on 23 April 2020.

Question: Will my tax residency for tax purposes change as a result of me returning to Australia due to COVID-19?

Answer: Whether you are a resident for tax purposes in Australia is a question of fact that requires consideration of your circumstances.

If you are here temporarily for some weeks or months because of COVID-19 then you will not become an Australian resident for tax purposes provided you:

- usually live overseas permanently
- intend to return there as soon as you are able to.

However the tax residency issue may be more complicated if you:

- end up staying in Australia for a lengthy period
- do not plan to return to your country of residency when you are able to do so.

We appreciate that there will be unique situations with a range of potential tax outcomes. We will update and may revise this advice progressively as events unfold.

See also:

- International tax for individuals – Working out your tax residency
- Taxation Ruling TR 98/17 *Income tax: residency status of individuals entering Australia*
- Taxation Ruling IT 2650 *Income tax: residency – permanent place of abode outside Australia*

This question was last updated on 23 April 2020.

Question: What happens if I earn employment income that is paid leave while I am in Australia temporarily?

Answer: If you usually work overseas and earn foreign-source employment income and you have been on leave since arriving in Australia, the income you receive from your foreign employer for paid leave (such as annual or holiday leave) is not from an Australian source so you do not need to declare it in Australia.

This question was last updated on 23 April 2020.

Question: What happens if I earn employment income that is salary and wages from continuing my foreign employment (working remotely) while I am in Australia temporarily?

Answer: Whether employment income you earn is assessable depends on whether it is from an Australian or a foreign source. It also depends on whether a double tax agreement applies (see the question on double tax agreements).

The source of income always depends on the facts. Usually the place where the employment is exercised is very significant when deciding the source of employment income (salary or wages). However, in certain circumstances other factors may be more significant.

COVID-19 has created a special set of circumstances that must be taken into account when considering the source of the employment income of a non-resident who usually works overseas but instead performs that same employment in Australia as a result of COVID-19. In this situation, we accept that, if the working arrangement is short term (three months or less), the employment income will not have an Australian source.

Example: Short term working arrangement for three-month period

Eric is a financial advisor who came to Australia for a holiday on 20 December 2019, intending to leave at the end of January 2020. Eric decided not to leave Australia because of COVID-19 but intended to return to his usual country of residence as soon as it was safe to do so. He started working remotely in Australia on 1 February doing the same things he would normally do in his country of residence for his foreign employer.

The three-month period starts on 1 February 2020 and ends on 30 April 2020. It does not matter if Eric is a full-time or part-time employee. Eric's employment income for this three-month period will not be considered to have an Australian source.

For working arrangements that last longer than three months, all your facts and circumstances will need to be examined to determine if your employment is connected to Australia. This includes whether:

- the terms and conditions of your employment contract change
- the nature of your employment activities change
- you commence performing some work for an Australian entity affiliated with your employer
- the economic impact or result of your work shifts to Australia

- your economic employer – the entity to which you are providing your services – is in Australia (see Taxation Ruling TR 2013/1)
- you perform work with Australian clients
- the performance of your work is otherwise wholly or to a significant degree dependent upon you being physically present in Australia to complete it
- Australia becomes your permanent place of work
- your intention towards Australia changes.

In some limited situations your employment income may not have an Australian source. This may be the case if all of the following apply:

- The only thing that has changed about your employment is that you are now doing it from Australia as a result of COVID-19.
- There are no other connections to Australia.
- You intend to leave Australia as soon as you are able to do so.

Example: Circumstances of employment change to an Australian source

Jane is an IT professional residing overseas servicing software applications for her employer. She is able to undertake these tasks remotely from anywhere in the world. On 1 March 2020 she decides to return to Australia temporarily as a result of COVID-19, continuing to work exclusively for her foreign employer from Australia for as long as she is able. Everything else about her employment remains unchanged until 1 May 2020, when, due to a shortage of work with her foreign employer, she begins to also undertake similar work for a related Australian entity. In relation to the Australian work, she is assigned work by, and reports to, an Australian manager.

The employment income Jane derives between 1 March and 30 April 2020 is foreign sourced as it is not connected to Australia.

The employment income Jane derives from 1 May 2020 is Australian sourced due to the change in her employment circumstances.

From 1 May 2020, Jane's employment income is assessable to her in Australia, subject to the application of the 183 day exception, which is explained in the question on double tax agreements.

See also:

- Taxation Ruling TR 2013/1 *Income tax: the identification of 'employer' for the purposes of the short-term visit exception under the Income from Employment Article, or its equivalent, of Australia's tax treaties*

This question was last updated on 23 April 2020.

Question: What if I get a wage or salary in Australia and my home country has a double tax agreement with Australia?

Answer: Australia's double tax agreements (DTA) provide that, in certain circumstances, employment income derived by a person who is a resident of the other country (after applying the DTA tie-breaker rules) from performing employment duties in Australia for a short period will not be taxed in Australia.

Each DTA must be checked carefully as the wording, conditions and time periods vary from DTA to DTA.

Generally, employment income will not be taxed in Australia if:

- you are a resident of a country with which Australia has a DTA (the DTA country)
- you are not present in Australia for more than 183 days in aggregate in either an income year or a 12-month period (depending on the applicable DTA)
- your salary and wages are paid to you by, or on behalf of, an employer that is not a resident of Australia
- your salary and wages are not deductible against the profits of an Australian permanent establishment of your employer.

For some DTAs, the 183 days do not necessarily all have to be in the same income year, and there may be breaks in the aggregate.

Example: accumulation of more than 183 days

Ian spent the following time in Australia:

- *15 December 2019 to 3 January 2020 (20 days)*
- *10 March 2020 to 1 October 2020 (176 days)*

As Ian's period of time in Australia exceeds 183 days, the DTA does not apply to prevent Australia from taxing Ian's salary or wages from an Australian source in the 2019–20 and 2020–21 income years.

See also:

- Double Tax Agreement countries

This question was last updated on 9 April 2020.

Residents temporarily overseas

Question: I am working overseas because of COVID-19. What are my Australian tax obligations?

Answer: If you usually live and work in Australia but you are temporarily overseas as a result of COVID-19, there is no change to your Australian tax obligations. If you are required to pay foreign income tax overseas, a foreign income tax offset will ordinarily apply to reduce your Australian tax payable.

This question was last updated on 20 March 2020.

Financial hardship

Question: Under the COVID-19 early release of super arrangements, can I make more than one application in the same financial year as long as I don't withdraw more than $10,000 in total in either the 2019-20 or 2020-21 financial years?

Answer: No. From now until 30 June 2020, a member can make one application for a determination in the 2019-20 financial year, up to $10,000. From 1 July 2020 to

24 September 2020, a member can make one application for a determination in the 2020–21 financial year, up to $10,000.

A member who requests an amount of less than $10,000 in their application in either financial year cannot make a subsequent application in the same financial year, even if it is an application to release the difference between the originally requested amount and the $10,000 limit.

See also:

- COVID-19 early release of super

This question was last updated on 23 April 2020.

Question: I am a temporary resident. Can I access my super under the COVID-19 early access arrangements?

Answer: It depends on your situation. Certain eligible temporary residents can apply to access up to $10,000 of their super until 30 June 2020.

Otherwise, if you have worked and earned super while visiting Australia on a temporary visa, you can apply to have this super paid to you as a departing Australia superannuation payment (DASP) after you leave.

See also:

- Temporary residents and super
- Departing Australia Superannuation Payment (DASP)

This question was last updated on 23 April 2020.

Question: I've had my hours cut back at work and I can't afford to pay the bills. What assistance is available to me?

Answer: You can apply to have the tax withheld from your pay reduced for the rest of the financial year. This means you don't have to wait to get a refund when you lodge your tax return.

If you are considering this, you need to lodge a variation form – and you need to know:

- The variation will apply for the remainder of the financial year.
- The last date for lodgment of your variation application for the current year is 30 April 2020.
- If the amounts withheld do not cover your actual tax liabilities at the end of the year, you will have to pay the balance in your annual tax return.
- You cannot get a variation if any of the following apply
  - Your tax returns are not up to date.
  - You have a debit assessment for the previous year as a result of a previous withholding variation.
  - You have outstanding tax or superannuation debts.

If you want to apply for a variation, you can lodge your application online:

- PAYG withholding variation application (e-variation)

The JobKeeper payment is open to eligible employers to enable them to pay their eligible employee's salary or wages.

If you and your employer are eligible and your employer is participating in the JobKeeper Payment scheme, they would be required to pay you a minimum of $1,500 (before tax) per fortnight.

See also:

- Eligibility – JobKeeper Payment

This question was last updated on 17 April 2020.

Question: My income has decreased due to the downturn in the economy and I can't afford to pay my expenses. Can I access my super?

Answer: You may be allowed to withdraw some of your super on compassionate grounds to help deal with the adverse economic effects of COVID-19.

From mid-April you will be able to apply online through myGov to access up to $10,000 of your superannuation before 1 July 2020.

You will also be able to apply to access up to a further $10,000 from 1 July 2020 until 24 September 2020.

To apply for early release, you must satisfy **one or more** of the following requirements:

- You are unemployed.
- You are eligible to receive a job seeker payment, youth allowance for jobseekers, parenting payment (which includes the single and partnered payments), special benefit or farm household allowance.
- On or after 1 January 2020, **any** of the following happened
  - You were made redundant.
  - Your working hours were reduced by 20% or more.
  - You were a sole trader and your business was suspended or your turnover decreased by 20% or more.

The amount of super released early under these circumstances will **not** be included in your assessable income.

See also:

- Early access to your super
- Financial difficulties and serious hardship
- Treasury's pages Supporting individuals and households

This question was last updated on 27 March 2020.

Buying protective items

Question: Can I claim a deduction for gloves, face masks, sanitiser, anti-bacterial spray that I use at work due to COVID-19?

Answer: You may be able to claim a deduction for protective items you purchase and use at work. To be deductible **both** of the following must apply:

- You must have incurred the expense yourself.
- It must have a sufficient connection with the earning of your assessable income, which means
  - you are exposed to the risk of illness or injury in the course of carrying out your income earning activities
  - the risk is not remote or negligible
  - the protective item is of a kind that provides protection from that risk and would reasonably be expected to be used in the circumstances
  - you use the item in the course of carrying out your income earning activities.

If your specific employment duties require you to have physical contact or be in close proximity to customers or clients while carrying out your duties or you are involved in cleaning premises, you can claim a deduction for expenditure on protective items.

Examples of this type of work include the:

- medical industry (such as doctors, nurses, dentists and allied health workers)
- cleaning industry
- airline industry
- hairdressing and beautician industry
- retail, café and restaurant industry.

If you work in these industries or occupations, the risk is not remote or negligible.

If you use items for both work-related and private purposes, you can only claim a deduction for the portion of the expense that relates to your work-related use.

This question was last updated on 20 March 2020.

Residential rental properties

Question: My tenants are not paying their full rent or have temporarily stopped paying rent because their income has been adversely affected by COVID-19. Can I still claim deductions on my rental property expenses?

Answer: Yes. If tenants are not meeting their payment obligations under the lease agreement due to COVID-19 and you continue to incur normal expenses on your property, then you will still be able to claim these expenses in your tax return.

This question was last updated on 3 April 2020.

Question: I'm considering reducing the rent for tenants whose income has been adversely affected by COVID-19 to enable them to stay in the property. The tenants are not in default of their rent. Will my deduction for rental property expenses be reduced because of this?

Answer: No. If you decide to reduce the rent to enable your tenants to remain in the property (thereby maximising your rental return in a changed rental market), your deduction for rental property expenses will not be reduced.

This question was last updated on 3 April 2020.

Question: If I receive a back payment of rent or an amount of insurance for lost rent, is this amount assessable income?

Answer: Yes. These amounts should be declared as income in the tax year in which you receive the amounts.

This question was last updated on 3 April 2020.

Question: If the bank defers loan repayments for a period of time as a result of COVID-19, can I continue to claim interest on the loan as a deduction?

Answer: Yes. If interest continues to accumulate on your loan, it will be an expense that you have incurred and is therefore deductible. Interest remains deductible on the loan even if the bank defers the repayments.

This question was last updated on 3 April 2020.

Question: Can I access the new instant asset write-off for my property?

Answer: No. If you are a property investor, you cannot access the instant asset write-off deduction.

See also:

- Instant asset write-off deduction

This question was last updated on 3 April 2020.

Short-term rental properties

Question: COVID-19 is adversely affecting demand, including cancellation of existing bookings, for a property that I currently rent out as short-term accommodation. I have previously had some private use of the property. Will I be able to continue to deduct expenses associated with this property in the same proportion as I was entitled to claim before COVID-19 for the period that demand is adversely affected?

Answer: The amount you can claim will depend on how the property had been used before COVID-19 and how you had planned to use it during the COVID-19 period. If the reason for the adverse effect on demand for your property is because of COVID-19 (or the bushfires before this), you can continue to deduct expenses associated with your property in the same proportion as you were entitled to deduct before COVID-19.

If you had started to use the property in a different way than before COVID-19, the proportion of expenses you can claim as a deduction may change. Examples of changed use include:

- increased private use of the property by you, your family or your friends
- a decision to permanently stop renting out your property once the COVID-19 restrictions end.

This question was last updated on 23 April 2020.

Question: I would like to stop paying for advertising on my short-term rental property during COVID-19 as I am not getting any queries for the property. Can I still claim deductions associated with holding the property?

Answer: It depends on a wider range of factors, not just one. Whether active and bona fide efforts are made to ensure a property is available for rent is only one factor to consider when determining the appropriate method to apportion deductions for a short-term rental property. You would need to consider how the property had been used before COVID-19 and how you plan to use it during the period now adversely affected by COVID-19.

During this time we acknowledge it may be a reasonable commercial decision to temporarily reduce the level of paid advertising for your property, depending on the restrictions in your property's locality. However this factor alone doesn't necessarily determine the allowable proportion of your deductions.

This question was last updated on 23 April 2020.

Question: I am using my holiday home privately for myself and my family so we can isolate during COVID-19. Can I continue to claim deductions for the property for this period, as I am unable to rent the property commercially?

Answer: No. If you are using the property yourself or providing it to friends or family, this will increase your private usage of the property and reduce the deductions you can claim.

This question was last updated on 23 April 2020.

Employers

Answers to questions on:

- JobKeeper payment
- Not-for-profit employers and salary packaging
- FBT and working from home
- FBT on accommodation, food and transport
- FBT on benefits to protect employees from COVID-19
- FBT and emergency health care
- FBT and providing the flu vaccination to employees who are working from home
- FBT and providing testing for COVID-19 to employees
- Super guarantee obligations

JobKeeper payment

Question: How do I know if my business is eligible for the JobKeeper payment?

Answer: Employers will be eligible for the JobKeeper payment if all of the following apply:

- On 1 March 2020, you carried on a business in Australia or were a not-for-profit organisation that pursued your objectives principally in Australia.
- You employed at least one eligible employee on 1 March 2020.
- Your eligible employees are currently employed by your business for the fortnights you claim for (including those who are stood down or re-hired).
- Your business has faced a
  - 30% fall in turnover (for an aggregated turnover of $1 billion or less)
  - 50% fall in turnover (for an aggregated turnover of more than $1 billion), or
  - 15% fall in turnover (for ACNC-registered charities other than universities and schools).
- Your business is not in one of the ineligible categories.

You should note that the turnover calculation is based on GST turnover, but there are some modifications, including disregarding GST grouping where two or more associated business entities operate as a single GST group. We will provide further information soon about applying the turnover test.

See also:

- Eligible employers

This question was last updated on 23 April 2020.

Not-for-profit employers and salary packaging

Question: I am a not-for-profit employer and I provide salary-packaged meal entertainment to my employees. Can my employees use their exempt (or rebatable) cap during the FBT year ending 31 March 2021 given restaurants and public venues are currently closed due to COVID-19?

Answer: Whether the provision of meals qualifies as salary-packaged meal entertainment depends on the particular facts and circumstances of the meal and how it is provided. Given the unprecedented circumstances currently existing, for the FBT year ending 31 March 2021, we will not apply any compliance resources to scrutinising expenditure under these arrangements provided the meals are provided by a supplier that was authorised as a meal entertainment provider as at 1 March 2020.

We also confirm that for the FBT year ended 31 March 2020, we will not apply any compliance resources to scrutinising expenditure under these arrangements during the period where restaurants and public venues were closed.

This question was last updated on 17 April 2020.

FBT and working from home

Question: Will I need to pay FBT if I provide an employee with items to allow them to work from home due to COVID-19?

Answer: If you provide your employees with a laptop and a portable printer or other portable electronic devices to enable them to work from home or from another location due to COVID-19, these will usually be exempt from FBT if they are primarily used for your employee's employment.

If you allow your employee to use a monitor, mouse or keyboard they otherwise use in the workplace, or if you provide them with stationery or computer consumables or pay for their phone and internet access, the minor benefits exemption or the otherwise deductible rule may apply.

The minor benefits exemption may apply for minor, infrequent and irregular benefits of less than $300.

The otherwise deductible rule allows you to reduce the taxable value of benefits by the amount for which your employee would be able to claim a once-only deduction.

See also:

- Fringe benefits tax
- Work-related items exempt from FBT
- Minor benefits
- Home office expenses

This question was last updated on 9 April 2020.

FBT on accommodation, food and transport

Question: Will I need to pay FBT if I provide an employee adversely affected by COVID-19 with emergency accommodation, food, transport or other assistance?

Answer: No, so long as both of the following apply:

- The benefit given to your employee is emergency assistance to provide immediate relief.
- That employee is, or is at risk of being adversely affected by COVID-19.

In the context of COVID-19, we will accept that the FBT emergency assistance exemption applies if you, as an employer, have provided emergency accommodation, food, transport or other assistance to an affected employee.

Exempt assistance would cover, for example:

- expenses incurred relocating an affected employee due to COVID-19, including paying for flights for overseas to return to Australia
- expenses incurred providing food and temporary accommodation if an affected employee is unable to travel due to travel restrictions (including domestic, interstate or intrastate travel)
- benefits provided that allow the affected employee to self-isolate or be quarantined
- transporting or paying for an affected employee's transport expenses including car hire and transport to temporary accommodation.

See also:

- Fringe benefits tax
- Emergency assistance
- Coronavirus (COVID-19)

This question was last updated on 9 April 2020.

Question: My employees work on a fly-in fly-out and a drive-in drive-out basis. With the travel restrictions arising from COVID-19, some are not able to return to their normal residence on the days they aren't working. I'm paying for their temporary accommodation and meals while they can't return home. Do I have to pay FBT for the accommodation and meals I am providing?

Answer: No, you won't have to pay FBT for the temporary accommodation and meals provided to your employees who are unable to return to their normal residence due to domestic and international travel restrictions in response to COVID-19. These benefits are considered emergency assistance and are exempt from FBT.

See also:

- Emergency assistance

This question was last updated on 9 April 2020.

FBT on benefits to protect employees from COVID-19

Question: If I give my employees gloves, face masks, sanitisers and anti-bacterial spray to protect them from contracting COVID-19 while at work, do I need to pay FBT on these benefits?

Answer: It depends. These benefits will be exempt from FBT under the emergency assistance exemption if you provide them to your employees to carry out their duties

that require them to have physical contact or be in close proximity to customers or clients while carrying out their duties or they are involved in cleaning premises.

Examples of this type of work include the:

- medical industry (such as doctors, nurses, dentists and allied health workers)
- cleaning industry
- airline industry
- hairdressing and beautician industry
- retail, café and restaurant industry.

If your employees' specific employment duties are not of the kind described above, the minor benefits exemption may apply if you provide an employee with minor, infrequent and irregular benefits of less than $300.

See also:

- Fringe benefits tax
- Emergency assistance
- Buying protective items
- Minor benefits

This question was last updated on 9 April 2020.

FBT and emergency health care

Question: Will I need to pay FBT if I provide emergency health care to an employee affected by COVID-19?

Answer: Exemptions from FBT for emergency health care is limited. They only apply to health care treatment provided:

- by an employee of yours (or an employee of a related company)
- on your premises (or premises of the related company)
- at or adjacent to an employee's worksite.

If you pay for your employee's ongoing medical or hospital expenses, FBT applies.

However, if you pay for transporting your employee from the workplace to seek medical assistance, the cost is exempt from FBT.

See also:

- Fringe benefits tax
- Emergency assistance

This question was last updated on 17 March 2020.

FBT and providing the flu vaccination to employees who are working from home

Question: My employees are unable to get the influenza vaccine at the workplace as they are working from home due to COVID-19. Will I need to pay FBT if I provide my

employees with a voucher or reimbursement for getting the flu vaccine from a GP or chemist?

Answer: No, you won't have to pay FBT on a voucher or reimbursement for the costs of an employee's flu vaccine from a GP or chemist, as long as it is available generally to all employees.

Providing a flu vaccination to employees is exempt from FBT as it is the provision of work-related preventative health care. It does not matter that you cannot provide the flu vaccine at the workplace because some or all of your employees are working from home due to COVID-19.

If only some of your employees choose to receive the flu vaccine at the GP or chemist, the voucher or reimbursement will still be exempt from FBT, as long as you offered it to all employees.

See also:

- Fringe benefits tax

This question was last updated on 8 May 2020.

FBT and providing testing for COVID-19 to employees

Question: Will I need to pay FBT if I provide testing for COVID-19 to my employees prior to them entering the workplace?

Answer: No, you won't have to pay FBT on the provision of COVID-19 testing for your employees prior to them entering the workplace, as long as the testing is carried out by a legally qualified medical practitioner or nurse and is made available generally to all employees.

The provision of this test will be exempt from FBT as it is work-related medical screening, due to the highly infectious nature of COVID-19, and that any employee is equally susceptible to contracting the virus.

If only some of your employees are provided with COVID-19 tests, the tests will still be exempt as long as you offered them to all employees.

See also:

- Fringe benefits tax

This question was last updated on 8 May 2020.

Super guarantee obligations

Question: I can't afford to pay my employee's super guarantee contributions by the due date because of COVID-19. What do I need to do?

Answer: Legally, we can't extend the due date to pay the super guarantee contributions for your employees.

Pay as much as you can by the due date, even if you can't pay in full. This will reduce the super guarantee charge.

If you didn't pay the full super guarantee by the due date:

- lodge a *Super guarantee charge statement*
- pay the charge to us.

If you do this within the month, there will be no penalties. Interest will still apply.

If you have trouble paying the super guarantee charge, we can work with you to set up a payment arrangement – see Pay in full or set up a payment plan.

See also:

- Contact us
- Super for employers – Employers affected by disaster
- Super for employers – Missed and late payments

This question was last updated on 20 March 2020.

Question: My employees are temporarily working overseas because of COVID-19. Does this affect my super guarantee obligations?

Answer: If your employees usually live and work in Australia and are only temporarily working overseas, there is no change to your pay as you go (PAYG) withholding, FBT and super guarantee obligations.

The situation may be more complicated if your employee ends up staying overseas for a lengthy period. We encourage you to first consider our existing advice on these issues. If you are unsure of the effect in your circumstances contact us for further guidance.

See also:

- Employees who work in a foreign country

This question was last updated on 20 March 2020.

Question: I'm an Australian employer and my employee is **not** an Australian resident. They are working in Australia temporarily as a displaced employee because of COVID-19. What are my employer obligations?

Answer: In most cases, you have the same kind of tax obligations for all employees you have working in Australia. This includes PAYG withholding, FBT and super guarantee.

The same withholding rules apply to both your domestic employees and your displaced foreign employees.

Regarding foreign employees, some of these employees will not have an Australian tax liability on their employment income earned while in Australia (see Not an Australian resident, temporarily in Australia). If this is the case, there are no PAYG withholding obligations.

We understand in the current environment you may have a larger workforce temporarily situated in Australia because of COVID-19. However it is important to ensure that your displaced foreign employees are supported in the same manner as your domestic staff. We are happy to work with you in setting up to meet your obligations to displaced employees.

See also:

- PAYG withholding

This question was last updated on 20 March 2020.

Question: My employee was temporarily working in Australia because of COVID-19 and I paid superannuation on their behalf. When they leave Australia can they withdraw that super?

Answer: When the employee leaves Australia permanently, they may withdraw any superannuation you paid on their behalf while they were displaced (subject to eligibility requirements and tax).

Generally, your employee can claim a Departing Australia Superannuation Payment (DASP) if the following apply:

- They accumulated superannuation while working in Australia on a temporary resident visa issued under the *Migration Act 1958* (excluding Subclasses 405 and 410).
- Their visa has ceased to be in effect (for example, it has expired or been cancelled).
- They have left Australia.
- They are not an Australian or New Zealand citizen, or a permanent resident of Australia.

See also:

- Departing Australia superannuation payment (DASP)
- Eligibility for DASP

This question was last updated on 20 March 2020.

Payments and reporting

Answers to questions on:

PAYG instalment rates and payments

Question: I am not going to make enough income from my business, distributions or investment income this year to have a tax liability. Can I claim back the PAYG instalments I have already paid?

Answer: Yes, if the instalments you have been paying will be more than your estimated tax liability for the year, you can vary the instalment amount on your next activity statement.

This includes entities with substituted accounting periods (SAPs). Any variation must relate to instalments made during your corresponding SAP year as follows:

- the 2020 income year for late balancers
- the 2021 income year for early balancers.

If you choose to vary your PAYG instalments, we won't apply penalties or charge interest to varied instalments for the relevant income year.

You can vary your amount to either:

- zero, to make no payment this period
- a reduced amount, to cover what you estimate you need to pay for this period.

If you have varied your rate or amount down you can also claim a 5B credit for the amount you have already paid this financial year when you lodge your activity statement.

This will generate a refundable credit for the amount you have already paid when you lodge your activity statement and you will receive a refund for any credit remaining after offsetting against any other liabilities.

This question was last updated on 17 April 2020.

Question: I wish to vary my PAYG instalments due to the effects of COVID-19 on my income. Will I be penalised if I have a tax liability at the end of the year?

Answer: No. If you choose to vary your PAYG instalment amounts due to the effects of COVID-19, we will not apply penalties for excessive variation or charge interest on these instalments. However, if your instalments throughout the year are not sufficient

to cover your liability you will have an amount to pay following lodgment of your tax return.

To reduce the potential effect of large final tax liability, you are able to make multiple variations throughout the year as your situation changes.

This question was last updated on 9 April 2020.

Question: Can I vary my PAYG withholding amounts from employees to zero on my next activity statement, in the same way as I can vary my PAYG instalments?

Answer:. No. You still need to report and pay the tax you withhold from your employees' wages. Variations to your PAYG instalment liability apply only to instalments you pay towards your own tax liabilities. It does not apply to tax you withhold from your employee wages.

This question was last updated on 17 April 2020.

Question: I'm an entity that will receive a refund from varying my PAYG instalments because of the effects of COVID-19. This may result in my franking account balance being in deficit at the end of the 2019–20 financial year. Will the Commissioner waive or remit my franking deficit tax (FDT) liability?

Answer: No, the FDT liability cannot be waived or remitted under the law.

If your franking account balance is in deficit at the end of the 2019–20 financial year you must:

- lodge a franking account tax return
- pay the FDT liability by the last day of the month immediately following the end of the financial year.

The FDT liability will generally be due by 31 July 2020. If you are unable to pay by that date you can request a payment deferral. We will consider a deferral of the payment up to 30 September 2020.

This question was last updated on 3 April 2020.

Question: I'm an entity that will receive a refund from varying my PAYG instalments because of the effects of COVID-19. This may result in my franking account balance being in deficit at the end of the 2019–20 financial year. Will the Commissioner consider exercising the discretion to not reduce the available offset?

Answer: Yes. While the FDT liability cannot be waived or remitted, it can be claimed as a tax offset. In some circumstances, the available tax offset may be reduced by 30% unless the Commissioner exercises the discretion to not reduce the available offset.

If the deficit in your franking account was due to the unexpected downturn in your business directly related to COVID-19, and the deficit relates to franked dividends paid before 1 March 2020, the Commissioner will allow a franking entity to manage their tax affairs as if the Commissioner has exercised the discretion to not reduce the available tax offset. In these circumstances, the full amount of the tax offset entitlement created by the franking deficits tax liability will be available to the franking entity.

If your situation is different, contact us to discuss your circumstances.

This question was last updated on 3 April 2020.

GST and medical supplies

Question: Is the supply of medical aids and appliances used for treating COVID-19 GST-free?

Answer: Yes, the sale of medical aids and appliances is GST-free if they meet certain conditions, including being listed in the GST law. For example:

- cardiovascular, dialysis and diabetes medical aids and appliances are listed in the law as GST-free
- respiratory appliances such as ventilators and other respiratory appliances for those with breathing difficulties such as peak flow meters are GST-free
- items such as hand sanitiser and personal protective equipment including disposable face masks, disposable gloves, disposable gowns and protective eye wear in the form of goggles, glasses or visors are not GST-free as they are not listed in the GST law.

This question was last updated on 9 April 2020.

Excise and fuel tax credits

Question: Do I need to pay excise or get an excise license if I repackage alcohol to sell takeaway?

Answer: No. From 23 March until 30 June 2020, we will not take compliance action in the following alcohol repackaging circumstances that would normally require you to have an excise manufacture licence and pay excise duty:

- If closed alcohol service venues are in possession of duty-paid kegged beer that they repackage and sell in sealed containers (such as growlers).
- If closed alcohol service venues use duty-paid alcoholic beverages to make cocktails for takeaway sale in sealed containers.

See also:

- Latest COVID-19 information – Alcohol excise

This question was last updated on 9 April 2020.

Question: What if I can't lodge my excise return or pay amounts owing due to COVID-19?

Answer: You need to contact us on **1800 806 218** to discuss alternative arrangements.

This question was last updated on 17 April 2020.

Question: Can I get a fuel tax credit for my business use of fuel without lodging a business activity statement?

Answer: No – you need to make a claim for fuel tax credit on your business activity statement.

This question was last updated on 20 March 2020.

Question: Do I need to pay excise duty if I manufacture hand sanitiser?

Answer: Hand sanitiser does not usually attract excise, as its alcohol content has typically been treated (denatured) to make it unfit for human consumption. Denatured spirit may also be suitable for making other commercial cleaning products, and can be purchased without restriction. If you hold an excise manufacturer licence to distil spirits, you can make alcohol to manufacture into hand sanitiser.

We are simplifying and fast-tracking our advice and processes to support the further production of hand sanitiser during these difficult times.

See also:

- Latest COVID-19 information – Alcohol excise

This question was last updated on 20 March 2020.

Payments due before 23 January 2020

Question: Can I defer the due dates for tax payments that were due **before** 23 January 2020?

Answer: No, you cannot defer due dates for tax payments that were already due before 23 January 2020.

However you can request a:

- remission of interest that has accrued on those debts from 23 January 2020
- low interest payment arrangement. Also see questions about Interest and penalties.

This question was last updated on 25 March 2020.

Payments due from 23 January 2020

Question: Can I defer the due dates for tax payments that were due **after** 23 January 2020?

Answer: You can request a deferral of due dates for tax payments that were due after 23 January 2020 and which you have not yet been able to pay. Also see questions about Interest and penalties.

This question was last updated on 3 April 2020.

Lodgment deferrals

Question: I have a deferred lodgment date for my 2019 tax return because I usually lodge through my tax agent. However, my tax agent is closed due to COVID-19. Can I lodge my own return online by the deferred due date?

Answer: Yes, you can lodge your own return online if you can no longer lodge through your agent. If you are entitled to a refund, you don't need to contact us. We will process your return as quickly as we can. If you are expecting to have an amount to pay from your assessment, contact us after you lodge so we can ensure you are not charged a late lodgment penalty, and we can defer your payment due date.

This question was last updated on 25 March 2020.

Companies with substituted accounting periods

Question: My company has an approved substituted accounting period (SAP) for an early balance date and is entitled to a refund. Can I lodge my company tax return early and receive the refund straight away?

Answer: You can lodge your company tax return before the lodgment due date and receive a refund immediately if the company both:

- is a full self-assessment taxpayer
- has an approved SAP with a balancing period that has concluded.

For example, if you have an approved SAP with an early balancing period ending on 31 December 2019, your ordinary lodgment due date would be 15 July 2020. If you choose to lodge your 2020 tax return before that date, you can receive your refund immediately.

However, if you have a debt with us and you are due to receive a refund we are required by law to use the refund or credit to reduce your debt. If you don't want this to happen, contact us to discuss your circumstances.

This question was last updated on 3 April 2020.

Statement of tax record

Question: I'm seeking to defer tax payments and lodgments because of the effect of COVID-19 on my business. Can I still meet the criteria to obtain a satisfactory statement of tax record (STR) for the purpose of tendering for Commonwealth Government contracts?

Answer: Yes. If we have agreed to defer the due date for your tax payments or lodgments you can still meet the relevant criteria for a satisfactory STR. This is because you won't have an outstanding tax payment or lodgment. You must still lodge or make your tax payment by the deferred due date.

If you have a tax debt (for example, income tax, PAYGW or GST) on our system, you must contact us to discuss payment options. If we agree to a payment plan, you will still meet the criteria relating to the payment of a tax debt.

This question was last updated on 3 April 2020.

Interest and penalties

Answers to questions on:

Remitting interest and penalties incurred before 23 January 2020

Question: My business has been affected by COVID-19. Am I entitled to have all interest and penalties I currently owe remitted?

Answer: We will consider remitting interest and penalties that were incurred on or after 23 January 2020 in line with the COVID-19 remission policy. This does not apply to interest or penalties that were already incurred before 23 January 2020, but we can:

- consider whether your circumstances before 23 January 2020 would make a remission of interest and/or penalties appropriate
- arrange to stop interest being charged while the COVID-19-affected period continues, and for the life of a payment arrangement if you put one in place.

This question was last updated on 3 April 2020.

Remitting interest and penalties incurred after 23 January 2020

Question: My business has been affected by COVID-19. If I get an ATO debt now, will interest and penalties be remitted?

Answer: The COVID-19 remission applies to interest and penalties incurred on or after 23 January 2020.

This question was last updated on 20 March 2020.

Entering into a low interest payment plan

Question: What kind of low interest payment plan could I request?

Answer: We are currently able to consider payment arrangements where interest stops being charged going forward while the payment arrangement is in place. Your payment arrangement will still need to be something you are able to comply with and that is acceptable to us (in that you will be paying back your debt as soon as possible in the circumstances). Phone us so we can work with you to make sure the options we provide are suitable for your situation.

This question was last updated on 20 March 2020.

Adjusting an existing payment arrangement

Question: I am currently in a payment arrangement for my business debt but, due to the effect of COVID-19, I can't keep paying instalments at the same rate. Can I get a change in my repayment rate or defer my next payment date?

Answer: Yes, we can consider adjusting your repayments to something that is manageable within your current cash flow while ensuring you are paying back your debt as soon as possible in the circumstances. A low interest arrangement could also be available to help you address your debt. Phone us so we can work with you to make sure the options we provide are suitable for your situation.

Question: I have a payment arrangement in place to pay my tax debt, but I can't afford to make the payments at the moment because my pay has dropped due to COVID-19. What can I do?

Answer: Phone us to discuss your options. We can suspend, vary or cancel your payment arrangement, and can make sure you are not charged interest on the outstanding debt while you are affected by COVID-19.

This question was last updated on 25 March 2020.

Cancelled supplies and events

Answers to questions on:

- GST and cancelled taxable supplies
- FBT and cancelled events

GST and cancelled taxable supplies

Question: I reimbursed customers for a cancelled sale or no show. What do I do about the GST?

Answer: If you reimburse a customer for a cancelled sale or no show, and you have already paid the GST to us, you can make a decreasing adjustment to reduce the amount of GST payable in your next activity statement.

You must reimburse the customer before claiming back the GST as a decreasing adjustment.

To reimburse a customer you can:

- pay back their money
- set off a mutual liability
- issue a voucher.

Example

Johnny K Entertainment intended to hold a concert in April. In February, they sold 2,000 tickets for $110 including GST. They remitted the $20,000 GST to the ATO in their February monthly activity statement.

In March, they cancelled the concert and refunded all ticket holders $110 each. In their March activity statement they included a decreasing adjustment of $20,000 (1/11th of refunded amount).

See also:

- Making adjustments on your activity statements

This question was last updated on 17 March 2020.

FBT and cancelled events

Question: My employees were due to attend an event that has been cancelled. I paid for them to attend and the costs are non-refundable. Do I still have to pay FBT now that the event has been cancelled?

Answer: No, you don't have to pay FBT if you're liable to pay for the non-refundable costs. This is an arrangement between you and event organisers, and you have not provided a fringe benefit to your employee.

If the employees were liable to pay for their attendance at the cancelled event, and you reimbursed them, you may have to pay FBT as you're providing an expense payment benefit – unless the otherwise deductible rule applies.

See also:

- Fringe benefits tax

This question was last updated on 17 March 2020.

International business

Answers to questions on:

- Transfer pricing documentation
- Thin capitalisation and safe harbour
- Central management and control (CM&C)
- Permanent establishment
- Significant global entity (SGE) penalty
- PAYG withholding

Transfer pricing documentation

Question: I am a multinational taxpayer that plans on lodging my income tax return before my lodgment due date. Due to COVID-19, I will not be able to have our transfer pricing documentation prepared in time. Will I be precluded from having a reasonably arguable position under Subdivision 284-E of Schedule 1 to the *Taxation Administration Act 1953* (Subdivision 284-E) if I do not lodge my transfer pricing documentation at this time?

Answer: The Australian transfer pricing rules require you to prepare compliant transfer pricing documentation by the time your income tax return is lodged. Failure to prepare documentation in time means you will not have a reasonably arguable position which may result in the imposition of penalties.

We understand and will work with taxpayers that are affected by COVID-19 and are not able to get their transfer pricing documentation in order before the lodgment of their current income tax return despite your best efforts. To help you, we will take an administrative approach for penalties whereby we may remit the portion of your penalties resulting from the lack of a reasonably arguable position (should they arise) if the following criteria are met:

- your lodgment due date for your income tax return was between 1 March and 15 July
- transfer pricing documentation compliant with Subdivision 284-E was in place for your previous income year
- there has been no material change to your related party arrangements since last income year
- you complete your transfer pricing documentation on or before your lodgment due date
- your transfer pricing position is otherwise reasonably arguable.

You will need to contact us before 15 July 2020 to confirm the penalty remission. Please contact International@ato.gov.au. Alternatively, if you have a dedicated relationship manager you may approach them directly for help with your case. We will continue to monitor the evolving effects on businesses and will issue further guidance if there are developments as a result of COVID-19.

This question was last updated on 8 May 2020.

Thin capitalisation and safe harbour

Question: I run a business that has previously relied on the safe harbour election to satisfy my thin capitalisation obligations. Because of COVID-19, my balance sheet has been affected and I am concerned I will not be able to rely on the safe-harbour election for my current tax year. Are there any options available to me?

Answer: The recent disruption brought about by COVID-19 may affect not only taxpayers' compliance with their reporting obligations, but also the underlying economic fundamentals that inform the choice of method for calculating maximum allowable debt for thin capitalisation purposes.

In line with our recent announcements about support for businesses affected by COVID-19, we understand this is a time of significant uncertainty and we will need to be flexible in how we administer our approach to compliance.

For the tax years encompassing the February/March 2020 period (the relevant year), if you are a non-ADI taxpayer you may no longer be able to rely on the safe harbour or worldwide gearing tests to determine your maximum allowable debt as a result of balance sheet effects brought by COVID-19. These balance sheet effects may be as a result of impairment of asset values or short term draw downs on debt facilities as a direct result of COVID-19. If so, you may wish to consider the following for the affected income year.

For the purpose of calculating average values for thin capitalisation amounts, the selection of alternative valuation measurement periods may allow a degree of smoothing of values in situations where wide variations have occurred throughout the income year. The table below demonstrates an example of the effect different measurement periods may have. In this example, monthly average has been selected.

An example of the effect different measurement periods may have:

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Avg.
Opening/ Closing	$100											$60	$80
Periodic (monthly)	$100	$100	$100	$100	$100	$100	$90	$80	$80	$70	$60	$60	$86.6

Other options are available as well.

While the facts and circumstances will vary for each taxpayer, we encourage you to explore the use of all the alternative measurement periods in testing the suitability of the safe harbour or worldwide gearing tests.

If you will otherwise need to rely on the arm's length debt test (ALDT) for the relevant year, as a direct consequence of COVID-19, you can expect we will not dedicate compliance resources to reviewing the application of ALDT if the requirements listed below are met, other than to verify that the use of the test was directly related to a COVID-19 reflex.

The requirements for the simplified ALDT approach include:

- You would have satisfied the safe-harbour test but for the COVID-19 related balance sheet effects.
- It is still expected that you will use best endeavours to apply all criteria of the ALDT.

- For entities that are classified as inward investing entities (and not also outward investing entities) our compliance approach (as outlined above) applies only to the extent that no additional related party funding is received, other than short-term (less than 12 months) debt facilities. In these instances, we would expect any new capital to be equity.
- We would not expect inward investing entities to require the use of ALDT because dividends were paid, thereby weakening the Australian balance sheet.

If your economic circumstances are expected to persist over the longer term and, as a result, you are likely to rely on the ALDT beyond the immediate income tax year, take the opportunity to discuss your circumstances with us.

You can also expect that we will take a balanced approach to matters such as record keeping and timing of the creation of records for the purposes of the test. You should attempt to prepare documents supporting the application of the ALDT, but we will not apply compliance resources to determine if the documents satisfy the standards set out in draft Practical Compliance Guideline PCG 2019/D3 *ATO compliance approach to the arm's length debt test*.

We are committed to working with you and your advisors to provide certainty in these challenging times. We have a dedicated team responsible for the oversight and management of thin capitalisation risks. If you wish to discuss your application of the ALDT with us, you may contact Shahzeb Panhwar, Assistant Commissioner, International Tax Structuring at International@ato.gov.au. Alternatively, if you have a dedicated relationship manager you may approach them directly for assistance with your case.

This question was last updated on 9 April 2020.

Central management and control (CM&C)

Question: I run a foreign incorporated company that is not an Australian tax resident. I've needed to make alternative arrangements for board meetings because of travel restrictions. Does this mean the central management and control is in Australia?

Answer: If the only reason for holding board meetings in Australia or directors attending board meetings from Australia is because of the effects of COVID-19, then we will not apply compliance resources to determine if your central management and control is in Australia.

The spread of COVID-19 has resulted in overseas travel bans and restrictions and a high degree of uncertainty generally around international travel. You may be concerned about these effects on your corporate residency status because of a need to change locations of board meetings or where directors attend them from.

Some boards of foreign-incorporated companies that are not Australian tax residents may temporarily suspend their normal pattern of board meetings because either:

- there are overseas travel bans or restrictions
- the board has made the decision to halt international travel because of the present uncertainties around international travel due to COVID-19.

If these companies instead hold board meetings in Australia or directors attend board meetings from Australia, this will not by itself in the absence of other changes in the company's circumstances alter the company's residency status for Australian tax purposes.

We will continue to monitor the evolving effects on businesses in these circumstances and update our guidance if there are further developments as a result of COVID-19.

This question was last updated on 17 March 2020.

Permanent establishment

Question: I run a foreign incorporated company that is not an Australian tax resident. Does the unplanned presence of my employees in Australia now lead to the existence of a permanent establishment in Australia?

Answer: COVID-19 has resulted in overseas travel restrictions and a high degree of uncertainty generally around international travel. Foreign companies may be concerned about potential effects on their business and tax affairs because of the result of a presence of employees in Australia.

The effect of COVID-19 will not, in itself, result in the company having an Australian permanent establishment if it meets all the following:

- The foreign incorporated company did not have a permanent establishment in Australia before the effects of COVID-19.
- There are no other changes in the company's circumstances.
- The unplanned presence of employees in Australia is the short-term result of them being temporarily relocated or restricted in their travel as a consequence of COVID-19.

If you didn't otherwise have a permanent establishment in Australia before the effects of COVID-19 and the presence of employees in Australia is because they are temporarily relocated or restricted in their travel as a consequence of COVID-19, then we will not apply compliance resources to determine if you have a permanent establishment in Australia.

We will continue to monitor the evolving effects on business and issue further guidance if there are developments as a result of COVID-19.

This question was last updated on 17 March 2020.

Significant global entity (SGE) penalty

Question: If I don't lodge an approved form including the general purpose financial statement (GPFS) on time, will the ATO remit the failure to lodge on time SGE penalty?

Answer: We encourage you to lodge on time. However, we will remit the failure to lodge on time SGE penalty for a period of 30 days from the lodgment date of the approved form if all of the following apply:

- You are an SGE that is required to lodge an approved form (including the GPFS) with us by or before 30 June 2020.
- You are unable to lodge that approved form (including the GPFS) due to circumstances beyond your control that arise as a direct result of COVID-19.
- The failure to lodge on time SGE penalty is incurred after 23 January 2020 and on or before 30 June 2020.

If your lodgment is more than 30 days late, you will need to contact us to discuss your specific circumstances.

Despite the penalty remission, you will still need to make your payments on time. If you are having problems making your payments, you may be able to defer some payments.

You can contact the large services team to discuss lodgment and payments.

We will continue to monitor the effects of COVID-19 and will update our guidance as further developments occur.

This question was last updated on 22 May 2020.

PAYG withholding

Question: I'm a foreign employer and my employee is not a resident of Australia. They are working in Australia temporarily as a result of COVID-19. Do I have to register for PAYG withholding?

Answer: We do not expect you to register for PAYG withholding if the only reason your employee is now working in Australia is because of the effects of COVID-19 on travel and it is anticipated that they will leave before 30 June 2020.

We understand that it is unknown how long the effects of COVID-19 regarding travel will last. We will continue to monitor the evolving effects of travel restrictions and update our guidance if there are further developments as a result of COVID-19.

This question was last updated on 20 March 2020.

Self-managed super funds

Answers to questions on:

- Early access to super
- Related party limited recourse borrowing arrangement relief
- Temporarily reducing superannuation minimum payment amounts
- Providing rent relief
- Super balance losses
- SMSF residency
- In-house asset restrictions
- Investment strategies

Signature requirements for financial statements

Question: I usually attend my accountant's premises to sign my SMSF's financial statements. However, I am unable to attend in person to sign them this year due to COVID-19. How can I meet the signature requirements?

Answer: There are options available. Under the super laws, SMSF trustees are required to sign their SMSF's financial statements before finalising their fund's audit each income year. COVID-19 impacts such as social distancing or isolation requirements or your tax agent or accountant working from a home office may prevent you from signing your SMSF's financial statements in person this year.

Alternative options available for signing the financial statements consist of returning a signed scanned copy to your tax agent or accountant by email or using an electronic signature such as a digital signature. Digital signatures should be provided:

- using a secure system, typically through an established third-party provider
- in a way that clearly identifies the trustee signing and indicates the approval you are providing.

A secure system would include a system that requires a personal identification number, access code or password to use.

If you can't use these alternative options to sign your financial statements, your agent or accountant should post the financial statements to you and you will need to sign them and arrange to return them to your agent by post.

You will not meet the signature requirement if you only acknowledge the financial statements by email or over the phone.

This question was last updated on 23 April 2020.

Early access to super

Question: One of the members of my SMSF wants to apply for release of their super under the COVID-19 early access arrangements, what do I do?

Answer: Your member can apply for release of their super under the COVID-19 early access arrangements through myGov. We will then issue them with a determination advising of their eligibility to withdraw an amount. When you receive the determination

from your member, you will be authorised to release the amount of super stated in the determination. If the current balance of the member's account is less than the amount approved in the determination, you can release the lesser amount.

The amount is not subject to PAYG withholding and does not need to be reported on a PAYG payment summary.

See also:

- Early access to your super
- Self-managed super funds

This question was last updated on 17 April 2020.

Question: If my SMSF member does not meet the COVID-19 early access arrangements, is there any other way they can access their super?

Answer: Subject to the terms of your trust deed, your member can access their super when they:

- reach their preservation age and retire
- reach their preservation age and choose to begin a transition to retirement income stream while they are still working
- are 65 years old (even if they have not retired).

They can also access super in some special circumstances, including:

- compassionate grounds – subject to certain limitations
- severe financial hardship – subject to certain limitations
- terminal medical condition
- temporary incapacity – subject to certain limitations
- permanent incapacity
- super less than $200 – subject to certain limitations.

See also:

- Early access to your super
- Tax on benefits

This question was last updated on 17 April 2020.

Related party limited recourse borrowing arrangement relief

Question: My SMSF has a compliant limited recourse borrowing arrangement (LRBA) in place with a related party. Would the non-arm's length income (NALI) provisions apply if the related party offers repayment relief to the SMSF trustees because of COVID-19?

Answer: We understand that temporary repayment relief may be offered in relation to an existing LRBA between an SMSF and a related party due to the financial effects of COVID-19.

If the repayment relief reflects similar terms to what commercial banks are currently offering for real estate investment loans as a result of COVID-19, we will accept the parties are dealing at arm's length and the NALI provisions do not apply. For example,

these terms currently include temporary repayment deferrals for most businesses of up to 6 months, with unpaid interest being capitalised on the loan.

The parties to the arrangement must also document the change in terms to the loan agreement and the reasons why those terms have changed. It is also expected that there is evidence that interest continues to accrue on the loan and that the SMSF trustee will catch up any outstanding principal and interest repayments as soon as possible.

Any further repayment relief needed due to the continued effects of COVID-19 should be reviewed at the end of the agreed deferral period and remain in line with what the commercial banks are offering at that time.

See also:

- You can refer to the Australian Banking Association's website for current information on COVID-19 bank relief

This question was last updated on 17 April 2020.

Temporarily reducing superannuation minimum payment amounts

Question: I am retired and receive an account-based pension from my SMSF. My account-based pension balance has been badly affected by the losses in the financial market because of the COVID-19 crisis. I would like to reduce my pension payments. Does the SMSF still need to pay me the minimum amount that was calculated based on my account balance at 1 July 2019?

Answer: No. You can reduce the minimum amount your SMSF pays you by up to 50% of what is otherwise required based on your account balance at 1 July 2019 for the 2019–20 financial year. Certain superannuation pensions and annuities are subject to rules about minimum and maximum amounts paid in a financial year. To assist retirees, the government has reduced the minimum annual payment required for account-based pensions and annuities, allocated pensions and annuities and market-linked pensions and annuities by 50% in the 2019–20 and the 2020–21 financial years.

See also:

- Minimum annual payments for super income streams

This question was last updated on 17 April 2020.

Question: I am retired and receive an account-based pension from my SMSF. My account-based pension has already paid me more than the reduced minimum annual payment required for the 2019–20 financial year. Is my SMSF required to continue making pension payments to me for the remainder of the year?

Answer: If a member does not want to receive any further pension payments they can cease being paid the pension for the remainder of the year. This has to be communicated to the Trustee. It is important that the SMSF trustee considers its trust deed and documents any changes and the reason for the change. This could be recorded in a minute or other contemporaneous document.

See also:

- Funds – starting and stopping a pension
- Taxation Ruling TR 2013/5 *Income tax: when a superannuation income stream commences and ceases*
- Record-keeping requirements

This question was last updated on 17 April 2020.

Question: I am retired and receive an account-based pension from my SMSF. My account-based pension has already paid me more than the reduced minimum annual payment required for the 2019–20 financial year. Is the amount over the minimum considered superannuation lump sum amounts?

Answer: Pension payments that you have already received cannot be re-categorised. Accordingly, payments made from your account-based pension in excess of the new reduced minimum annual payment required for the 2019–20 financial year are pension payments (that is, superannuation income stream benefits) for the year and not superannuation lump sums.

See also:

- Minimum annual payments for super income streams

This question was last updated on 17 April 2020.

Question: I am retired and receive an account-based pension from my SMSF. Does my SMSF trustee need to document a reduction in my pension payments if it occurs in accordance with the reduced minimum annual payment for the 2019–20 and 2020–21 financial years?

Answer: Yes, it's important your SMSF trustee documents the change and the reason for the change. This could be recorded in a minute or other contemporaneous document.

See also:

- Income stream (pension)
- Record-keeping requirements

This question was last updated on 17 April 2020.

Question: I am retired and receive an account-based pension from my SMSF and an APRA-regulated industry fund. Can I still use the reduced minimum annual payment if I get a pension from another fund?

Answer: If you are receiving multiple pensions from your SMSF or from other super funds, the reduced minimum annual payment can be used to calculate the minimum pension required to be paid for each eligible pension you receive.

See also:

- Minimum annual payments for super income streams

This question was last updated on 17 April 2020.

Question: Does the reduced minimum annual payment for account-based pensions and annuities, allocated pensions and annuities required for the 2019–20 and 2020–21 financial years also apply to market linked pensions?

Answer: Yes, the reduction in the superannuation minimum annual payment requirements applies to market linked pensions (also referred to as term allocated pensions or TAPs).

Market linked pensions have a minimum and maximum payment limit, and the actual pension payment drawn for the year must be within these limits. The minimum payment limit, which is normally 90% of the pension amount that is worked out under a formula, has been reduced to 45% for the 2019–20 and 2020–21 financial years as part of the government's temporary reduction of superannuation minimum payment amounts.

See also:

- Minimum annual payments for super income streams

This question was last updated on 17 April 2020.

Question: My SMSF now has a considerable unrealised capital loss as a result of the recent downturn in the global economy. Can I re-assess my member's super benefits that support the pension to work out the reduced minimum annual payment amount?

Answer: The changes only provide for a halving of the minimum annual payment requirement as applicable to the pension account balance at:

- 1 July 2019 (or a later commencement date during the year) for the 2019–20 year
- 1 July 2020 (or a later commencement date during the year) for the 2020–21 year.

Regardless of losses incurred, you cannot recalculate the pension based on a lower account balance of the fund at another point in time.

See also:

- Minimum annual payments for super income streams

This question was last updated on 17 April 2020.

Question: I am a trustee of an SMSF. I have paid more than the reduced minimum annual payment amount for 2019–20 financial year to a member of my SMSF. Can the member put the amount above the reduced minimum annual payment back into the SMSF?

Answer: Your member can put the amount back into the SMSF as a superannuation contribution if they are eligible to make superannuation contributions, subject to any other rules or limits such as contributions caps.

See also:

- Super contributions – too much can mean extra tax
- Adding to super if you're not working
- Contribution caps

This question was last updated on 17 April 2020.

Providing rent relief

Question: My SMSF owns real property and wants to give my tenant – who is a related party – a reduction in rent because of the financial effects of COVID-19. Charging a related party a price that is less than market value is usually a contravention. Given the effects of COVID-19, will the ATO take action if I do this?

Answer: Some landlords are giving their tenants rent relief as a rent reduction, waiver or deferral because of the financial effects of COVID-19 and we understand that you may wish to do so as well. Our compliance approach for the 2019–20 and 2020–21 financial years is that we will not take action if an SMSF gives a tenant – even one who is also a related party – a temporary rent reduction, waiver or deferral because of the financial effects of COVID-19 during this period.

If your SMSF holds an interest in an interposed entity such as a non-geared company or unit trust and that interposed entity leases property to a tenant, we will not treat the investment in the interposed entity as an in-house asset for the current and future financial years as a result of a deferral of rent being provided to the tenant due to the financial effects of COVID-19.

If there are temporary changes to the terms of the lease agreement in response to COVID-19, it is important that the parties to the agreement document the changes and the reasons for the change. You can do this with a minute or a renewed lease agreement or other contemporaneous document.

See also:

- COVID-19 relief and compliance issues

This question was last updated on 23 April 2020.

Super balance losses

Question: My super balance has been affected by downturns in the global economy so my SMSF needs to sell an asset of the fund at a loss. Can my SMSF claim this loss against the income it earned this year or can I claim it in my personal tax return?

Answer: Unrealised losses due to changes in the market value of investments are not deductible in calculating your SMSF's net taxable income for the year. However, a realised capital loss incurred by your SMSF from the sale of one of its CGT assets can be offset against realised capital gains from other CGT assets in the current year. If your SMSF's capital losses exceeds its capital gains for the income year, this net capital loss cannot be deducted from your SMSF's income but it can be carried forward and applied against future capital gains.

Losses incurred by your SMSF are not available to you to deduct in your own personal tax return.

See also:

- Working out your net capital gain or loss

This question was last updated on 17 April 2020.

SMSF residency

Question: After temporarily residing overseas for less than two years, we were about to return to Australia but became stranded overseas because of the COVID-19 health crisis. This forced absence means we will be out of Australia for more than two years. What will this mean for our SMSF?

Answer: An SMSF must be an Australian super fund to be a complying fund and receive concessional tax treatment.

To be an Australian super fund an SMSF must meet three residency conditions, see Check your fund is an Australian super fund. The second and third conditions are relevant in this case.

The COVID-19 health crisis has resulted in many countries imposing travel bans and restrictions and a high degree of uncertainty generally around international travel.

If the individual trustees of an SMSF or directors of its corporate trustee are stranded overseas due to COVID-19, in the absence of any other changes in the SMSF or the trustees' circumstances affecting the other conditions, we will not apply compliance resources to determine whether the SMSF meets the relevant residency conditions.

See also:

- Carrying on a business in a SMSF

This question was last updated on 3 April 2020.

In-house asset restrictions

Question: The downturn in the share market may result in the fund's in-house assets being more than 5% of the fund's total assets. The in-house asset rules would be breached. What do I need to do?

Answer: If, at the end of a financial year, the level of in-house assets of an SMSF exceeds 5% of a fund's total assets, the trustees must prepare a written plan to reduce the market ratio of in-house assets to 5% or below. This plan must be prepared before the end of the next following year of income. If an SMSF exceeds the 5% in-house asset threshold as at 30 June 2020, a plan must be prepared and implemented on or before 30 June 2021. However, we will not undertake compliance activity if the rectification plan was unable to be executed because the market has not recovered or it was unnecessary to implement the plan as the market had recovered. This compliance approach also applies where the SMSF exceeded the 5% in-house asset threshold as at 30 June 2019 but has been unable to rectify the breach by 30 June 2020.

See also:

- In-house assets

This question was last updated on 8 May 2020.

Investment strategies

Question: The downturn in the market has affected my SMSF's investment strategy. What do I need to do?

Answer: Trustees must prepare and implement an investment strategy for their SMSF, which they must then give effect to and review regularly. The strategy should be reviewed at least annually, and you should document that you've undertaken this review and any decisions arising from the review. Certain significant events, such as a market correction, should also prompt a review of your strategy and may require updating your investment strategy.

If the assets of an SMSF or the level of investment in those assets fall outside of the scope of your investment strategy, you should take action to address that situation, which could involve adjustments to investments or updating your investment strategy. We don't consider that short term variations to your articulated investment approach, including to specified asset allocations whilst you adjust your investments, constitute a variation from your investment strategy.

All investment decisions must be made in accordance with the investment strategy of the fund. If in doubt, trustees should seek investment advice.

See also:

- Your self-managed super fund investment strategy

This question was last updated on 20 March 2020.

Pausing or ceasing your business

Answers to questions on:

Business registration

Question: I have had to pause my business. Do I need to cancel my ABN and GST registration?

Answer: If you have temporarily ceased some trading activities in your business but you intend to restart when you can, you are not required to cancel your ABN and GST registration.

This is the case even if you have paused your business for a lengthy or uncertain period.

You need to cancel your ABN and GST registration only if you permanently cease your business.

Example – an enterprise that has not terminated

Jodie, who has been running a café for a number of years, needs to pause her business due to COVID-19. She does not provide takeaway services. Jodie is uncertain when she will reopen her business.

Jodie retains the café's assets and continues to pay reduced rent on the premises. The business has not terminated and Jodie is not required to cancel her ABN. Jodie will continue to lodge her activity statements to claim GST credits for the GST on expenses related to her business.

This question was last updated on 27 March 2020.

Question: I have permanently ceased my business due to COVID-19. When do I need to cancel my ABN and GST registration?

Answer: If you need to permanently cease your business as a result of COVID-19, it is important that your tax affairs are finalised before you cancel your ABN.

You need to cancel:

- your ABN within 28 days from when you cease your business activities
- your GST registration within 21 days from when you cease your business activities.

Before you close your business you need to lodge your final activity statement. This allows us to finalise your account and issue any refunds that might be owed to you.

This question was last updated on 27 March 2020.

Permanently ceasing your business

Question: When am I considered to have permanently ceased my business for GST purposes?

Answer: A business ceases when the activities related to that enterprise cease. That occurs when all assets are disposed of or converted to another purpose or use. Disposal of assets may include the sale, scrapping, or other disposal of the assets.

In the course of closing the business, there may still be some other obligations you need to finalise. These obligations may include the preparation of final accounts, activity statements and tax returns.

Cancelling your GST registration may affect some, but not all of your other registrations including:

- fuel tax credits
- luxury car tax
- wine equalisation tax.

Example – an enterprise that has not terminated and has unused stock

Joel has been running a craft shop selling craft supplies for a number of years. He decides to close his shop. All assets are sold with the exception of a number of stationery items. Joel expects to sell the stationery items in the future. In the meantime, he pays to have them stored in a commercial warehouse.

The enterprise has not terminated until the stationery is sold or is determined to be worthless or of little value.

See also:

- Cancelling your GST registration
- Adjusting for assets retained after cancelling GST registration

This question was last updated on 27 March 2020.

Disposing of assets

Question: What are the tax consequences if I need to dispose of capital assets when ceasing or pausing my business?

Answer: There may be GST and CGT implications when you dispose of your capital assets.

For the most common topics you need to consider when selling or closing a business see Changing, selling or closing your business – things to consider.

This question was last updated on 27 March 2020.

Tax and super obligations

Question: What tax and super obligations do I need to consider when closing my business?

Answer: You need to ensure that you continue to meet your tax and super obligations. This includes:

- fringe benefits tax
- pay as you go withholding
- eligible termination payments for your employees
- super guarantee for your employees
- capital gains tax (CGT)
- GST.

You are still required to pay the minimum amount of super guarantee for your employees into the correct fund by the due date. This will be based on their eligible earnings for the quarter.

If you cannot pay the full super guarantee contributions, pay as much as you can to their fund by the due date. This will reduce the super guarantee charge. You will need to lodge a super guarantee charge statement within a month of the due date and pay the charge to us. If you are having trouble paying the super guarantee charge, we can work with you to set up a payment arrangement.

This question was last updated on 27 March 2020.

Record keeping

Question: What records do I need to keep when ceasing my business?

Answer: If you close your business you need to keep records relating to:

- sales (including the sale of your business and assets) and purchases
- payments to employees
- payments to other businesses.

See also:

- Selling or closing your business – records

This question was last updated on 27 March 2020.

Single touch payroll reporting

Question: I am pausing or ceasing my business due to COVID-19. What steps do I need to take if I am reporting through Single Touch Payroll (STP)?

Answer: Keep your records up to date. STP reporting includes important information we may be able to use through these unprecedented times. Having the most up to date employment information will help us support the community.

If you are STP reporting, here's what you can do:

- If you have had to let employees go, make sure you report their cessation date in your STP report. If you have already paid them their final pay, you can still tell us this information by submitting an update event.
- If you won't be paying employees for a while, you or your registered tax or BAS agent can let us know that you have no further requirement to report, through
  - the Business Portal (employers) – select **Manage employees** then **STP deferrals or exemptions**
  - Online services for agents – select **Business** then **STP deferrals and exemptions**.

This question was last updated on 27 March 2020.

Question: I no longer have any employees due to COVID-19. When do I need to finalise my STP reporting for them?

Answer: Finalise your STP data as soon as possible for employees who have ceased employment. You don't need to wait until the end of financial year to finalise STP data. Finalising is an important step as it enables individuals to lodge their tax return at the end of the year.

See also:

- Finalising your Single Touch Payroll data
- Single Touch Payroll

This question was last updated on 27 March 2020.

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