

COVID-19

Private businesses in the face of COVID-19

Government relief packages available

Information current as at 8 April and is subject to change.



Government relief packages available to private businesses

- 1 Determine your **eligibility for Government incentives** – ATO
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- 4 Frequently asked questions
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1. Determining your eligibility for Government incentives – ATO, SRO emergency loans etc.

ATO & Federal Government

- The ATO is offering **various incentives to support business** including payment deferrals and remission of interest and penalties. Refer to this [website](#) for more information and consult your tax agent and accountant.
- Fast track lodgment of March BAS to **access from \$10k up to \$50k cashback** for PAYG WDG deducted (with up to **additional \$10k to \$50k – \$20k to \$100k total** – to September).
- Identify investments or acquisitions meeting ‘**Enhanced instant asset write-off**’ or ‘**Business backing incentive**’ and any other options to accelerate refunds.
- Potential to seek **immediate deferral** of any payments **due to the ATO for the next 6 months**.

ATO COVID-19 support available can be found [here](#).

State revenue offices

- State Revenue Offices are offering various **payroll tax and other incentives** to support businesses. These incentives are not harmonised and you should consult your tax agent for further details.
- Refer to the following links for more information in relation to state incentives:
 - [NSW](#)
 - [VIC](#)
 - [QLD](#)
 - [TAS](#)
 - [WA](#)
 - [NT](#)
 - [SA](#)
- Regularly updated PwC guidance in relation to tax impacts of COVID-19 can be found [here](#).

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2. Employees

Government assistance package

The Federal Government have announced a '**JobKeeper Program**' designed to keep Australians in the workforce by **reimbursing** wage payments to the employer. Key features of this plan are;

- A wage subsidy – **\$1,500 per fortnight** will be **paid to all employers**, including not-for-profits, charities and self-employed individuals affected by COVID-19 **for each worker** that is employed as at 1 March 2020.
- This payment will be **backdated to 30 March 2020** (no limit on employer size).
- Eligible employers will have:
 - **Aggregated turnover < \$1 billion** which has reduced by **more than 30%** relative to a comparable period a year ago (of at least a month); or
 - **Aggregated turnover > \$1 billion** which has reduced by **more than 50%** relative to a comparable period a year ago (of at least a month); or
 - The entity is an ANCN registered charity (but not a school or education provider) their turnover will be reduced by 15% relative to a comparable period (of at least a month); and
 - And not be subject to the Major Bank Levy.
- The payment will be made to the employer, administered through the tax system, and will last for at least 6 months with the first payments expected to be made in the **first week of May 2020**. Payments will be made by the ATO in arrears.
- Businesses **must register their interest** via the ATO website.

For the Treasury fact sheet click [here](#) and for Job Keeper FAQs click [here](#).



2. Employees (cont'd)

Workforce requirements

- It is important to consider the implications of the Job Keeper Program on your ability to retain staff. However, there may be **other factors** requiring consideration.
- Legally, **can you 'stand employees down'?** Do you crystallise redundancy obligations by doing so? This will likely be contract/award specific, so urgent legal advice on your obligations is critical.
- The general message is that employees may be able to be stood down in certain sectors due to these urgent circumstances, but legal advice is recommended.
- What is the minimum number of staff you need to manage on a **'care and maintenance'** basis?
- What **incentives** might you offer key staff to reduce salary now, but to share upside with them if and when the business returns to profitability? How do you document this?

[Refer to further guidance on workforce management here:](#)



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March 2020

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3. Landlords

More details to be provided when this becomes law

The Government indicated (on 30 March 2020) that any new laws introduced will likely capture the following principles and measures:

- A **short term (6 months), temporary moratorium** on eviction for non-payment of rent to be applied across commercial and residential tenancies impacted by **severe rental distress due to coronavirus**
- Tenants and landlords **encouraged to agree rent relief** or temporary amendments to the lease
- The **reduction or waiver of rental payment** for a defined period for impacted tenants
- The **ability for tenants to terminate leases** or seek mediation on grounds of financial distress
- Landlords and tenants not significantly affected by coronavirus are expected to honour their lease and rental agreements

A further announcement from Scott Morrison on 7 April 2020 confirmed a **mandatory code** will be introduced that regulates the relationship between **commercial** tenants and landlords.

The rules are expected to cover any lease where the **landlord or tenant qualifies for the JobKeeper** program and requires the landlords to reduce rents **in proportion to** the revenue lost by a tenant, and **waivers must be at least 50% of the reduction in turnover**. Landlords are also banned from terminating a lease or drawing on tenants' securities.

The national cabinet is not expected to intervene in any significant way regarding residential rents and have indicated this will instead be a matter for State Governments to resolve.

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3. Landlords (cont'd)

- Evictions expected to be put on **hold for 6 months** by the states and territories.
- Be **proactive and engage** with landlords to seek urgent rent relief.
- If you're eligible for the **JobKeeper program** consider how this could influence your options.
- Be clear on what you are asking for and what is agreed with each landlord
- Options may include:
 - **Rent free** period or rental payment **deferral**.
 - Agreement to partially draw down on **rental guarantee**.
 - **Percentage of revenue as rent** (for a limited period) with an understanding to review subject to performance and any rebound.
- What **incentives** can you offer to landlords to **share upside** with them if and when the business returns to profitability? How do you document this?

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4. Useful links

Refer to the following sources for further information:

Treasury fact sheets:

Job Keeper program:

[Job Keeper Treasury fact sheet](#)

[Job Keeper FAQs](#)

Boosting cash flow:

[Boosting cash flow Treasury fact sheet](#)

Temp relief for distressed businesses:

[Relief for business Treasury fact sheet](#)

Asset w/o & accelerated dep'n:

[Asset write off Treasury fact sheet](#)

Apprentices & trainees:

[Apprentices & Trainees Treasury fact sheet](#)

Regional communities:

[Regions & communities Treasury fact sheet](#)

Links to Government websites:

Treasury COVID-19 website:

<https://treasury.gov.au/coronavirus>

Australian Government COVID-19 website:

<https://www.australia.gov.au/>

Australian Tax Office COVID-19 website:

https://www.ato.gov.au/General/COVID-19/?=redirected_coronavirus

ATO FAQs:

<https://www.ato.gov.au/General/COVID-19/In-detail/COVID-19-frequently-asked-questions/>

Links to PwC resources:

PwC dedicated COVID-19 website:

<https://www.pwc.com.au/important-problems/covid-19.html>

PwC tax relief COVID-19 website:

<https://www.pwc.com.au/important-problems/covid-19/guidance-on-tax-obligations-and-relief-for-businesses-affected-b.html>

PwC COVID-19 workforce management resource:

<https://www.pwc.com.au/legal/assets/workforce-management-covid-19-web.pdf>

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5. Frequently asked questions

Cashflow boost FAQs

FAQ response

If there is more than 1 employer in a tax consolidated group or other group with aggregated turnover of less than \$50m, can each employer access the Cash flow boost?

Yes - aggregated turnover requirement applies on a group (connected and affiliate entity) basis but the cash flow boost is available for each qualifying employer entity, ie each of those which will lodge an Activity Statement where there have been qualifying amounts of salary, wages etc subject to PAYGW. Be sure to check the other qualifying conditions for each entity.

How will the ATO know if I have annual aggregated turnover of less than \$50m to be eligible for the cash boost?

The ATO is still to work this through. Some entities it will be clear based on lodgment of the 2019 tax return where there is an indicator for small business entity (SBE) (albeit set by reference to \$10m aggregated turnover threshold), or for a company a base rate entity (BRE) which has the same \$50million aggregated turnover threshold. Note that the ATO has the ability to require an entity that was not eligible for the cash flow boost to repay the amount (this may become apparent upon lodgment of the current year tax return).

Does the cash flow boost credit result in a refund if the net amount due on a BAS is less than the credit, or already in a refundable position?

Yes the ATO will issue a refund to the taxpayer directly following processing of the BAS

What is the earliest BAS to which the cash flow boost can apply? I.e, is the BAS lodged in March or the BAS for the period ending 31 March?

It is the BAS for March 2020 that is ordinarily lodged in April 2020. The earlier the BAS can be prepared (but clearly not before 31 March 2020), the better - i.e. ATO can process and be prepared to pay as necessary.

Where an employer was not an SBE in the prior year, how does a business apply to the Commissioner where expected turnover <\$50m in the current year (therefore eligible under s5(d)(ii) of the new Act)?

We are not yet sure of the process the ATO will put in place to give effect to this measure. It is expected that the ATO will have a solution to this shortly after 1 April 2020, i.e. from the time that relevant BAS for March 2020 can be lodged. It may be the case that there are many businesses that have been significantly affected by COVID in terms of their turnover which may put them below the \$50m aggregated turnover threshold for the first time in this current income year.

Can the cash flow boost apply to PAYG withheld on Directors fees?

Yes.

Is there any hope of getting the aggregated turnover threshold changed?

At this stage, such a change is not able to apply for March 2020. And for the prospect of change in the future, this will be a function of what the Government decides is necessary in its next stimulus package.... So wait and see what happens next from the Government

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5. Frequently asked questions

Instant asset write off FAQs

FAQ response

What is included in aggregated turnover? Is it just Australian turnover?

No - it is not confined to Australian turnover. The tax law concept of aggregated turnover is the sum of all relevant 'annual turnovers' (an entity's annual turnover and including the annual turnover of any connected or affiliated entities) excluding amounts derived from dealings between the entity and any connected or affiliated entities. It is important to note that:

- connected or affiliated entities do not need to be Australian residents for tax purposes
- an entity's 'annual turnover' bears no relationship to whether the income might be assessable or made exempt under specific provisions in the tax law

Can I claim the concession for several identical assets if in Yes - \$150,000 threshold applies per depreciating asset total they cost more than \$150,000?

Does the luxury car limit still apply to limit a deduction to \$57,581? Yes

Can trusts benefit from the instant asset write-off and accelerated depreciation?

Yes, provided that the entity is carrying on a business, and meets the \$500 million aggregated turnover threshold. You will need to consider the trust's particular facts and circumstances, including the general indicia for carrying on a business

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5. Frequently asked questions

Operational FAQs

FAQ response

Trading whilst insolvent assessment - how to best fulfil directors duties at this time.

Whilst there has been a temporary (six month) suspension of personal liability for trading whilst insolvent, this should not be seen as a solve-all. Solvency is based on the ability to pay debts that are being incurred as and when they fall due. Directors should take steps to ensure that they have a reasonable expectation - based on available facts - of being able to pay liabilities that are being incurred henceforth. The assessment of solvency is primarily a 'cash flow' test, so maintaining and regularly updating a cash flow forecast is critical. If in doubt, consult with a specialist insolvency lawyer or accountant.

Best approaches to cash stress testing

We recommend businesses prepare sensitised cash flows based on 'V Shape' (swift recovery), 'U Shape' (medium recovery) and 'L Shape' (uncertain recovery). We have seen some clients prepare forecasts assuming zero revenue and cash receipts to get a clear picture of their potential maximum funding need. Changes to timing for companies to respond to statutory demands (out to 6 months) have seen some businesses effectively moving to 180 day terms already. It is critical that businesses obtain clarity on the ability and willingness of their customers to pay. The cash flows should be updated at least weekly to 'stress test'.

Does COVID19 fall under 'force majeure'

It depends on the contract so we recommend consulting with your lawyer about the specifics of your case. However, on the whole, our observation is that a pandemic, which has the effect of materially changing the operation of a business, typically falls into this category.

Should we be using the increase in the time to respond to Statutory Demands? Gives you 6 months?

This is a vexed question depending on whether businesses are on the taking or receiving end. On one hand, delaying payment helps the cash flow of your business with limited 'legal risk' for 6 months. On the other, if every business takes this view, then there will be a significant gap in working capital funding which may stall recovery efforts. For many businesses, we are observing that they are seeking part payment or cash up front before committing to further supply or services to try and minimise the collection risk.

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5. Frequently asked questions

Rent relief FAQs

FAQ response

Tenant requested to have rent free for a period of time.
How landlord is going to deal with this?

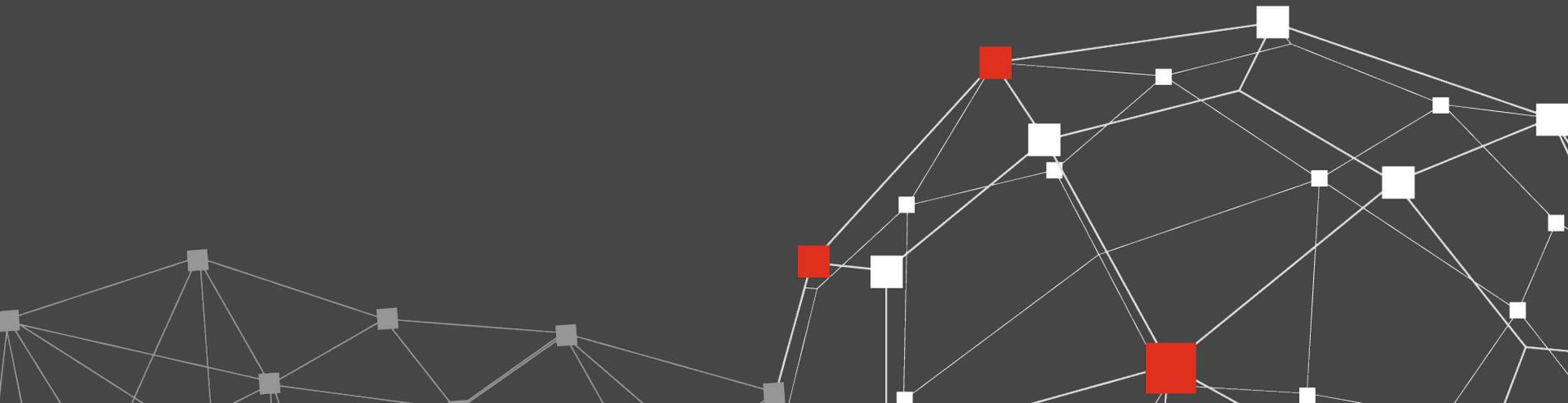
We recommend landlords and tenants engage proactively to understand the key issues each are facing. It also depends on the financial position of the landlord and whether they may be eligible for any of the relief packages (e.g. deferral of bank repayments). For many businesses in retail, hospitality and travel that have had their revenue slashed, they simply cannot afford to keep paying rent. As there is unlikely to be large demand for vacant tenancies if businesses do exit, we strongly encourage landlords to look for flexible ways of keeping existing tenants in operation during these times of uncertainty. Some options we have seen implemented include, but are not limited to: rental holidays; rental deferrals; percentage of revenue being paid as rent (shared pain); agreements to extend current leases by an agreed period.

What assistance programs are available for SME business requiring rent relief.

The government has indicated that new laws will be introduced in this area, capturing a short term moratorium on evictions across commercial and residential tenancies and reductions / waivers of rental payments for tenants impacted by COVID-19. Whilst we wait for more details as this becomes law, tenants and landlords are urged to be proactive and engage with each other to seek rental solutions

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Questions



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