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### May 2021 Practice Update

### Government proposal to modernise business communications

The Government has committed to modernising certain laws so that they are 'technology neutral', to enable easier communication between businesses, individuals and regulators.

The first phase of legislative reform will focus on key areas raised by stakeholders which are implementation-ready (ideally by the end of 2021), including:

- expanding the range of documents that can be validly signed electronically;
- increasing the range of documents that can be sent electronically to shareholders and amending requirements to contact lost shareholders;
- improving flexibility for customers when changing address and consenting to electronic communication with credit providers;
- removing prescriptive requirements for notices to be published in newspapers, where suitable alternatives have been identified; and
- addressing provisions in Treasury legislation where only non-electronic payment options are in place.

Subsequent phases will consider reforms in additional areas that could benefit from greater technology neutrality, including communication with regulators, and product disclosure and recordkeeping requirements.

### ATO "keeping JobKeeper payment fair"

The ATO is using its compliance resources to maintain the integrity of the JobKeeper measure.

While most businesses and employees have done the right thing, the ATO has identified concerning and fraudulent behaviour as well as claims by a small number of organisations and

employees, and will actively pursue these claims.

Some of the concerning behaviours the ATO is currently examining include:

- **businesses that have:**
  - made claims for employees without a nomination notice, or have not paid their employees the correct JobKeeper amount (before tax);
  - made claims for employees where there is no history of an employment relationship;
  - amended their prior business activity statements to increase sales in order to meet the turnover test; or
  - recorded an unexplained decline in turnover, followed by a significant increase; and
- **individuals who have knowingly:**
  - made multiple claims for themselves as employees or as 'eligible business participants'; or
  - made claims both as an employee and an 'eligible business participant'.

The ATO encourages all JobKeeper applicants to review their applications and contact the ATO if they have made mistakes (and the ATO may not pursue repayment of an overpayment in certain circumstances, such as for honest mistakes).

If anyone is concerned that someone is doing the wrong thing in relation to the JobKeeper payment, they are encouraged to tell the ATO about it. The ATO will be examining JobKeeper Tip-Offs and contacting businesses where it has concerns and needs more information.

### **Independent review service for small businesses made permanent**

Following a successful multi-year pilot, the ATO's small business independent review service will be offered permanently as a dispute resolution option for eligible small businesses.

ATO Deputy Commissioner Jeremy Geale said the service is all about ensuring small businesses are given the opportunity to achieve an independent, fast, free, and fair resolution when they disagree with the ATO's audit position:

*"Independence is critical when handling a dispute, so we ensure each and every independent review is done by an officer from a different part of the ATO who was not involved in the original audit".*

The ATO's small business independent review service is available to eligible small businesses with an annual turnover of less than \$10 million in relation to disputes about income tax, GST, excise, luxury car tax, wine equalisation tax, and fuel tax credits, and is in addition to other dispute options.

Disputes about employer obligations like superannuation and FBT are not eligible for the independent review service.

More information about the ATO's independent review service, including how to request a review and eligibility criteria, is available on the ATO's website.

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### **ATO asks businesses to check if they are still using their ABNs**

The ATO has advised that, if a business hasn't used its ABN for a while, the ATO may contact them about cancelling their ABN.

The ATO may also contact them about their ABN if their business situation has changed.

To ensure businesses don't miss out on Government support, including during unfortunate events, it's essential that they regularly review their ABN details and keep them up to date (or cancel their ABN if the business is no longer operating, so that Government agencies can tailor their support to those that need it).

It's also important to check that the business has listed the physical address of the business, as otherwise it can be difficult for emergency services and Government agencies to make contact.

A business' mailing address and physical location address can be listed separately on its ABN data, and these (and other ABN details) can be checked and updated online at any time.

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### **Passenger movement data-matching program**

The ATO will access data from the Department of Home Affairs on passenger movements during the 2016/17 to 2022/23 financial years, and match it with certain sections of ATO data holdings to identify taxpayers that can be provided with tailored information to help them meet their tax and superannuation obligations, or to ensure compliance with taxation and superannuation laws.

Data items include names, dates of birth, arrival and departure dates, passport information, and status types (visa status, residency, lawful, Australian citizen).

The ATO estimates that records relating to approximately 670,000 individuals will be obtained each financial year.

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### **Super contribution caps will increase from 1 July 2021**

The ATO has confirmed that, from 1 July 2021, the superannuation concessional and non-concessional contribution caps will be indexed.

The new caps for the 2021/22 year will be:

- Concessional Cap: \$27,500
- Non-Concessional cap: \$110,000 (or \$330,000 over 3 years)

The total superannuation balance limit that determines if an individual has a non-concessional contributions cap of nil will also increase from \$1.6 to \$1.7 million, effective from 1 July 2021.