SIRAGUSA
ACCOUNTANTS & ADVISERS

2021 Guide for Companies

In brief

Date	Changes and actions
21 May 2021	• Payment of Fringe Benefits Tax liability due if applicable
25 June 2021	• FBT returns due
Pre 30 June 2021	• Review shareholder loan accounts and make minimum loan repayments (may need to declare dividends). The maximum franking percentage rules have changed recently – we can discuss this with you • Pay superannuation to deduct contributions in the current financial year • Complete a stocktake where required (see *Do you need to do a stocktake?)* • Write-off bad debts and scrap any obsolete stock or plant and equipment • Ensure any inter-entity management fees have been raised
30 June 2021	• Extension for COVID-19 impacted minimum Division 7A loan repayments for the 2020 year ends and loans need to be brought up to date
1 July 2021	• Company tax rate for base rate entities reduces to 25% • Super guarantee rate increases to 10% • New guidance on tax treatment of profits of professional services firms applies • Single touch payroll commences for closely held employees – family members, directors etc • New 'stapled' super obligations intended to commence
14 July 2021	• Single touch payroll finalisation declarations need to be made (extensions can apply for closely held payees)
28 July 2021	• Quarterly super guarantee payment due (1 April – 30 June)
28 August 2021	• Taxable payments annual reports for payments to contractors due
6 October 2021	• Last day for hiring employees to qualify for the JobMaker hiring credit
31 March 2022	• Last day of the 50% boosting apprenticeship wage subsidy
1 July 2022	• Super guarantee rate increase to 10.5%
30 November 2022	• Last day for existing company directors to acquire a Director Identification Number (30 November for directors of corporations under CATSI)

What's new

Company tax rate reduction

From 1 July 2021, the company tax rate for base rate entities will reduce to 25%.

	2018-19 and 2019-20	2020-21	2021-22
Base rate entities*	27.5%	26%	25%
Other corporate tax entities	30%	30%	30%

**aggregated turnover less than $50m and no more than 80% of the company's assessable income is base rate entity passive income.*

Utilising franking credits

The reduction in the company tax rate will also change the maximum franking rate that applies to dividends paid by base rate entities (BRE). The way the rules normally work is that if the company was classified as a base rate entity and was taxed at the lower corporate tax rate in the previous year then a lower maximum franking rate will apply to dividends paid in the current year. For example, the maximum franking rate for a BRE that pays a franked dividend in the 2021 year is 26%. However, in 2022, the maximum franking rate will be 25%.

Some companies may have franking account balances that have accumulated over time and will reflect prior company tax rates. It is important to consider how these credits can be utilised in an efficient manner. One strategy could be to bring forward the payment of dividends to utilise the current 26% franking rate before the company tax rate reduces to 25% if the cashflow of the company allows for it.

Profits of professional services firms

Draft guidance (PCG 2021/D2) released by the ATO and set to apply from 1 July 2021 takes a strong stance on how the profits of professional services firms are structured and how profits flow through to the professionals involved. The ATO is specifically concerned with structures designed to divert income so the professional ends up receiving very little income directly for their work, reducing their taxable income.

Where these structures appear to be in place to divert income to create a tax benefit for the professional, Part IVA may apply. Part IVA is an integrity rule which allows the Commissioner to remove any tax benefit received by a taxpayer where they entered into an arrangement in a contrived manner in order to obtain a tax benefit. Part IVA may apply to schemes designed to ensure that the professional is not appropriately rewarded for the services they provide to the business, or that they receive a reward which is substantially less than the value of those services.

The draft guidance sets out a series of tests to identify a practitioner's risk level, looking at the structure of the business and how profits are distributed, and whether the structure has any high risk features.

Some arrangements that were previously considered low risk may now fall into a higher risk zone.

For professional services firms, it will be important to assess the risk level and this needs to be done for each principal practitioner separately.

Superannuation Guarantee increases to 10%

The Superannuation Guarantee (SG) rate will rise from 9.5% to 10% on 1 July 2021 and will then steadily increase by 0.5% each year until it reaches 12% on 1 July 2025.

If you have employees, what this will mean depends on your employment agreements. If the employment agreement states the employee is paid on a 'total remuneration' basis (base plus SG and any other allowances), then their take home pay might be reduced by 0.5%. That is, a greater percentage of their total remuneration will be directed to their superannuation fund. For employees paid a rate plus superannuation, then their take home pay will remain the same and the 0.5% increase will be added to their SG payments.

New 'stapled' superannuation employer obligations for new staff

Currently, when an employer hires a new staff member, the employee is provided with a Choice of Fund form to identify where they want their superannuation to be directed. If the employee does not identify a fund, the employer directs their superannuation into a default fund.

From 1 July 2021, where an employee does not identify a fund, employers will not simply be able to set up a default fund, but instead will be required to request that the ATO identify the employee's stapled fund. If the ATO confirms no other fund exists for the employee, contributions can be directed to the employer's default fund or a fund specified under a workplace determination or an enterprise agreement (if the determination was made before 1 January 2021).

Legislation enabling this measure is currently before the Senate. We will advise you if and when this change comes to fruition.

Temporary full expensing to be extended to 30 June 2023

Temporary full expensing enables your business to fully expense the cost of:

- new depreciable assets
- improvements to existing eligible assets, and
- second hand assets

in the first year of use.

Introduced in the 2020-21 Budget, this measure enables an asset's cost to be fully deductible upfront rather than being claimed over the asset's life, regardless of the cost of the asset. The Government plans to extend these rules to cover assets that are first used or installed ready for use by 30 June 2023.

Certain expenditure is excluded from this measure, such as improvements to land or buildings that are not treated as plant or as separate depreciating assets in their own right. Expenditure on these improvements would still normally be claimed at 2.5% or 4% per year.

The car limit will continue to place a cap on the deductions that can be claimed for luxury cars ($59,136 in 2020-21 and $60,733 in 2021-22).

From 1 July 2023, normal depreciation arrangements will apply and the instant asset write-off threshold for small businesses with turnover of less than $10 million is expected to revert back to $1,000.

Small business pooling

Small business entities (with aggregated annual turnover of less than $10 million) using the simplified depreciation rules can deduct the full balance of their simplified depreciation pool at the end of the income year while full expensing applies. The provisions which prevent small businesses from re-entering the simplified depreciation regime for five years if they voluntarily leave the system are suspended.

Opt-out rules

Taxpayers can choose not to apply the temporary full expensing rules to specific assets, although this choice is not currently available to small business entities that choose to apply the simplified depreciation rules for the relevant income year.

Other write-offs

For assets purchased prior to 6 October 2021, the instant asset write-off applied depending on the aggregated turnover of the business and the value of the eligible asset.

Write-off thresholds	**Aggregated turnover under $10m**	**Aggregated turnover under $50m**	**Aggregated turnover under $500m**	**Aggregated turnover under $5bn**
29 January 2020 – 2 April 2020	$25,000	-	-	-
2 April 2020 – 11 March 2020	$30,000	$30,000	-	-
12 March 2020 – 31 December 2020	$150,000	$150,000	$150,000	-
6 October 2020 – 30 June 2023	unlimited	unlimited	unlimited	unlimited

If temporary full expensing or the instant asset write-off does not apply, accelerated depreciation might apply for assets purchased and installed ready for use between 12 March and 30 June 2021. Accelerated depreciation provides faster depreciation deductions for eligible assets. For entities that are using the simplified depreciation rules they would basically deduct 57.5% of the asset's cost in the year the asset is first used. For entities that are not using the simplified depreciation rules they would deduct 50% of the cost or opening adjustable value of an eligible asset on installation. Existing depreciation rules apply to the balance of the asset's cost

Tax treatment of disaster and pandemic relief payments, grants & loans

If you received a government grant or relief to help soften the blow of a disaster, the way these grants and loans are taxed will vary.

In general, grants are taxable unless a law has been passed to specifically exclude the grant or loan from tax. For example, the 2021-22 Federal Budget made disaster recovery grant payments to primary producers and small businesses that relate to floods that occurred between 19 February and 31 March 2021 non-assessable non-exempt income.

And, if your business is in Victoria, a series of grants have been declared non-assessable, non-exempt income, but it really depends on the specific grant.

If you carry on a business and the payment relates to your continuing business activities, then it is likely to be included in your assessable income for income tax purposes unless a specific exemption applies. The position can sometimes be different where the payment was made to enable you to commence a new business or cease carrying on a business.

When it comes to GST treatment, the key issue is whether the grant is consideration for a supply. That is, was the business expected to deliver something for the grant? The following government payments are not consideration for a supply and therefore not subject to GST or included in your GST turnover:

- JobKeeper payment
- Cash flow boost payment
- The Early Childhood Education & Care Relief Package paid to approved child care providers
- Payment of grants to an entity where the entity has no binding obligations to do anything or does not provide goods and services in return for the monies.

R&D tax incentive restructured

The way the R&D tax incentive applies will change on 1 July 2021 to focus on 'more intensive' R&D activities, particularly in medical and clinical development. The changes attempt to refocus the incentive on activities that go well beyond what companies would normally do to improve.

Companies under $20m
For companies with an aggregated annual turnover less than $20 million, the refundable R&D tax offset is a premium of 18.5 percentage points above the claimant's company tax rate

Companies over $20m
For companies with aggregated annual turnover of $20 million or more, a two-tiered premium ties the rates of the non-refundable R&D tax offset to the incremental intensity of the R&D expenditure as a proportion of total expenditure for the year. The new rates will be the claimant's company tax rate plus:

- 8.5 percentage points for R&D expenditure up to 2% R&D intensity
- 16.5 percentage points for R&D expenditure above 2% R&D intensity.

The R&D expenditure threshold - the maximum amount of R&D expenditure eligible for concessional R&D tax offsets - will be increased from $100 million to $150 million per annum.

In addition, where an R&D entity benefits from a government recoupment (such as a grant or reimbursement) for expenditure that is also eligible for the R&D tax offset, a clawback applies to reverse the double benefit that arises. The clawback is in the form of an additional 10% tax on the recoupment.

Director ID regime

Directors will be required to register for a unique identification number that they will keep for life, much like a tax file number, under a rewrite of Australia's business registers.

The introduction of the Director Identification Number (DIN) regime is part of the Government's Modernisation of Business Registers (MBR) Program creating greater transparency and tracking the movements of individuals over time. The MBR will unify the Australian Business Register and 31 ASIC business registers, including the register of companies. In effect, the system will create one source of truth across Government agencies for individuals and entities and will be managed by the Australian Taxation Office (ATO).

The DIN is very broad and introduces the concept of an 'eligible officer'. An eligible officer is a director who:

- is appointed to the position of director, or is appointed to the position of an alternate director and is acting in that capacity (regardless of the name that is given to that position); or
- any other officer of the registered body who is an officer of a kind prescribed by the regulations.

The definition picks up the concept of 'shadow directors' who act in the capacity of directors through influence and control but are not directors by title. That is, it's feasible that someone who is not a director but is seen to be making decisions on behalf of the company can be held to account.

An eligible officer is a director of a:

- company
- registered foreign company
- registered Australian body under the Corporations Act such as an association or a charity, or
- an Aboriginal and Torres Strait Islander corporation (which are registered under the CATSI Act).

The new regime is expected to start shortly with Directors provided with a transitional period until 30 November 2022 (or 2023 under the CATSI Act).

Employee share schemes

Employee share schemes provide an opportunity for employers to offer employees a stake in the growth of the company by issuing interests such as shares, rights (including options) or other financial products to their employees, usually at a discount.

In the 2021-22 Federal Budget, the Government flagged its intention to simplify employee share schemes and make them more attractive by removing the cessation of employment taxing point for tax-deferred Employee Share Schemes (ESS). Currently, when an employee receives shares or options that are subject to deferred taxation the taxing point is triggered when they cease employment with the company, even if they could still lose the shares or options in future or have not yet exercised the options they have received.

This will mean that under a tax-deferred ESS, where certain criteria are met, employees may continue to defer the taxing point even if they are no longer employed by the company. In broad terms, following this change the deferred taxing point will be the earliest of:

- in the case of shares, when there is no risk of forfeiture and no restrictions on disposal
- in the case of options, when the employee exercises the option and there is no risk of forfeiting the resulting shares and no restriction on disposal
- the maximum period of deferral of 15 years.

Regulatory changes will also be made to reduce red tape where employers do not charge or lend to the employees to whom they offer ESS. Where employers do charge or lend, streamlining requirements will apply for unlisted companies making ESS offers that are valued at up to $30,000 per employee per year.

The detail of the ESS simplification has not been released.

ATO targets cryptocurrency

Cryptocurrency has become normalised to the point where Bitcoin ATMs are available in most Australian capital cities. The ATO estimates there are over 600,000 taxpayers that have invested in crypto-assets in recent years and it’s an area of keen interest to them.

If your business accepts cryptocurrency as payment for goods or services, these payments are treated in the same way as any other. That is, if your business is registered for GST, the price paid by the person paying in the digital currency should include GST. Likewise, if you purchase goods or services for use in your business then you should generally be able to claim GST credits on the transaction in your activity statement, even if you used digital currency to make the purchase.

If you are in the business of trading cryptocurrencies and your business is registered for GST, you would generally charge GST on the exchange of the currency and claim the GST credits in your activity statement. While the GST rules have been updated to ensure that a GST liability doesn’t apply to the provision of cryptocurrency for goods or services, the rules don't prevent GST from applying to the supply of cryptocurrencies in exchange for a payment of money or digital currency.

It is also possible that someone could hold cryptocurrency as trading stock if it is held for the purpose of sale or exchange in the ordinary course of a business. Any gains from the trades are then taxed in the business's income tax return. CGT concessions and exemptions are not generally available in this case. If you are in the business of trading cryptocurrencies, that is, you approach the trading in a business-like manner, then you can generally claim losses and other business expenses.

The tax laws can be complex in this area and it's important to ensure that you get the right advice.

It's important to keep records of your cryptocurrency exchanges. The ATO regularly runs data matching projects, and has access to the data from many crypto platforms and banks.

Financial 'housekeeping'

Payment deferrals

If you are having trouble paying your tax liability, please let us know as soon as possible so we can negotiate a deferral or payment plan with the ATO on your behalf.

Reporting payments to contractors

The taxable payments reporting system requires businesses in certain industries to report payments they make to contractors (individual and total for the year) to the ATO. 'Payment' means any form of consideration including non-cash benefits and constructive payments. Taxable payments reporting is required for:

- Building and construction services
- Cleaning services
- Courier services
- Road freight services
- Information technology (IT) services
- Security, investigation or surveillance services
- Mixed services (providing one or more of the services listed above)

The annual report is due by 28 August 2021.

The ATO has contractor payment data from 158,000 businesses from 2019-20 and is using data analytics to ensure that contractors have reported all income received and where required, their GST obligations have been fulfilled.

Refunds for tax losses

In the 2020-21 Federal Budget, the Government announced that businesses with turnover under $5bn* will be able to offset tax losses made between 2019-20 and 2021-22 against previously taxed profits between 2018-19 and 2020-21.

The loss carry-back rules enable a company to offset tax losses against profits taxed in a previous year, generating a refundable tax offset. The amount carried back can be no more than the earlier taxed profits, limiting the refund to the company's tax liabilities in the profitable years. The company can choose to carry-back a loss or carry it forward. That is, tax losses for the 2019-20, 2020-21 or 2021-22 income years can either be:

- Carried forward and deducted against income derived in later income years; or
- Carried back against income of earlier income years as far back as the 2018-19 income year to produce a refundable tax offset.

In addition to this the Government announced in the 2021-22 Federal Budget that this measure would be extended to the 2023 income year.

Shareholder loan agreement minimum repayments

Division 7A captures situations where shareholders access company profits in the form of loans, payments or forgiven debts. If certain steps are not taken, such as placing the 'payment' under a complying loan agreement, these amounts are treated as a deemed unfranked dividend and taxable at the taxpayer's marginal tax rate.

The ATO provided an extension for COVID-19 impacted taxpayers unable to meet their minimum loan repayments under a Division 7A loan agreement in the 2019-20 year until 30 June 2021 (where they applied for an extension). These loans will need to be brought up to date by 30 June 2021 to avoid a deemed dividend being triggered.

Before you roll-over your software…

Before rolling over your accounting software for the new financial year, make sure you:

- Prepare your financial year-end accounts. This way, any problems can be rectified and you have a 'clean slate' for the 2021-22 year. Once rolled over, the software cannot be amended.
- Do not perform a Payroll Year End function until you are sure that your STP finalisation declaration is correct and printed. Always perform a payroll back-up before you roll over the year.

Employee reporting

Single touch payroll

Where payments to employees have been reported to the ATO through single touch payroll, a finalisation declaration generally needs to be made by 14 July 2021. However, there are some exceptions to this.

If the entity has 20 or more employees and some of them are closely held employees, then the finalisation declaration for the closely held employees needs to be made by 30 September.

For entities with 19 or fewer employees and which only have closely held employees the finalisation declaration should be made by due date for lodgement of the tax return of the relevant employee.

Employees will be able to access their Income Statement through their myGov account.

Closely held payees

Small employers (19 or fewer) are required to use STP for closely held payees from 1 July 2021. Payments to closely held payees can be reported through STP in one of three ways:

- Reporting actual payments in real time - reporting each payment to a closely held payee on or before each pay event (essentially using STP 'as normal').
- Reporting actual payments quarterly - lodging a quarterly STP statement detailing these payments for the quarter, with the statement due when the activity statement is due.
- Reporting a reasonable estimate quarterly - lodging a quarterly STP statement estimating reasonable year-to-date amounts paid to employees, with the statement due when the activity statement is due.

Small employers that have arm's length employees must report STP information on or before each payday regardless of the method that is chosen for reporting payments to closely held payees.

If your business has closely held employees, it will be important to plan throughout the year to prevent problems occurring at year end.

Reportable Fringe Benefits

Where you have provided fringe benefits to your employees in excess of $2,000, you need to report the FBT grossed-up amount. This is referred to as a `Reportable Fringe Benefit Amount' (RFBA).

Do you need to do a stocktake?

Businesses that buy and sell stock generally need to do a stocktake at the end of each financial year as the increase or decrease in the value of stock is included when calculating the taxable income of your business.

If your business has an aggregated turnover below $10 million you can use the simplified trading stock rules. Under these rules, you can choose not to conduct a stocktake for tax purposes if the difference in value between the opening value of your trading stock and a reasonable estimate of the closing value of trading stock at the end of the income year is less than $5,000. You will need to record how you determined the value of trading stock on hand.

If you do need to complete a stocktake, you can choose one of three methods to value trading stock:

- **Cost price** – all costs connected with the stock including freight, customs duty, and if manufacturing, labour and materials, plus a portion of fixed and variable factory overheads, etc.
- **Market selling value** - the current value of the stock you sell in the normal course of business (but not at a reduced value when you are forced to sell it).
- **Replacement value** - the price of a substantially similar replacement item in a normal market on the last day of the income year.

A different basis can be chosen for each class of stock or for individual items within a particular class of stock. This provides an opportunity to minimise the trading stock adjustment at year-end. There is no need to use the same method every year; you can choose the most tax effective option each year. The most obvious example is where the stock can be valued below its purchase price because of market conditions or damage that has occurred to the stock. This should give rise to a deduction even though the loss has not yet been incurred.

Reduce your risks & minimise your tax

Top tax tips

1. Declare dividends to pay any outstanding shareholder loan accounts

If your company has advanced funds to a shareholder or related party, paid expenses or allowed a shareholder or other related party to use assets owned by the company, then this can be treated as a taxable dividend. The regulators expect that top up tax (if any applies) should be paid by shareholders at their marginal tax rate once they have access to these profits. This is unless a complying loan agreement is in place.

If you have any shareholder loan accounts from prior years that were placed under complying loan agreements, the minimum loan repayments need to be made by 30 June 2021. It may be necessary for the company to declare dividends before 30 June 2021 to make these loan repayments.

The tax rules in this area can be extraordinarily complex and can lead to some very harsh tax outcomes. It is important to talk to us as soon as possible if you think your company has made payments or advanced funds to shareholders or related parties.

2. Directors' fees and employee bonuses

Any expected directors' fees and employee bonuses may be deductible for the 2020-21 financial year if you have 'definitely committed' to the payment of a quantified amount by 30 June 2021, even if the fee or bonus is paid to the employee or director after 30 June 2021.

You would generally be definitely committed to the payment by year-end if the directors pass a properly authorised resolution to make the payment by year-end. The employer should also notify the employee of their entitlement to the payment or bonus before year-end.

The accrued directors' fees and bonuses need to be paid within a reasonable time period after year-end.

3. Write-off bad debts

To be a bad debt, you need to have brought the income to account as assessable income and given up all attempts to recover the debt. It needs to be written off your debtors' ledger by 30 June. If you don't maintain a debtors' ledger, a director's minute confirming the write-off is a good idea.

4. Review your asset register and scrap any obsolete plant

Check to see if obsolete plant and equipment is sitting on your depreciation schedule. Rather than depreciating a small amount each year, if the plant has become obsolete, scrap it and write it off before 30 June. Small business entities can choose to pool their assets and claim one deduction for each pool. This means you only have to do one calculation for the pool rather than for each asset.

5. Bring forward repairs, consumables, trade gifts or donations

To claim a deduction for the 2020-21 financial year, consider paying for any required repairs, replenishing consumable supplies, trade gifts or donations before 30 June.

6. Pay June quarter employee super contributions now

Pay June quarter super contributions this financial year if you want to claim a tax deduction in the current year. The next quarterly superannuation guarantee payment is due on 28 July 2021. However, some employers choose to make the payment early to bring forward the tax deduction instead of waiting another 12 months.

Don't forget yourself. Superannuation can be a great way to get tax relief and still build your personal wealth. Your personal or company sponsored contributions need to be received by the fund before 30 June to be deductible.

7. Realise any capital losses and reduce gains

Neutralise the tax effect of any capital gains you have made during the year by realising any capital losses – that is, sell the asset and lock in the capital loss. These need to be genuine transactions to be effective for tax purposes.

8. Raise management fees between entities by June 30

Where management fees are charged between related entities, make sure that the charges have been raised by 30 June. Where management charges are made, make sure they are commercially reasonable and documentation is in place to support the transactions. If any transactions are undertaken with international related parties then the transfer pricing rules need to be considered and the ATO's documentation expectations will be much greater. This is an area under increased scrutiny.

What we need from you

This is a general list of what to have ready when we next meet with you:

- Accounts data file (MYOB, Quickbooks, access to Xero)
- Debtors & creditors reconciliation
- Stocktake if applicable (or if your business is a Small Business Entity, use the simplified trading stock rules mentioned above)
- 30 June bank statements on all relevant loan documents
- Documents on new assets bought or sold, including the date you entered the contract and the date the asset was first used or installed ready for use
- Details of any grants or disaster loans received
- Details of any insurance payouts for your business or business premises
- Payroll reconciliation
- Superannuation reconciliation
- Cash book (if applicable)
- Details of any transactions involving cryptocurrency (e.g., Bitcoin)

- 30 June statements on any investment or operating accounts

And, if we are preparing your individual income tax return:

- Income Statement
- Tax statements of managed investment funds
- Interest income from banks and building societies
- Dividend statements for dividends received
- For share sales or purchases, the purchase and sale contract notes
- For real estate sales or purchases, the solicitor's correspondence for the purchase and sale
- Rental property statements from real estate agent and details of other expenditure incurred
- Work related expenses
- Self-education expenses
- Travel expenses
- Donations to charities
- Health insurance and rebate entitlement
- Family Tax Benefits received
- Commonwealth assistance notices
- IAS statements or details of PAYG Instalments paid
- Details of any transactions involving cryptocurrency (e.g., Bitcoin)
- Details of any income derived from participating in the sharing economy (e.g., Uber driving, rent from AirBNB, jobs completed through Airtasker etc.,)