Changes from 1 July 2021 will impact on how much money you can contribute to superannuation and how much you can have in your retirement phase superannuation account.

In general, your superannuation is either in an accumulation account (when you are building your super), a retirement account (when you meet preservation age and certain conditions of release and can withdraw your super), or in between when you are transitioning to retirement (when you reach perseveration age, are working reduced hours and take some of your superannuation as a pension).

The amount of money you can transfer from your accumulation account into your tax-free retirement account is limited by a transfer balance cap (TBC). From 1 July 2021, the current $1.6m general TBC will be indexed to $1.7m and once indexed, no single cap will apply to all individuals (each person will have an individual TBC between $1.6m and $1.7m).

Indexation will also change other superannuation caps and limits including:

- Non-concessional contributions (contributions from after tax income)
- Concessional contributions (contributions from before tax income such as super guarantee, salary sacrificed super amounts, or contributions you make and claim a tax deduction for etc.)
- Co-contributions (personal contributions made by low and middle income earners matched by the Government up to $500), and

Contributions you make on behalf of your spouse that are eligible for a tax-offset

How will the transfer balance cap impact me?

You are accumulating super

If you are building your superannuation (accumulation phase) and not withdrawing it*, indexation of the TBC is a good thing because from 1 July 2021 you will be able to access more of your superannuation tax-free. If you start taking your superannuation after 1 July 2021, for example if you meet a condition of release and retire, your transfer balance cap will be $1.7m. Essentially, if you have never had a transfer balance account credit, then the full indexation is available to you.

For low and middle income earners claiming the government co-contribution, the limit will increase in line with indexation to $1.7m.

Similarly, if you are contributing superannuation to your spouse and claiming the tax offset, the limit will increase in line with indexation to $1.7m. That is, you can contribute to your spouse's superannuation and claim the tax offset as long as their TBC is not more than $1.7m.

You have started taking your super

If you started taking your superannuation before 1 July 2021 and have already had a credit added to your transfer balance account, then your TBC will be between $1.6m and $1.7m depending on the balance of your transfer balance account between 1 July 2017 and 30 June 2021. If your account reached $1.6m or more at any point during this time, your TBC after 1 July 2017 will remain at $1.6m. If the highest credit ever in your account was between $1 and $1.6m, then your TBC will be proportionally indexed based on the highest ever credit balance your transfer balance account reached. That is, the ATO will look at the highest amount your transfer balance account has ever been, then apply indexation to the unused cap amount. For example, if you started a retirement phase income stream valued at $1.2m on 1 October 2018 and this was the highest point of your account before 1 July 2021, then your unused cap is $400,000. This unused cap amount is used to work out your unused cap percentage (400k/1.6m=25%). The unused cap percentage is then applied to $100,000 ($100k*25%=$25k) to create your new TBC of $1,625,000.

Note that indexation only applies to the difference between the $1.6m TBC and the **highest point of your account at any point between 1 July 2017 and 30 June 2021**, not the value of your account at 30 June 2021. That is, if you made additional contributions after 1 October 2018 that increased your account to say $1,440,000, then indexation would apply to your unused cap of $160,000 (instead of $400,000), creating a TBC on 1 July 2021 of $1,610,000.

Indexation does not impact existing child death benefit beneficiaries. Child death benefit income streams commencing after 1 July 2021 will be entitled to the increment if the parent never had a transfer balance account or a proportion if the parent had a transfer balance account.

If you receive income from a capped defined benefit income stream and you are 60 years of age or more, or the income stream is from a death benefit where the member was over 60 at the time of death, then the defined benefit income cap will increase to $106,250 for most individuals. This will mean that the money your fund withholds from your income stream may change.

The amount you can contribute to super will increase

Indexation will increase the concessional and non-concessional contribution caps from 1 July 2021. These caps are indexed by average weekly ordinary time earnings (AWOTE).

Cap	Current cap	Cap from 1 July 2021
Concessional contributions cap	$25,000	$27,500
Non-concessional contributions cap	$100,000	$110,000

The bring forward rule

The bring forward rule enables you to contribute up to three years' worth of non-concessional contributions in the one year. That is, from 1 July 2021, you could contribute up to $330,000 to your superannuation in one year. You can use the bring forward rule if you are 64 or younger on 1 July of the relevant financial year of the contribution and the contribution will not increase your total super balance by more than your transfer balance account cap.

If you utilised the bring forward rule in previous years, your non-concessional cap will not change. You will need to wait until your three years has expired before utilising the new cap limit.

1 July 2017 – 30 June 2021		After 1 July 2021	
Total Superannuation Balance (TSB)	Contribution and bring forward available	Total Superannuation Balance (TSB)	Contribution and bring forward available
Less than $1.4m	$300,000	Less than $1.48m	$330,000
$1.4m -$1.5m	$200,000	$1.48m - $1.59m	$220,000
$1.5m - $1.6m	$100,000	$1.59m - $1.7m	$110,000
Above $1.6m	Nil	Above $1.7m	Nil

** excludes withdrawals made under the COVID 19 relief measures.*

Tax treatment of JobKeeper payments handed back to ATO

The ATO has clarified the tax treatment of JobKeeper payments handed back to the Government. The clarification comes after the Super Retail Group, Dominos Pizza and Toyota collectively returned more than $20 million in JobKeeper payments after reporting exceptional trading results.

Where a business has handed back JobKeeper despite qualifying for the payments, the ATO states that:

- JobKeeper payments returned to the Government are still included in assessable income, and
- The returned payments may be deductible in limited circumstances if the repayment is to a achieve the business's objectives. For example, if the media exposure from the returned payment generates goodwill for the business or publicises the business, or the repayment prevents a downturn in business activity.

The message is, if you are returning JobKeeper payments voluntarily, make the decision public. If no one knows about the repayment then it is unlikely to be deductible. If your business decides to hand back JobKeeper despite being entitled to the payments, special arrangements will need to be put in place with the ATO as the repayments are treated differently and require a special payment reference number.

We note that if your business and your employees qualified for the first tranche of JobKeeper payments, you are under no obligation to return the money if trading conditions were better than the estimate you provided to the ATO.

JobMaker fails to boost employment

The Government's JobMaker scheme has created 609 new jobs since registrations opened on 1 February 2021, despite around 15,000 businesses registering their interest in the scheme.

The hiring credit is available for jobs created from 7 October 2020 until 6 October 2021 and provides $200 per week for new employees between 16 to 29 years of age, and $100 a week for new employees between

30 to 35 years of age. Payment is from the start date of the employee for 12 months. To date, around 70% of employers taking advantage of the credit are micro-employers with another 20% from the SME sector.

Unlike JobKeeper, the employer keeps the JobMaker payment and does not pass it onto their employee.

One of the reasons for the low take up rate, beyond a general lack of awareness in the business community, is likely to be the complexity of the scheme versus the reward. There are a number of tests and compliance requirements at both the employer and employee level including an 'additionality test' that requires the total headcount of the business to remain above a baseline number of employees. That is, if you employ an eligible employee and an existing employee resigns, the benefit cancels out because there is no longer an increase in total headcount.

In addition, JobMaker only applies where an employer takes an employee from the unemployment queue. That is, the employee had to be receiving the JobSeeker Payment, Youth Allowance or Parenting Payment for at least one month within the three months before they were hired.

It is possible that more businesses will start to take advantage of the scheme now that the JobKeeper scheme has finished. Businesses that were still eligible for JobKeeper could not generally access JobMaker at the same time.

The Treasurer has stated that the Government will review the design of the JobMaker program in the upcoming Federal Budget with only $800,000 of the $4 billion scheme's budget distributed.

Australia's unemployment rate decreased to 5.8% in February 2021 (0.8% higher than 12 months ago) with just under 70,000 jobs created in the month. Underemployment has risen to 8.5%.

National licence recognition for 'Tradies'

Builders, electricians, plumbers, architects, real estate agents, security guards and other workers who hold an occupational licence in their home state or territory and who want to do the same work in another state or territory will soon be automatically deemed to have the necessary licence.

The Federal, State and Territory Governments have agreed to a mutual recognition regime that will be implemented by the Federal Government. Exposure draft legislation enabling the seamless mutual recognition scheme was released last month with the scheme expected to start from 1 July 2021.

Workers will not need to pay additional licence fees or apply for additional licences.

Workers working in another state or territory will need to comply with local laws and regulations (including vulnerable people character test) and in some cases will need to notify the regulator they intend to work in their State. The States have the capacity to refuse a registration or type of license from mutual recognition.

Those subject to disciplinary action or who have conditions on their registration as a result of disciplinary, civil or criminal action will be excluded from automatic mutual recognition

Those subject to disciplinary action or who have conditions on their registration as a result of disciplinary, civil or criminal action will be excluded from automatic mutual recognition. Information on cancelled or suspended registrations and disciplinary proceedings and to record cancellations and suspensions on registers, will be shared.

Directors ID Scheme – More Red Tape

Business directors now have a set deadline to obtain a director identification number under the federal government's digital business plan under new Treasury draft legislative instruments.

The legislative instrument has given directors appointed under the *Corporations Act 2001* up until 30 November 2022 to obtain a director identification number (director ID).

The deadline will apply for both existing directors who were appointed prior to the start of the director ID regime and directors appointed during the testing phase.

Directors of Indigenous corporations that are governed by the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (the CATSI Act) have separate obligations to apply for a director ID, with a deadline of 30 November 2023 for existing and newly appointed CATSI Act directors.

The Treasury released the legislative instruments as the federal government announced the full implementation of the Modernising Business Registers (MBR) program as part of the 2020 budget Digital Business Plan.

The MBR program aims to unify the Australian Business Register and 31 business registers administered by the Australian Securities and Investments Commission into a single platform.

The platform will be administered by the Commonwealth Registrar under legislation and as a separate statutory function of the Australian Taxation Office.

The MBR program includes the introduction of a director ID that is a unique identifier that a director will keep forever.

The director ID will help prevent the appointment of fictitious directors and facilitate traceability of their profile and relationships with companies over time.

The government announced almost $420 million towards the MBR program as part of last year's federal budget.

The Treasury revealed the legislative instruments as part of a consultation process that is focused on the transitional period's directors will have to apply for a director ID during the early stages of the director ID regime.

Insolvencies Set To Rise

At least 5,000 businesses are likely to become insolvent in the next quarter as the market plays catch-up after the end of JobKeeper and the reinstatement of normal rules around trading while insolvent, a new report predicts.

CreditorWatch, in conjunction with McGrathNicol, launched a new white paper exploring insolvency trends, options for businesses working through debts and potential sources of funding post-31 March.

The credit reporting agency said that according to figures published by the Australian Securities and Investments Commission, each year, roughly 8,000 businesses are placed into external administration.

But it noted that, in 2020, only 5,000 businesses entered administration, meaning 3,000 businesses that should have become insolvent last year are due to fail this year.

It's also important to remember we are in a much better position than anyone could have anticipated this time last year.

Against this backdrop, it's essential for businesses to engage their advisers, in particular, their accountant and, if necessary, restructuring experts. This will ensure they have a clear and real-time view of the position of the business and its ability to pay its debts on an ongoing basis, and a better understanding of customers' capacity to pay. Questions in consideration:

- Are your suppliers still financially viable?
- What are the risks in your supply chain?
- Look downstream at your customers and assess their solvency,

Given the revised small business restructuring legislation, company-led restructuring through 2021 and 2022 is expected to rise.

There's capital available for the right businesses, and stakeholders such as the federal government, the Australian Taxation Office and the banks are much more willing to support restructuring solutions than they may have been in the past.

Small Business Grants for Northern Beaches Businesses

If you are a small business owner or a not-for-profit located on the Northern Beaches, Sydney, and were impacted by the Public Health (COVID-19 Northern Beaches) Order 2020, you may be eligible for a one-off small business hardship grant of $3000 or $5000.

The Northern Beaches Public Health Order restricted movement, gatherings and the opening of some businesses. This grant supports businesses as they rebuild and recover from the impacts of COVID-19. Grants needs to be used for the business and business expenditure such as:

- Unavoidable business operating expenses, such as utilities or rent
- Financial, legal or other advice to support business continuity planning
- Marketing and communications activities
- Other activities to support the operation of the business.

The grant cannot be used to cover expenses for which other government support is available, such as wages for workers who are eligible for JobKeeper.

Applications are now open online.

Eligibility

To be eligible for a grant, small businesses and not-for-profit organisations must:

Have an Australian Business Number (ABN) that is registered in the Northern Beaches Local Government Area (LGA), or be able to demonstrate the business is physically located and primarily operating in the Northern Beaches LGA as at 1 December 2020

- Be non-employing or employ fewer than 20 full-time equivalent workers
- Have total Australian wages below the NSW Government 2020-21 payroll tax threshold of $1.2 million as at 1 July 2020
- Have an annual turnover of more than $75,000 as at 1 March 2020
- Have had unavoidable business costs during the Northern Beaches Public Health Order, for which there is no other government support available.

To be eligible for the $3000 grant, small businesses and not-for-profit organisations must also:

- Experienced at least 30% decline in turnover due to the Northern Beaches Public Health Order over a minimum 2-week period from 19 December 2020 to 10 February 2021 compared to the corresponding period a year earlier.

To be eligible for the $5000 grant, small businesses and not-for-profit organisations must also:

- Experienced at least 50% decline in turnover due to the Northern Beaches Public Health Order over a minimum 2-week period from 19 December 2020 to 10 February 2021 compared to the corresponding period a year earlier.

Notes:

- Eligible businesses may only receive the $3000 or the $5000 grant, not both.
- If your business was not in operation a year earlier, or if your turnover a year earlier was not representative of your usual or average turnover because your business was affected by drought or bushfires, you may still be eligible for this grant. Contact Service NSW for more information.

Where a small business does not submit a BAS to the Australian Tax Office and meets all other criteria, the small business should contact Service NSW to discuss further. In these cases, an income tax declaration may be accepted as evidence of an annual turnover of $75,000.

In addition, you will need to provide a declaration that you meet the eligibility criteria, including at least a 30% or 50% decline in turnover from 19 December 2020 to 10 February 2021 compared to the corresponding period a year earlier.

If your business is physically located and operating in the Northern Beaches LGA, but your ABN is registered outside of the area, you will need to provide evidence of eligible business premises and activities, such as rates notices or lease agreements.

Auditing requirements

Service NSW can request a combination of the following documents to support its determination of eligibility:

- prior BAS statements
- income tax declaration
- profit and loss statements
- extractions from accounting software
- receipts and invoices from purchases.

Successful grant recipients may be audited in the future, so you'll need to keep all documentary evidence relied upon to make an application for a minimum of 5 years.

As part of an audit, you may also be required to provide evidence (for example, official receipts) demonstrating that you have used funds in accordance with the Terms and Conditions of this grant.

NSW Government Small Business Rebate Scheme

If you are a sole trader, the owner of a small business or a not-for-profit organisation in NSW, you may be eligible for a small business fees and charges rebate of $1500.

This rebate helps businesses recover from the impacts of COVID-19 and encourages growth by reducing the cost of running a business. Eligible businesses or not-for-profits only need to apply for the rebate once, but can submit multiple claims until the full value of $1500 is reached.

Funds can be used to offset the costs of eligible NSW and local government fees and charges. These include, but are not limited to fees and charges for expenditure such as; food authority licences, liquor licences, tradesperson licences, event fees, outdoor seating fees, council rates.

For example, cars owned and registered in a business will be eligible for the rebate along with commercial tenants where the landlord passes on the costs of rates to the tenant. Proof will be required.

The rebate can only be used for eligible fees and charges due and paid from 1 March 2021. It cannot be used for fines or penalties, fees and charges that have the key purpose of discouraging behaviours or inducing behaviour changes. Guidelines are expected for more information on eligible and non-eligible expenditure.

The rebate will be available until 30 June 2022.

Eligibility

To be eligible for this rebate, small businesses (including non-employing sole traders) and not-for-profit organisations need to:

- Have total Australian wages below the NSW Government 2020-2021 payroll tax threshold of $1.2 million.
- Have an Australian Business Number (ABN) registered in NSW and/or have business premises physically located and operating in NSW
- Be registered for goods and services tax (GST)
- Provide a declaration that the business has a turnover of at least $75,000 per year.

Note: Only one $1500 rebate is available for each ABN. Not-for-profit organisations are not subject to the GST requirement but must demonstrate a turnover of more than $75,000 per year.

You will need to supply supporting documentation when applying for the rebate and each time you make a claim. For each claim you make, you will need to provide invoices and receipts showing payment of eligible fees or charges.

How to apply

Applications are online with Serve NSW. It is important to note that you should have all your documentation and evidence ready for uploading. ***You cannot save and resume your application once you've started.***

When you submit your application, you'll receive a confirmation email with your application reference number. If you do not receive this email within 5 minutes after completing your application, please check your junk mail folder, and then call 13 77 88.

After your application is received, it will be reviewed by Service NSW. They will contact you if they need additional information to support your application. If your application is approved, you'll receive a confirmation email with details of how to make a claim.

SME Recovery Loan Scheme

The new SME Recovery Loan Scheme will begin as of 1st April 2021 through to 31st December 2021
With the first federal government's SME Loan Guarantee Scheme helping over 35,000 expanding the scheme aims to support more businesses affected by the pandemic and boost the economy.

The government will now accept a higher responsibility of the guarantee, moving from a 50/50 backing with banks to the Government providing the banks with guarantee 80% of the loan. The banks will still assess the credit worthiness of applicants.

Understanding the eligibility criteria

A business is eligible for the SME Recovery Loan Scheme if it meets the following conditions:

- Receive a JobKeeper payment between 4th January 2021 and 28th March 2021.
- Have up to $250 million turnover.

The scheme is also open to self-employed individuals and non-profit organisations. If your business or that of your Client/Business Owner has previously accessed a loan under the SME Guarantee Schemes you are still eligible to apply for this new extended scheme.

What are the loan details?

The loans are up to $5 million in total and can be either secured or unsecured, and for a repayment period of up to 10 years. Lenders are also able to offer a repayment holiday period of up to 24 months. The interest rate offered is determined by each lender and will generally be capped at 7.5%.
If eligible, your business can use the loan for a number of purposes including:

- To refinance existing debt.
- Purchase residential or commercial property.
- Lend to another associated entity of the business.
- Invest in assets, technology, or equipment.

Applying for the Loan

Loans backed by the Scheme will be available through participating commercial lenders. The decision on whether to extend credit, and management of the loan, will remain with the lender.

The process is as follows:

- Approach a lender - Loans backed by the Scheme will be available through participating commercial lenders. The Government is not directly participating in the lending process.

- Lender makes a decision - The decision on whether to extend credit, and management of the loan, will remain with the lender.
- If a lender declines your application or you are not satisfied with the product on offer, you can approach other lenders
- Businesses are encouraged to shop around and compare products offered by different participating lenders.

Be mindful the SME Guarantee is not a grant or a handout. It is a loan, and the banks expect it to be repaid.

Preparing for Single Touch Payroll Phase 2 Start Date Extended

This expansion of STP (also known as STP Phase 2) will reduce the reporting burden for employers who need to report information about their employees to multiple government agencies. It also supports the administration of the social security system.

The mandatory start date for STP Phase 2 reporting will be 1st January 2022.

Changes for employee superannuation options

From the 1st of January 2021 the law relating to employees and their choice of superannuation fund has changed. New workplace determinations and enterprise agreements made on or after this date must now offer employees the right to choose the super fund to which you pay their compulsory super contributions.

Once a new determination or agreement is in place, an employer needs to offer choice of super fund to:

- Existing employees who request to choose their super fund.
- All new employees.

An employee can nominate their fund by completing the standard choice form through ATO online services linked to their myGov account. Alternatively, employers can give their employee a Superannuation (super) standard choice form to complete.

An employer must then pay the employee's compulsory super to their nominated fund. If an employee doesn't nominate a fund, an employer can continue to pay an employee's super to the same fund previously contributed to, or into a default fund.

The material and contents provided in this publication are informative in nature only. It is not intended to be advice and you should not act specifically on the basis of this information alone. If expert assistance is required, professional advice should be obtained.