What changes on 1 July 2021?

Super guarantee rate increase to 10%

On 1 July 2021, the Superannuation Guarantee (SG) rate will rise from 9.5% to 10% - the first rise since 2014. It will then steadily increase each year until it reaches 12% on 1 July 2025.

The 0.5% increase does not mean that everyone gets an automatic pay increase, this will depend on your employment agreement. If your employment agreement states you are paid on a 'total remuneration' basis (base plus SG and any other allowances), then your take home pay might be reduced by 0.5%. That is, a greater percentage of your total remuneration will be directed to your superannuation fund. For those paid a rate plus superannuation, then your take home pay will remain the same, but your superannuation fund will benefit from the increase. If you are used to annual increases, the 0.5% increase might simply be absorbed into your remuneration review.

Employers will need to ensure that they pay the correct SG amount in the new financial year to avoid the superannuation guarantee charge. Where employee salaries are paid at a point other than the first day of the month, ensure the calculations are correct across the month (i.e., for staff paid on the 15th of the month they are paid the correct SG rate for June and July in their pay and not just the June rate).

Superannuation salary packaging arrangements will also need to be reviewed – employers should ensure that the calculations are correct and the SG rate increase flows through.

Annual superannuation guarantee rate changes

	SG rate
1 July 2020 – 30 June 2021	9.5%
1 July 2021 – 30 June 2022	10%
1 July 2022 – 30 June 2023	10.5%
1 July 2023 – 30 June 2024	11%
1 July 2024 – 30 June 2025	11.5%
1 July 2025 – 30 June 2026	12%

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.

When someone has multiple funds, it often erodes their balance through unnecessary fees and often insurance. And, as at 30 June 2020, there was $13.8 billion of lost and unclaimed superannuation in accounts across Australia.

From 1 July 2021, where an employee does not identify a fund, legislation before Parliament will require the employer to link the employee to an existing superannuation fund. That is, an employee's superannuation fund will become 'stapled' to them. An employer 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.

Indexation increases contribution caps and the transfer balance cap

Indexation ensures that the caps on superannuation that limit how much you can transfer into super and how much you hold in a tax-free retirement account, remain relevant by making pre-determined increases in line with inflation. To trigger indexation, the consumer price index (CPI) needed to reach 116.9. Australia reached 117.2 in December 2020 triggering increases to the contribution and transfer balance caps from 1 July 2021. The next increase will occur when a December quarter CPI reaches 123.75.

Concessional and non-concessional contribution caps

From 1 July 2021, the superannuation contribution caps will increase enabling you to contribute more to your superannuation fund (assuming you have not already reached your transfer balance cap).

The concessional contribution cap will increase from $25,000 to $27,500. Concessional contributions are contributions made into your super fund before tax such as superannuation guarantee or salary packaging.

The non-concessional cap will increase from $100,000 to $110,000. Non-concessional contributions are after tax contributions made into your super fund.

The bring forward rule enables those under the age of 65 to contribute three years' worth of non-concessional contributions to your super in one year. From 1 July 2021, you will be able to contribute up to $330,000 in one year. Total superannuation balance rules will continue to apply. However, if you have utilised the bring forward rule in 2018-19 or 2019-20, then your contribution cap will not increase until the three year period has passed.

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

Transfer balance cap – why you will have a personal cap

The transfer balance cap (TBC), as the name suggests, limits how much money you can transfer into a tax-free retirement account. From 1 July 2021, the general TBC will increase from $1.6m to $1.7m but not everyone will benefit from the increase.

From 1 July 2021, there will not be a single cap that applies to everyone. Instead, every individual will have their own personal TBC of between $1.6 and $1.7 million, depending on their circumstances.

If your superannuation is in accumulation phase before 1 July 2021, that is, you have not started taking an income stream (pension), then your cap will be the fully indexed amount of $1.7m.

However, if you have started taking an income stream - you have retired or are transitioning to retirement - then your indexed TBC will be calculated proportionately based on the highest ever balance of your account between 1 July 2017 and 30 June 2021. The closer your account is to the $1.6m cap, the less impact indexation will have. For anyone who reached the $1.6m cap at any time between 1 July 2017 and 30 June 2021, indexation will not apply and your cap will continue to be $1.6m. For example, if you are transitioning to retirement and drawing a pension, and your highest ever balance in your retirement account was $1.2m, then indexation only applies to $400,000 (the $1.6m cap less your highest very balance). In this case, your new personal TBC will be $1,625,000 after indexation.

My super is…	TBC to 30 June 2021	TBC from 1 July 2021
In accumulation phase	$1.6m	$1.7m
In retirement phase and I reached the $1.6m cap limit between 1 July 2017 and 30 June 2021	$1.6m	$1.6m
In retirement phase and I have never reached the $1.6m cap limit at any time between 1 July 2017 and 30 June 2021	$1.6m	$1.6m plus indexation on the amount between your highest ever balance and the $1.6m cap.

The Australian Taxation Office (ATO) will calculate your personal TBC based on the information lodged with them (this will be available from your myGov account linked to the ATO). If your superannuation is in retirement phase, it will be very important to ensure that your Transfer Balance Account compliance obligations are up to date. For Self-Managed Superannuation Funds (SMSFs), it is essential that you let us know about any changes that impact on your transfer balance account, for example if a member of your fund retires.

The total super balance caps to utilise the spouse contribution offset and the government co-contribution will also be lifted to $1.7m in line with indexation.

Minimum superannuation drawdown rates

The Government has announced an extension of the temporary reduction in superannuation minimum drawdown rates for a further year until 30 June 2022.

Age	Default minimum drawdown rates	2019-20, 2020-21 & 2021-22 reduced rates
Under 65	4%	2%
65-74	5%	2.5%
75-79	6%	3%
80-84	7%	3.5%
85-89	9%	4.5%
90-94	11%	5.5%
95 or more	14%	7%

Single touch payroll reporting

Single touch payroll will apply to most businesses from 1 July 2021, this will include small businesses (those with 19 or fewer staff) and businesses with closely held employees (e.g., directors of family companies, salary and wages for family employees of businesses). No further extensions will be granted.

For employers with closely held employees, there are some concessions on how reporting is managed with the option to report one of three ways: reporting actual payments in real time, reporting actual payments quarterly or reporting a reasonable estimate quarterly. These concessions allow a level of flexibility in relation to determining and making payments to closely-held payees. However, if your business is impacted, it will be important to plan throughout the year to prevent problems occurring at year end.

Work from home expenses under scrutiny & the perils of browsing Facebook

If you worked from home during lockdown and spent money on work related items that were not reimbursed by your business, you might be able to claim some of these expenses as a deduction – but not everything you purchase can be claimed.

The ATO has stated that it is looking very closely at work related deductions that are being claimed. If you are claiming your expenses, there are three methods you can use:

- An 80 cents per hour short cut method (you will need to have evidence of hours worked like a timesheet or diary)
- The 52 cents per hour method (which excludes phone, internet, or the decline in value of equipment which are all claimed separately), or
- The actual expenses method.

The ATO is particularly interested in those using the 'actual expenses' method. To be able to claim a work related expense, it needs to be directly related to the work you do and how you earn your income. The ATO has highlighted four ineligible expenses that are being claimed:

- Personal expenses such as coffee, tea and toilet paper
- Expenses related to a child's education, such as online learning courses or laptops
- Claiming large expenses up-front (instead of claiming depreciation for assets), and
- Occupancy expenses such as rent, mortgage interest, property insurance, and land taxes and rates, that cannot generally be claimed by employees working from home.

A recent case before the AAT shows how determined the ATO is to crackdown on work related deductions being claimed where there is not a satisfactory nexus between the expense being claimed and the taxpayer's work. In this case, the taxpayer had claimed car and clothing expenses, and home internet and mobile phone costs. The ATO conceded the car costs but on a reduced deduction. When it came to clothing expenses the ATO conceded that a deduction could be claimed for gloves and a beanie on the basis that the taxpayer worked in cold conditions and that these were protective clothing needed for the job. However, the AAT refused to allow a deduction for the cost of a pair of socks on the basis that they were not protective in nature in their own right – yes, it really does get this detailed.

The taxpayer had also claimed 100% of his home internet expenses but the ATO reviewed this claim and reduced the deductible amount to $50, a record of the family's home internet usage demonstrated the internet was used to browse Facebook amongst other non-work related sites.

One of the other issues to come out of this case was the importance of record keeping. If you are going to claim work related expenses, then ensure you have the records to prove your claim.

Am I taxed on an insurance payout?

Australia has had its fair share of disasters over the last few years – drought, bushfires and floods – that have ramped up the volume of insurance claims. Most people would assume that if and when they need to claim on their insurance, the insurance payout covers the damage and is not income assessed for tax purposes - but this is not always the case.

Insurance payouts for damaged or destroyed personal items are generally not taxed. For example, any insurance payout you receive for your family home won't necessarily be taxed. But, the rules are different if you have used your home to produce an income, for example, you have used part of your home as a home business or you have rented out part of your home.

The rules are also different if the item is a personal asset costing more than $10,000 or if the asset is a collectible that cost more than $500. Where the insurance proceeds exceed the original cost of the asset, that is, the asset appreciated in value, then capital gains tax might apply.

And, if the asset damaged is related to a business or an income producing asset like a rental property, the rules are also different.

Business premises, trading stock and depreciating assets

For businesses that have had trading stock damaged or destroyed, any insurance payout is taxable. For example, the payouts on claims coming through from the enforced lockdowns for spoiled perishable stock would need to be included in the business's tax return. This is because the insurance premiums would have been claimed by the business as an expense. It is just a question of how the insurance is taxed.

If your business premises are damaged and the insurance covers repairs, then the amount you receive is generally taxed as income if you can claim a deduction for the repair costs. Where the premises are damaged or destroyed, then we'll need to work with you to identify if you have made a taxable gain or loss.

When it comes to depreciating assets like machinery, then it starts getting more complex. In general, if the insurance payout exceeds the written down value, then the payout is included in the business's assessable income, and if less, you can claim a deduction for the difference. However, there are also special rules for work cars, small businesses, and where a replacement item is purchased.

Rental properties

A rental property is an income producing asset and, in most cases, the cost of insurance policies relating to the property would have been claimed as an expense. For example, if you receive a payout for your rental property as a result of a disaster, generally, you will need to include at least part of this amount as income in your tax return. This could include insurance payouts for loss of rental income, repairs, replacements of destroyed assets, or money received from a relief fund.

The treatment of the insurance proceeds depends on what the payout is for, how the insurance is used, and whether the rental property was vacant or in use.

A recent case before the Administrative Appeals Tribunal (AAT) shows how tricky this area of the tax rules can be. In this case, the taxpayer initially received insurance proceeds of $24,000 for lost rental income after their property sustained storm and flood damage. The taxpayer had declared this amount as income. All good so far.

Then, the taxpayer received an additional $250,000 from the insurer with the payment described as "in consideration of the taxpayer releasing the insurer from all liability past, present and future under the insurance policy". The taxpayer did not believe this money was for him to repair his property so did not claim it in his tax return. But, he did claim a deduction for repair costs totalling $130,000 in two income years.

The ATO subsequently audited the taxpayer and issued an assessment for the full $250,000. The AAT agreed with the ATO even though the taxpayer had only claimed $130,000 in repairs. It's possible this case will go to appeal but it serves as a warning that any lump sum payouts need to be very carefully assessed and dealt with.

If you have been impacted by a disaster and are uncertain of how any insurance proceeds will be taxed, please talk to us and we can work with you to help you understand your position.