

Not-for-profit financial reporting and tax update

June 2020



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Financial reporting for Not-for-Profit (NFP) entities continues to be an area of focus for the Australian Accounting Standards Board (AASB). We also continue to see developments in taxation law for NFP entities.

This publication outlines the latest developments in financial reporting and taxation for private sector NFP entities. With the impact of the coronavirus outbreak evolving rapidly, it also provides a reminder of the existing accounting requirements that NFP entities should consider when addressing the financial effects of the coronavirus outbreak in the preparation of financial statements for the annual reporting periods ending in 2020.

Please contact your EY advisor for further details.

Financial reporting update

Leases

AASB 16 leases

Effective for annual periods beginning on or after 1 January 2019.

AASB 16 replaces AASB 117 *Leases* and provides a single model for accounting for leases by lessees. Leases other than low value and short-term leases must be recognised on the balance sheet of lessees.

The lessee will recognise an asset, reflecting its right to use the underlying asset, and a liability, in respect of its obligation to make lease payments.

Amortisation of the right-of-use asset and interest expense in respect of the lease liability will be recognised in profit or loss.

Lessors will continue to account for leases as either operating or finance leases, consistent with current practice.

Impact

- ▶ For all entities with operating lease arrangements, lease liabilities and right-of-use assets will be brought onto the balance sheet (subject to limited exemptions)
- ▶ The timing and nature of expenses recognised in profit or loss will change
- ▶ All service arrangements may need to be revisited to determine if they contain leases e.g. data management services, transport services

AASB 2018-8 Amendments to AASs - *Right-of-Use Assets of Not-for-Profit Entities*

Effective for annual periods beginning on or after 1 January 2019.

For concessionary leases, AASB 1058 *Income of Not-for-Profit Entities* and AASB 16 require NFP entities to measure right-of-use assets on initial recognition at fair value.

However, AASB 2018-8 amended Australian Accounting Standards (AASs) to allow NFP entities to measure right-of-use assets arising from concessionary leases either at cost or at fair value.

Impact

- ▶ Entities will need to make an accounting policy choice of cost or fair value for each class of right-of-use assets.
- ▶ Additional disclosures will be required in the financial statements to help users understand the effects of these leases on an entity's

financial position, financial performance and cash flows, where the cost option is adopted.

AASB 2019-8 Amendments to AASs - *Class of Right-of-Use Assets arising under Concessionary Leases*

Effective for annual periods beginning on or after 1 January 2019

AASB 2019-8 amends:

- ▶ AASB 1049 *Whole of Government and General Government Sector Financial Reporting* to allow these sectors to measure right-of-use assets arising under concessionary leases either at cost or at fair value after initial recognition.
- ▶ AASB 16 to clarify that right-of-use assets arising from concessionary leases can be treated as a separate class of right-of-use assets to right-of-use assets arising under other leases for the purposes of AASSB 16.
- ▶ This approach shall not be applied by analogy to distinguish sub-classes of other assets as separate classes of assets.

Impact

- ▶ Whole of government and the general government sector entities may measure right-of-use assets arising under concessionary leases at cost or fair value.

Revenue

AASB 1058 *Income of Not-for-Profit Entities* and AASB 15 *Revenue from Contracts with Customers*

Effective for annual periods beginning on or after 1 January 2019 except for research grants.

AASB 15 replaces AASB 118 *Revenue*, AASB 111 *Construction Contracts* and related Interpretations and outlines the principles to recognise and measure revenue from contracts with customers.

It introduces the five-step model to recognise revenue at an amount that reflects the consideration to which the entity expects to be entitled in exchange for transferring goods or services to a customer.

AASB 1058 establishes income recognition principles that apply (a) when consideration to acquire an asset is significantly less than fair value (principally to enable a NFP entity to further its objectives), and (b) to the receipt of volunteer services.

AASB 1058 requires NFP entities to apply the requirements of AAS applicable to a transaction before considering recognising income, using the guidance in AASB 1058 (i.e. contributions by owners, lease liability, financial instruments, provisions, revenue and contract liability arising from contracts with customers).

AASB 1058 also expands the circumstances in which NFP entities are required to recognise income for goods and services received for consideration that is significantly less than its fair value principally to enable the entity to further its objectives (discounted goods and services).

A full retrospective or modified retrospective transition approach is permitted, with certain relief.

AASB 2019-6 Amendments to AASs - Research Grants and Not-for-Profit Entities permits NFP entities to apply AASB 15 and AASB 1058 to research grants for annual periods beginning on or after 1 July 2019 instead of 1 January 2019, giving them more time to address implementation challenges.

AASB 2016-8 Amendments to AASs - Australian Implementation Guidance for Not-for-Profit Entities creates additional requirements and implementation guidance for AASB 9 *Financial Instruments* and AASB 15 to assist NFP entities in applying those Standards to particular transactions and other events.

This is effective from 1 January 2019.

Impact

- ▶ Application of AASB 1058 and AASB 15 would defer income recognition in some circumstances for NFP entities, particularly where there is a

performance obligation or any other liability. In addition, certain components in an arrangement, such as donations, may need to be separated from other types of income and recognised immediately.

- ▶ Clearer guidance is provided for deferral of revenue from some transactions where sufficiently specific goods/services are promised (referencing the AASB 15 requirements).
- ▶ Entities, such as universities and medical research organisations, which receive research grants can choose to continue to account for them in accordance with existing practice for financial reporting periods ending 31 December 2019. However, the requirements of the two Standards cannot be deferred for other income streams. NFPs with June year end will be unaffected by the deferral.
- ▶ Any contract that is not enforceable or does not contain a sufficiently specific promise to transfer a good or service will fall out of the scope of AASB 15 and into the scope of AASB 1058. Similarly, grants received by NFP entities for the acquisition or construction of assets are covered by AASB 1058.

Simplified disclosure standard

AASB 1060 General Purpose Financial Statements - Simplified Disclosures for For-Profit and Not-for-Profit Tier 2 Entities

Effective for annual periods beginning on or after 1 July 2021.

AASB 1060 replaces the RDR disclosure framework with the Simplified Disclosures Standard (SDS). SDS aims to reduce the reporting burden of Tier 2 entities by requiring disclosures based on those in the IASB's *IFRS for SMEs* standard.

The key features of SDS are:

- ▶ A single standard (AASB 1060) with all disclosures required by entities applying Tier 2 reporting (including public sector and NFP entities).
- ▶ Developed based on the IASB's *IFRS for SMEs* standard with some modifications to account for differences in Australia's recognition and measurement requirements (i.e. in following full IFRS recognition and measurement by Tier 2 reporting), and Australian specific disclosure needs.
- ▶ Some Australian specific disclosures including disclosures of fees for audit and review services, disclosure of imputation tax credits (which were disclosures were previously under AASB 1054 *Australian Additional Disclosures*) and a numerical tax reconciliation.

Impact

- ▶ Reductions in disclosures compared to current RDR.
- ▶ An option not to present a statement of changes in equity under certain circumstances.
- ▶ Some additional disclosures not currently required.

COVID 19 - Accounting considerations

The new circumstances created by the COVID -19 outbreak have presented entities with greater challenges when preparing their financial statements.

This section covers key COVID-19 related accounting considerations for NFP entities. We discuss some of these situations and the existing accounting requirements that should be considered when addressing them.

Reporting deadlines

Financial reports

ASIC has issued a media release on additional time for listed and unlisted entities to lodge financial reports under the Corporations Act 2001 (the Act). The previous relief for unlisted entities for years ended from 31 December 2019 to 31 March 2020 (both inclusive) will now continue through to 7 July 2020 year ends. The media release also covers the timing of AGMs.

The filing deadlines has been extended

ACNC registered charities with 2019 Annual Information Statement (AIS) lodgement due dates between 12 March 2020 and 30 August 2020 have an extension until 31 August 2020.

Medium and large charities with total annual revenue in excess of \$250,000 must also submit an Annual Financial Report along with their AIS. Therefore, the filing deadline for the Annual Financial Report is linked to the AIS filing deadline and is also automatically extended.

Essentially, charities with December 2019 year ends will have until 31 August 2020 to file their AIS and Annual Reports. Eligible charities will have their AIS due date updated on the ACNC Charity Register.

<https://www.acnc.gov.au/node/5781959>

Public companies can defer their AGM

ASIC has also adopted a 'no-action' position on upcoming AGMs that need to be deferred or that are held online. Public companies with year ends that end from 31 December 2019 to 7 July 2020 that would normally be required to hold an AGM within 5 months of year end may postpone their AGM by up to 2 months, and may **hold it using** appropriate technology (entities should check whether their constitution restricts meetings being held in this way).

Note that ASIC Form 2501 *Application for extension of time to hold Annual General Meeting* and its related \$3,487 fee is NOT required.

Revenue recognition

The disruptions caused by the outbreak could affect a NFP entity's ability to deliver on their obligations to customers. Entities may cancel or reschedule events and other services promised to customers with appropriate modifications to the contracts. These could create challenges when recognising and measuring revenue.

NFP entities should also consider the requirements to disclose the judgements and changes in judgements that significantly affect the determination of the amount and timing of revenue.

Situation 1: Inability to perform stand-ready obligations

Facts

An entity is recognising revenue on a straight-line basis over the term of the contract as it is providing a stand-ready obligation in the form of annual club membership (such as gym memberships, community swimming pools and other similar facilities). Due to lockdown restrictions, it is unable to deliver services as the club is closed and hence has decided to extend the annual membership by 3 months to all members from the date restrictions are lifted to compensate for the time that members cannot use the facilities.

Response

Under AASB 15, revenue is recognised in a manner depicting transfer of services to the customer. During the lock-down, no services are transferred to the customer and as such, no revenue is recognised. As there is a change in scope of the contract (i.e. extension of membership period) without a corresponding change in price, this would be considered a contract modification (AASB 15.21). As the future services delivered post the lock-down are distinct from those received before lock-down, the modification would be accounted for as a termination of the old contract and creation of a new contract. All unrecognised revenue would be allocated over the remaining membership period when services resume.

Situation 2: Event cancellations and refund liability

Facts

An entity is unable to hold a major event for which 75% of available tickets have been sold. The event has now been cancelled due to lockdown restrictions.

It is a requirement to refund amounts received for events cancelled to customers. Customers are also offered an option to use this amount to pay for future events within next two years.

If the option is taken up, the amount paid would be non-refundable and the customer would receive a 20% discount on all future events in the next 2 years.

Response

Upon cancellation of a major event, the contract with the customer is treated as cancelled under AASB 15 and the amount received would need to be refunded.

Typically, an obligation to repay would not be a contract liability under AASB 15.

For customers that opt to leave the amount with the entity to pay for future events in the next two years, this would be accounted for as a new customer contract. The entity would then reclassify the amount already received as a contract liability under AASB 15. The entity would also need to consider if there is a significant financing component, and if the discount on price of future tickets is a material right (accounted for as a separate performance obligation).

Situation 3: Government subsidy to cover operating costs

Facts

An entity is entitled to receive government subsidy to cover its operating costs for the next six months. It is considering whether it can spread this income to match operating expenses.

Response

The entity should assess whether the funding arrangement falls within the scope of AASB 15 or AASB 1058.

To the extent that the funding is to support the operations of the entity and not for the provision of specific goods or services to third party beneficiaries (or linked to the acquisition of a specific non-financial asset under an enforceable agreement), then the funding would be required to be recognised as a receivable and income in full under AASB 1058 when the entity obtains control over the funding (i.e. becomes entitled to receive the funding). It cannot spread this income to match the associated operating expenses.

Situation 4: JobKeeper subsidy payments

Facts

An entity is entitled to receive the JobKeeper subsidy payments. It is considering whether these should be recognised as income or can be offset against the related wage expense.

Response

JobKeeper payments provided by government would be required to be accounted for under AASB 1058. An entity should recognise a receivable and income when it obtains control over the funding (i.e. becomes entitled to receive the subsidy).

The subsidy payments are recognised as income and cannot be offset against the related wages expense which they are intended to compensate.

Leases

Landlords offering rent concessions to affected lessees is a common practice during the COVID-19 pandemic. These concessions could be in the form of rent holidays, rent reductions or waivers.

As per AASB 16, the lessee should determine whether these concessions should be accounted for

as contract modifications or variable lease payments arising from the existing contract. As lease modification accounting could create significant administrative burden when multiple lease contracts exists, the AASB has proposed accounting relief to ease the accounting by lessees.

Situation 1: COVID-19 related rent concessions

Facts

In response to COVID-19, the entity has been offered rent concessions such as rent holidays and temporary rent reductions.

Response

Both the contract and all relevant facts and circumstances, including statutory or other laws or regulations applicable to lease contracts, should be considered when determining whether concessions constitute a lease modification or variable lease payments within the existing terms and contract. The AASB has issued ED 300 Covid-19-Related Rent Concessions which proposes to amend AASB 16 to ease the accounting for these concessions. This would permit lessees to not consider these concessions as lease modifications in certain circumstances.

Financial instruments

NFPs may be offering relief measures such as payment holidays to debtors and other borrowers. The terms and conditions associated with such relief should be assessed to determine their impacts on the expected credit loss estimate as well as any other accounting impacts. Judgments should be applied when assessing these impacts.

Given the level of judgement involved in applying AASB 9, transparent disclosures are critical. (e.g. key assumptions used and judgements, nature of any material reliefs offered to borrowers, etc).

Situation 1: Repayment extensions and current economic conditions in impairment calculation

Facts

An entity is extending the repayment terms of receivables (e.g. from 60 to 90 days). It is considering whether this means the debtor is in default.

Response

Short-term repayment extensions (e.g. from 60 to 90 days) are not automatically expected to result in the receivables being considered in default.

An impairment loss will need to be calculated reflecting the latest reasonable and supportable economic information, which also needs to take into account government assistance made available to debtors or borrowers. It may be necessary to take a portfolio approach to separate receivables from those segments (e.g. hospitality, airlines) whose credit may be more permanently impacted, from those that are experiencing short-term cash flow disruption that are expected to return to regular payments.

Situation 2: Investments measured at fair value

Facts

An entity holds mutual fund investments measured at fair value. With the increased volatility in the market, it is considering whether these investments must still be measured at fair value.

Response

These investments should be measured at fair value, irrespective of volatility being experienced.

If the entity considers broker quotes or bank valuations to be unreliable, then that needs to be proven, which is a high hurdle. In these cases, if unobservable inputs are used in a valuation model, then the asset could fall into Level 3, resulting in greater disclosure of inputs.

Employee benefits

Entities have adopted several measures to face the uncertainties created by COVID-19. These include employees taking leave, reducing hours and given redundancy. The accounting treatments of these generally fall within AASB 119 *Employee Benefits*.

Situation 1: Termination benefits

Facts

The employees who have been made redundant by the entity are entitled to termination payments. The entity is considering when to account for the termination payments.

Response

The entity recognises a liability and expense for termination benefits, when it has communicated its plan to the affected employees.

Situation 2: Negative sick leave balances

Facts

An entity is permitting employees to take sick leave in excess of their current entitlements. It does not normally recognise a provision for sick leave.

Response

It is general practice for entities not to recognise provisions for sick leave entitlements, hence there are no accounting implications for negative sick leave balances (these do not get recognised).

However, to the extent that the company has a legal right to offset any negative sick leave balance against any vesting leave (e.g. annual leave) entitlements of the employee - if the employee were to leave or be terminated - then this should be recognised and offset against those provisions.

Impairment of assets

AASB 136 *Impairment of Assets* requires an entity to assess, at the end of each reporting period, whether there is any impairment for an entity's non-financial assets.

An asset is impaired when an entity is not able to recover its carrying value, either by using it or selling it. An entity estimates the recoverable amount of the asset for impairment testing. Recoverable amount is the higher of the fair value less costs of disposal (FVLCD) and the value in use (VIU).

VIU is defined as the present value of the future cash flows expected to be derived from an asset or cash generating unit. The calculation of an asset's VIU incorporates an estimate of expected future cash flows and expectations about possible variations of such cash flows.

Uncertainties created by COVID-19 could result in entities performing an impairment test and incorporating COVID-19 risk in the test.

Situation 1: Adjusting for COVID-19 risk in impairment testing

Facts

An entity's operation has been impacted by the lockdown measures taken by the government in response to COVID 19. This is identified as an impairment indicator. The entity is now considering how to adjust the recoverable amount to incorporate risks associated with COVID-19.

Response

Impairment models may adjust for risk via the discount rate or the cash flows used (AASB 136.55). The key concept is that risks are reflected in either the discount rate or the cashflows, but not in both.

Situation 2: Adjusting discount rate

Facts

The entity adjusts the discount rate to reflect the impact of COVID-19. It is considering whether a normalised rate could be used across all periods.

Response

If the impact of COVID-19 is included in the discount rate, the rate used should reflect the specific risks associated with the projected cash flows to reflect the return an investor requires at the measurement date (AASB 136.A18), including the risks associated with COVID-19.

If an entity considers that the risks associated with COVID-19 don't impact all future periods, then it should use separate discount rates for different future periods to reflect the differing risks in each period (AASB 136.A21). Therefore, it's not appropriate to use a normalised rate across all periods.

Provisions, contingent liabilities and contingent assets

Provisions recognised by entities under AASB 137 *Provisions, Contingent Liabilities and Contingent Assets* should be remeasured at each reporting date, by considering all the associated risks and uncertainties.

COVID-19 will create additional risks and uncertainties that have not been considered in prior reporting periods.

Situation 1: Measurement of provisions and disclosures

Facts

An entity has a provision recognised under AASB 137. It is considering how to deal with the risk and uncertainty of COVID-19 when remeasuring this provision.

Response

Provisions must include the risks specific to the obligation. Risk can be incorporated in either the estimated cash flows or in the discount rate, but not in both.

If the discount rate has a significant effect on a provision, an entity should disclose the judgements and assumptions made when arriving at the discount rate. Disclosure may include a sensitivity analysis on the provision as recommended by AASB 101.129.

Resource

[EY Publication: Applying IFRS - Accounting considerations of the coronavirus outbreak \(Updated April 2020\)](#)

Other topics

Exposure Draft ED 291 *Not for Profit Entity Definition and Guidance*

Deadline for comments closed September 2019.

Currently, several AAS include the definition of a NFP entity as one whose “principal objective is not the generation of profit”. Entities which meet this definition apply modified accounting requirements in certain areas, e.g. inventory and fixed assets.

ED 291 proposes a revised definition of Not for Profit Entity based on the New Zealand definition of Public Benefit Entity as well as detailed guidance on applying the definition.

Under the ED, a NFP entity is one “whose primary objective is to provide goods or services for community or social benefit and where any equity has been provided with a view to supporting that primary objective rather than for a financial return to equity holders...”.

The AASB will consider revised implementation guidance and illustrative examples, based on feedback received on the ED, at a future meeting.

Impact if ED becomes a standard

- ▶ All NFP entities will need to revisit their assessment of whether they meet the new definition of NFP entity which will allow them to continue to apply NFP accounting requirements.
- ▶ Certain member-based organisations may find that if the benefits they provide are restricted to members, as opposed to providing benefits to the broader community, they may not fall within the revised definition. Going forward, such entities would need to apply the general for-profit entity rules.

AASB 2019-4 *Amendments to AASs - Disclosure in Special Purpose Financial Statements of Not-for-Profit Private Sector Entities on Compliance with Recognition and Measurement Requirements*

Effective for annual periods beginning on or after 1 July 2019.

This standard amends AASB 1054 to require NFP private sector entities preparing special purpose financial statements (SPFS) to disclose information about whether their material accounting policies comply with all the recognition and measurement requirements in AAS.

Impact

Among others, a NFP private sector entity is required to disclose the following:

- ▶ The basis on which the decision to prepare SPFS was made.
- ▶ Whether interests in other entities have been accounted for in a manner consistent with the requirements of AASB 10 *Consolidated Financial Statements* or AASB 128 *Investments in Associates and Joint Ventures*.
- ▶ Details of each material accounting policy that does not comply with the recognition and measurement requirements in AASs (except for requirements set out in AASB 10 or AASB 128).
- ▶ Whether the financial statements overall comply with all the recognition and measurement requirements in AASs (except for requirements set out in AASB 10 or AASB 128).

Tax update

COVID-19 related

Tax measures to support business and employers

The Federal Government is providing various measures to support businesses and employers impacted by COVID-19, including:

- ▶ **JobKeeper payment** - \$1,500 fortnightly payment available for eligible employers with eligible employees
- ▶ **Boosting cash flow for employers** - cash flow boosts of between \$20,000 to \$100,000 to eligible businesses delivered through credits to the business' activity statements on lodgement
- ▶ **Increasing the instant asset write-off** - from 12 March 2020 to 30 June 2020, the instant asset write-off is increased to \$150,000 (up from \$30,000) and made available to businesses with an aggregated turnover of less than \$500m (up from \$50m)
- ▶ **Backing business investment** - accelerated depreciation deductions on eligible assets for businesses with an aggregated turnover of less than \$500m

Job keeper

Date of effect: 30 March 2020

Key impact

Employers significantly impacted by COVID-19 may be able to access the JobKeeper payment from the ATO to assist with continuing to pay their employees. ACNC-registered charities (other than schools and universities) will generally be eligible where there has been a decline in their Australian turnover of 15% or more. For universities and schools to be eligible, the decline in turnover must be either 30% or 50%, depending on their aggregated turnover.

Eligible businesses will be able to claim a fortnightly payment of \$1,500 per eligible employee from 30 March 2020, up to a maximum of \$19,500 per eligible employee.

You can access further information about the JobKeeper payment here:

https://treasury.gov.au/sites/default/files/2020-04/Fact_sheet_JobKeeper_Info_for_Employers.pdf

Changes announced on 24 April 2020 will allow charities (other than schools and universities) to elect to exclude government revenue from the JobKeeper turnover test. This will allow employing charities receiving revenue from government to use either their total turnover, or their turnover excluding government revenue, for the purposes of assessing

eligibility for the JobKeeper payment. This will help to ensure that the eligibility of charities is not adversely affected where they are delivering significant services that are funded by government.

Another change announced on 24 April 2020 will allow JobKeeper payments to be made to religious institutions in respect of religious practitioners (with the exception of those that are students only), recognising that many religious practitioners are not "employees" of their religious institutions.

Changes announced on 1 May 2020 require universities to include income from Commonwealth-supported places (e.g. funded by HECS-HELP) and research grant income in turnover tests. However, if full fee-paying students (including international students) are a significant source of income, a university may demonstrate a turnover decline that enables it to qualify. The turnover test period is the six months commencing 1 January 2020, i.e. universities are required to consider projected turnover in this period as opposed to a month or quarter and compare it to the corresponding period in 2019. Many universities have wholly-owned entities which should also assess turnover on a standalone basis.

Cash flow boost ("CFB")

CFBs will be applied when lodging activity statements up to the month or quarter of September 2020.

Key impact

An entity will be eligible to receive the CFB if it:

- ▶ Is a small or medium business entity or NFP of equivalent size (that is, an entity with aggregated annual turnover less than \$50m)
- ▶ Held an ABN on 12 March 2020
- ▶ Made payments to employees subject to withholding
- ▶ Has lodged, on or before 12 March 2020, at least one of:
 - ▶ A 2018-19 income tax return showing that it had an amount included in its assessable income in relation to carrying on a business
 - ▶ An activity statement or GST return for any tax period that started after 1 July 2018 and ended before 12 March 2020 showing that it made a taxable, GST-free or input-taxed sale

Due to the automatic nature of the CFB being applied to activity statements on lodgement, the entity must ensure it satisfies the eligibility criteria to receive the CFB.

Fringe benefits tax ("FBT")

Employers may provide fringe benefits to their employees to support them during COVID-19.

Providing employees with emergency food, healthcare or even assistance in setting up their workstations at home may have FBT implications. Staying within the below guidelines can limit your potential FBT liability and there may also be salary packaging opportunities:

- ▶ **Utilise the Otherwise Deductible Rule:** If the employee would have been entitled to a once-off deduction in their personal tax return, had they paid for the benefit themselves, you may be able to reduce the taxable value for FBT purposes. This may include the purchase of computer items, desks, office chairs etc.
- ▶ **Providing tools of trade:** Providing a laptop or other portable electronic device primarily for use in the respect of employment may be exempt from FBT.
- ▶ **Apply the minor benefit exemption:** Providing benefits less than \$300 (including GST) on an irregular and infrequent basis may be able to be excluded from your FBT return.
- ▶ **Emergency assistance:** In the context of COVID-19, where assistance is provided to an employee who has been located in a high-risk area and has been relocated or otherwise required to self-isolate, exemptions may be available for temporary emergency meals, food supplies, accommodation and flights to return to Australia.
- ▶ **Loans:** Employers may provide employees with loans to assist with financial difficulty as a result of COVID-19. FBT will be payable on the taxable interest component on the loan, which is calculated as the difference between the interest charged by the employer and the ATO interest rate (5.37% for the 2020 FBT year, 4.80% for the 2021 FBT year). Please note that where the taxable interest component is less than \$300, the minor benefit exemption may be applied.

The ATO has confirmed for the FBT year ending 31 March 2021, it will not apply any compliance resources to scrutinise expenditure under meal entertainment salary packaging arrangements provided the meals are provided by a supplier that was authorised as a meal entertainment provider as at 1 March 2020.

The ATO has also confirmed that for the FBT year ended 31 March 2020, it will not apply any compliance resources to scrutinise expenditure under these arrangements during the period where restaurants and public venues were closed.

Payroll

Superannuation -There have been no changes to Superannuation Guarantee as a result of the COVID-19 environment. Superannuation contributions must still be made for employees, at a minimum by the quarterly statutory due date.

Further, the Superannuation Guarantee Amnesty is still legislated to close on 7 September 2020.

Payroll tax -For those NFPs subject to payroll tax, a number of payroll tax concessions and deferrals have been announced by the various state governments. Please visit the state revenue office websites relevant to you to find out more.

Further guidance from the ATO

ATO guidance continues to be updated for COVID-19 developments

Key impact

The ATO has published an extensive FAQ covering the most common tax and super questions about COVID-19:

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

For employers, the ATO FAQ includes answers to common questions regarding the JobKeeper payment, NFP employers and salary packaging, various FBT matters and super guarantee obligations.

Details on additional support provided by the ATO, such as, lodgement and payment deferrals, can be found here:

<https://www.ato.gov.au/General/COVID-19/Additional-support-during-COVID-19/>

Other tax matters

Deductible gift recipient (DGR) reform

Date of effect: 1 July 2020 (extended from 1 July 2019).

Key impact

- ▶ The requirement for non-government organisations with DGR status to register as a charity with the ACNC from 1 July 2020
- ▶ Transition arrangements to support existing organisations with DGR status to register as a charity with the ACNC
- ▶ The Commissioner's discretion to exempt organisations with DGR status from the requirement to register as a charity in specific circumstances
- ▶ The abolition of certain public fund requirements

TR 2019/6 finalises Draft Taxation Ruling 2018/D1

Date of effect: applies to years of income commencing both before and after its date of issue

Key impact

On 18 December 2019, the ATO released Taxation Ruling *Income Tax: the "in Australia" requirement for certain deductible gift recipients and income tax exempt entities* (TR 2019/6D). This new ruling finalised the draft ruling 2018/D1. This ruling provides the Commissioner's views on the following conditions in ITAA97:

- ▶ The condition that certain DGRs be "in Australia" before a gift or contribution to them is tax deductible
- ▶ The condition that certain entities have a "physical presence in Australia" before their income is exempt from tax
- ▶ The condition that a registered charity or DGR have a "physical presence in Australia" before they qualify for a refund of franking credits

Under the ordinary meaning of the word, an entity is "in Australia" if it is established or legally recognised in Australia and it operates in Australia at that time. The Commissioner is of the view that an entity will not operate in Australia if the management and operational decisions occur outside of Australia.

To have a physical presence in Australia, an entity must conduct physical operations in Australia. The mere ownership of property in Australia does not constitute having a "physical presence" in Australia. The entity must also incur its expenditure and pursue its objectives principally in Australia and the location where this occurs is very fact dependent. An entity must continue to satisfy the "in Australia"

requirements to maintain their Division 50 income tax exemption.

The ruling provides a number of examples for organisations to consider.

ATO activity and enforcement powers

Increased ATO activity is expected due to the Government's various COVID-19 relief measures, in particular, the JobKeeper scheme and following increased funding to the ATO to target tax avoidance and ensure Justified Trust (particularly in relation to Significant Global Entities (SGEs)). Key areas of interest are:

- ▶ We anticipate the ATO will undertake audits of JobKeeper claims - entities should ensure all eligibility conditions have been satisfied and appropriate documentation is maintained to substantiate their claims.
- ▶ The ATO has been encouraging larger taxpayers to adopt the Tax risk management and governance review guide and embrace tax risk management as part of good corporate governance. We anticipate the ATO to extend its focus on tax risk management and governance practices (at least to some extent) to all taxpayers in future years.
- ▶ The ATO has begun issuing penalty notices to SGEs for failing to lodge any form type. We recommend you ensure all tax reporting obligations are up-to-date.

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