# Client Information Newsletter – Tax & Super – July 2020

## Inside



KNOWLEDGE SHOP

# Funding for the arts: what's available and how can you get it

**Will the Prime Minister's targeted $250 million package of funding to support cultural and creative projects and initiatives save the industry?**

The arts funding is aimed at kick starting the sector with funding preferencing commercial initiatives that generate jobs and are expected to have a positive economic impact. That is, this is an economic package as opposed to creative or cultural funding.
Outside of the funding package, SupportAct received $10m in funding for COVID-19 crisis relief grants. Crisis funding is accessible to:

- Musicians, crew and music workers who are unable to access Government benefits due to eligibility or other issues
- music workers who have been able to access Government benefits but are still facing financial hardship; and to
- those who are suffering financial hardship as a result of injury, ill-health or a mental health issue that is managed through a current Mental Health plan.

To be eligible, you will need to be a musician, crew or music worker, who:

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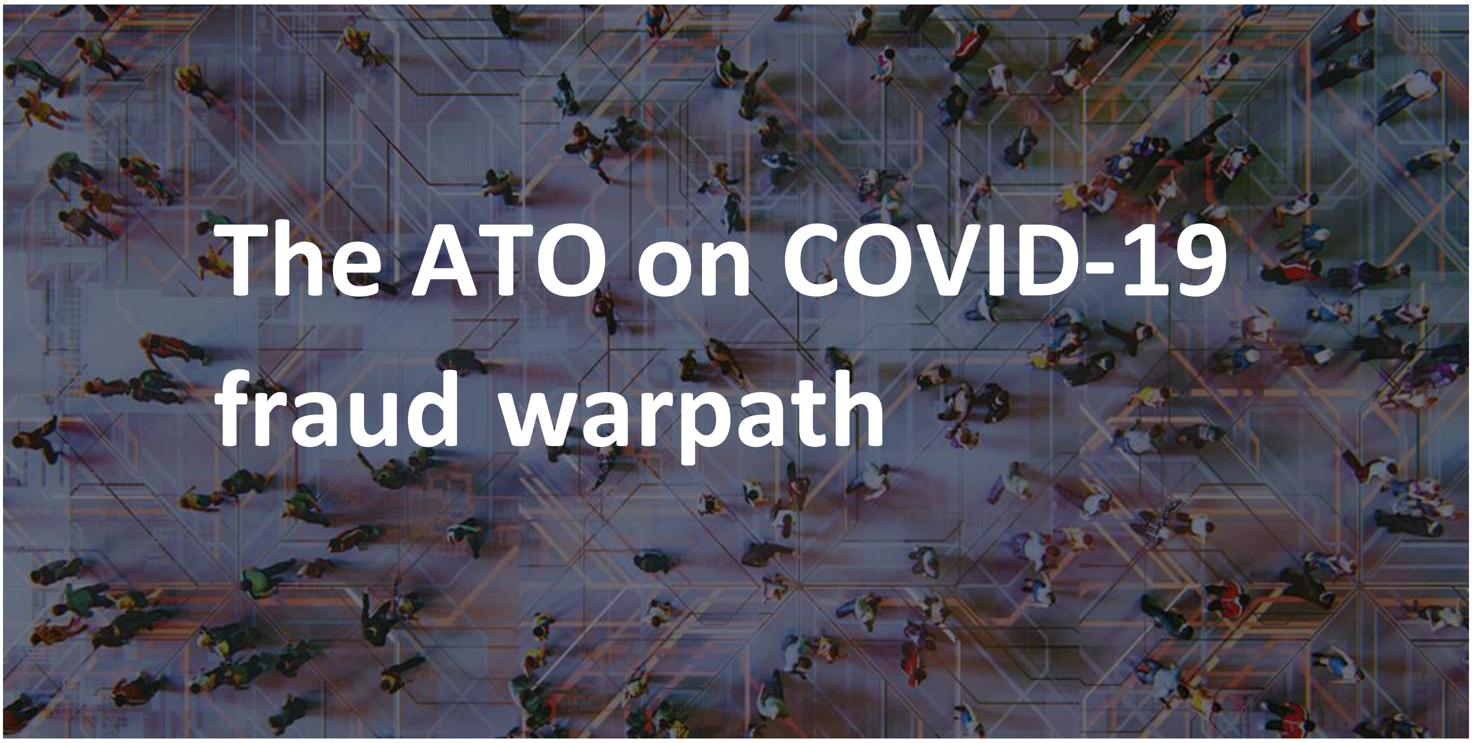
- Is an Australian citizen, permanent resident or have a valid working visa
- Can prove they been working in the music industry for three years
- Can provide names and details of two professional referees
- Have household expenses greater than household income.

Other financial support is available through JobKeeper (including the self-employed) or JobSeeker.

| Area | Total funding | Description |
|---|---|---|
| **Seed Investment to Reactivate Productions and Tours**<br>Productions, festivals and events - including theatre, dance, community and arts and culture gatherings.<br><br>Individuals able to apply for funding. | $75m | The competitive grant is administered through the Restart Investment to Sustain and Expand (RISE) Fund and provides seed funding to substitute for the capital lost as a result of cancellations and rescheduling of events.<br><br>Grants range from $75,000 to $2 million.<br><br>Part of the funding has been earmarked for music recovery - recording and distribution, contemporary music touring, the development of safe venue infrastructure and protocols. |
| **Show Starter Loans**<br>Businesses able to generate jobs—including through the synergy between arts and entertainment and travel, tourism and hospitality. | $90m | In a move to free up capital, the Government is providing a 100% guarantee for loans through financial institutions to assist arts and entertainment businesses to fund new productions and events.<br><br>Lenders will provide facilities that only have to be drawn down if needed. Loan terms will be up to five years, with an initial 12-month repayment deferral. That is, the amount drawn down will need to be paid back, but in the event the loan can't be repaid, the bank is protected.<br><br>The loans are part of the Government's existing Coronavirus Small and Medium Enterprises (SME) Guarantee Scheme. |
| **Local Screen Production**<br><br>Local film and television productions | $50m | A Temporary Interruption Fund (TIF) for Screen Australia for local film and television producers to restart filming.<br>See Screen Australia's Funding and Support initiatives page<br><br>The fund commences from 1 July 2020 for 12 months. |
| **Sector-Significant Organisations**<br>Support significant Commonwealth-funded arts and culture organisations | $35m | Funding to support significant Commonwealth-funded arts and culture organisations facing threats to their viability due to COVID-19. |



# The ATO on COVID-19 fraud warpath

**We always knew that a Government scheme swiftly distributing cash during a crisis was going to come with equally swift compliance and review measures, particularly when eligibility was self-assessed. Two major Australian Taxation Office (ATO) initiatives are searching out fraud and schemes designed to take advantage of the Government's Coronavirus Economic Response Package.**

## Tip lines, tax returns and STP

The tip line, tax returns, and single touch payroll are just a few of the data sources the ATO is using to identify "inappropriate behaviour."

The tip line has already delivered its first target with the very public outing in the *Australian Financial Review* of The Australian Comfort Group, which owns SleepMaker and Dunlop Foams for an alleged scheme to deliberately depress monthly revenue to qualify for up to $11 million in wage subsidies. Internal emails allegedly from an employee who has also lodged a claim under the Fair Work Act against the manufacturer, appear to demonstrate an internal effort to push invoicing to other periods. The Australian Comfort Group have vehemently denied any wrong-doing.

Tips from employees about their employer's efforts to manipulate revenue to meet the JobKeeper eligibility criteria is not hard to find. The ATO's community forum notes one respondent who states:

*"My employer is defrauding the ATO and is set to receive close to $1 million in Jobkeeper payments which the company is certainly not eligible for as the company has not had a 30% decline in sales. The company has already received the first payment relating to the month of April in Jobkeeper from the ATO.*

*The director of the company is emailing employees constantly to stop invoicing, change invoice dates, make sure the company shows a 30% fall in sales compared to the same period in 2019, to keep him updated each week on sales to not exceed the 30% fall, how much will the company receive, when the funds are received to shift them into offset accounts immediately. It just goes on and on. I have copies of the emails from the company director giving instructions on how to create this fraud so the company meets the eligibility criteria."*

The ATO has noted that it has received intelligence on a number of schemes circulating, one of which is the withdrawal of money from superannuation and re-contributing it to get a tax deduction.

ATO Deputy Commissioner Will Day said that, "Not only is this not in the spirit of the measure (which is designed to assist those experiencing hardship), severe penalties can be applied to tax avoidance schemes or those found to be breaking the law. If someone recommends something like this that seems too good to be true, well, it probably is."

The ATO has made its targets clear. For JobKeeper, these include ensuring that:

- Entities meet the eligibility requirements in relation to business income
- Entities are claiming for eligible employees
- Eligible business participants are correctly making claims
- Entities are not manipulating their turnover in order to satisfy the decline in turnover test

For the early release of superannuation measure, behaviours attracting ATO attention include:

- Applying when there is no change to your regular salary, wage, or employment information
- Artificially arranging your affairs to meet the eligibility criteria
- Making false statements or fraudulent attempts to meet the eligibility criteria
- Withdrawing and re-contributing super for a tax advantage – this could not only trigger anti-avoidance rules but also result in additional taxes and impact your eligibility for a super co-contribution.

Where individuals have not met the early access measure's hardship eligibility criteria, the ATO has stated that fines of up to $12,000 will apply for each false and misleading statement made. In addition, where a scheme has been entered into to obtain a tax benefit, such as claiming a tax deduction for recontributing super withdrawn under the early release measures, Part IVA may apply. That is, the ATO is actively looking for individuals who have utilised the early release measures when they didn't need it, then recontributing all or part of the super for the purpose of claiming a tax deduction.

For the Cash Flow Boost, the ATO is looking for schemes designed to:

- Artificially restructure businesses to gain access to the cash flow boost
- Artificially changing the character of payments to salary or wages to maximise the cash flow boost
- Inflating reported withholding amounts to maximise the cash flow boost
- Resurrecting dormant entities or phoenixing
- Making false statements or fraudulent attempts to create an entitlement.

Genuinely made a mistake? The ATO has stated that if you work with them, and the mistake is genuine, they will give you the support you need, without the worry of accruing a debt, repaying money or getting penalised.

## 3 million individuals in data matching program

In a massive data matching program, the ATO and Services Australia will share the records of approximately 3 million individuals to ensure that those accessing benefits are eligible to receive them.

For those who access their superannuation early under the COVID-19 measures, Services Australia will verify their eligibility where they have indicated that they are eligible for the JobSeeker payment, parenting payment, special benefit, youth allowance or the farm household allowance. The program will review the records of those applying for early access between 19 April 2020 to 24 September 2020.

The records of 45,000 prisoners in state and territory correctional facilities are also being compared against applications for JobKeeper, temporary early access to superannuation, and the eligibility criteria for cash flow boost to confirm appropriate access. The records gathered will cover the period from 1 March 2020 to 27 September 2020.

# JobKeeper & termination payments

An employment termination payment (ETP) is a lump sum payment made to an employee when their job is terminated. ETPs are generally made up of unused sick leave or unused rostered days off, payment in lieu of leave, or genuine redundancy payments, etc.

For some employers, JobKeeper will not be enough to keep the employee employed. If you do need to let staff go, the ATO has stated that from JobKeeper fortnights from 8 June onwards until the end of the scheme, ETPs cannot be included as part of the $1,500 an employer needs to pay to eligible employees to access JobKeeper payments.

If any JobKeeper payments include an ETP to a terminated employee between 30 March to 7 June, the ATO has stated that it will not recover an overpayment.

# Minimum wage increases by 1.75%

**An increase to the minimum wage of 1.75% will start rolling out for the first full pay period from 1 July 2020.**

The increase applies to minimum rates in awards in 3 stages:

**Group 1 Awards - from 1 July 2020**

- Frontline Heath Care & Social Assistance Workers
- Teachers and Child Care
- Other Essential Services

**Group 2 Awards - from 1 November 2020**

- Construction
- Manufacturing
- A range of other industries

**Group 3 Awards - from 1 February 2021**

- Accommodation and Food Services
- Arts and Recreation Services
- Aviation
- Retail
- Tourism

You can find the full list of impacted Awards on the [Fair Work Ombudsman's website].

For anyone not covered by an award or an agreement, the new national minimum wage of $753.80 per week or $19.84 per hour, applies from the first full pay period starting on or after 1 July 2020.

The minimum wage increase does not impact on workers receiving above the minimum wage.

For employees at or close to the minimum wage, it is essential that employers are aware of the impact and timing of the increase to avoid falling foul of their industrial and superannuation obligations.

# The new flexible Parental Leave Pay rules

From 1 July 2020, parents accessing the Government's parental leave pay (PPL) scheme will have greater flexibility and options.

Targeting the self-employed and small business owners, the changes introduce a new 30-day flexible paid parental leave pay period.

Previously, new parents could apply for PPL for a continuous block of up to 18 weeks. The changes split this time period into two:

- A continuous period of up to 12 weeks, and
- 30 flexible days.

Parents can take the 18 weeks in one block or, under the new rules, take the 12 week period and then use the additional 30 days at a period and in a way that suits them but before the child turns 2 years of age. For example, assume that when Jane, who works five days per week, has a child, she initially claims 12 weeks. Jane returns to work part-time for three days per week. In that case, Jane would apply for paid parental leave pay on the two days per week that she is not working.

The administration of the PPL will change in some scenarios. For Jane's case above, the employer would administer the scheme for the first 12 weeks but then the Government would directly pay Jane for her flexible days.

If an employee wishes to access flexible parental leave pay, they will need to negotiate time-off work or a part time return to work with their employer. If the employer is unable to accommodate the request, then the employee may take the 18 weeks as one block.

The changes to the paid parental leave scheme apply to babies born on or after 1 July 2020. The scheme commences from 1 April 2020 to give parents applying for leave the flexibility to use the new arrangements (but only if their child is born on or after 1 July 2020).

"You can't change conditions. Just the way you deal with them."

*Jessica Watson, OAM is the youngest person to sail solo and unassisted around the world.*