

NSW COVID-19 support package

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Support for NSW households and businesses

Overview

A significant COVID-19 support package for households and businesses valued at \$5.1 billion was [jointly announced](#) by the Prime Minister, Scott Morrison, the NSW Premier, Gladys Berejiklian and the NSW Treasurer, Dominic Perrottet, on 13 July 2021. Additional information was provided in a [media statement](#) by the Prime Minister on 14 July 2021, with further details still to be released.

This follows the continuing outbreak in NSW that has led to lockdowns in Greater Sydney and surrounds (Central Coast, Blue Mountains, Wollongong and Shellharbour).

The extensive support package takes the form of:

- COVID-19 Disaster Payments;
- small and medium business support payments;
- Commonwealth business tax relief;
- COVID-19 business grants;
- micro business grants;
- payroll tax relief;
- land tax relief;
- an eviction moratorium for residential tenants;
- changed rules for commercial and retail tenants;
- childcare gap-fee waiver; and
- mental health support.

Businesses can [register their interest](#) in the COVID-19 business financial support programs.

Commonwealth co-funded measures and declared hotspots

The first two measures (COVID-19 Disaster Payments and the small and medium business support payments) will be:

- funded under a 50/50 cost sharing arrangement between the Commonwealth and NSW Government; and
- available nationally to any state or territory that experiences an extended lockdown beyond week three following the declaration of a [Commonwealth hotspot](#).



While Commonwealth hotspots have been declared only in NSW at this stage, future outbreaks in other states and territories leading to lockdowns are possible, even likely.

The initial seven Local Government Areas (**LGAs**) locked down on 23 June 2021— Bayside, City of Sydney, Canada Bay, Inner West, Randwick, Waverley and Woollahra — were declared a Commonwealth hotspot from 23 June 2021 to 9 July 2021.

The following LGAs have been declared a Commonwealth hotspot from 26 June 2021 to 30 July 2021:

- Bayside
- Blacktown
- Blue Mountains
- Burwood
- Camden
- Campbelltown
- Canada Bay
- Canterbury-Bankstown
- Central Coast
- City of Parramatta
- City of Shellharbour
- City of Sydney
- Cumberland
- Fairfield
- Georges River
- Hawkesbury
- Hornsby
- Hunters Hill
- Inner West
- Ku-ring-gai
- Lane Cove
- Liverpool
- Mosman
- North Sydney
- Northern Beaches
- Penrith
- Randwick
- Ryde
- Strathfield
- Sutherland Shire
- The Hills Shire
- Waverley
- Willoughby
- Wollondilly
- Wollongong
- Woollahra

Details of support package

COVID-19 Disaster Payments

The COVID-19 Disaster Payment is a lump sum payment to support workers unable to earn income due to a COVID-19 lockdown, hotspot or period of restricted movement that lasts for more than seven days. A new claim must be submitted for each additional week of lockdown or restricted movement (so Services Australia can ensure the worker's circumstances have not changed and they are still eligible to receive the payment).

These payments will be administered by Centrelink, not the ATO.



A worker may be eligible for a COVID-19 Disaster Payment if they:

- are an [Australian resident](#) or hold an eligible working visa;
- are aged 17 years or older;
- are not in receipt of an [income support payment](#), ABSTUDY Living Allowance, Dad and Partner Pay or Parental Leave Pay;
- are not receiving a state or territory pandemic payment, [Pandemic Leave Disaster Payment](#) or state small business payment for the same period;
- live in, work from or have visited a [Commonwealth-declared](#) COVID-19 hotspot;
- live in, work from or have visited a location subject to a state or territory restricted movement order;
- had paid employment and because they were in the COVID-19 hotspot or are subject to restricted movement, cannot attend work on or after day 8 of a COVID-19 restriction of movement event;
- lost income on or after day 8 of a lockdown;
- do not have access to appropriate paid leave entitlements through their employer; and
- if they are claiming for a period prior to the third week of lockdown — have liquid assets of less than \$10,000 (see below).

On 8 July 2021, the Prime Minister [announced](#) that the \$10,000 liquid assets test, which is currently applied to that individual payment of \$500 or \$325 (see **Table 1**) will be waived from the third week of a lockdown.

On 13 July 2021, the Prime Minister announced that the COVID-19 Disaster Payment:

- would be increased from week four of a lockdown (see **Table 1** below); and
- a recurring payment for approved recipients for as long as the Commonwealth-declared hotspot and lockdown restrictions remain in place — this will remove the need for recipients to reclaim for each seven-day period of a lockdown.

It was also agreed that:

- (a) The liquid asset test (see above) will not need to be satisfied if claiming for a period starting from:
 - 8 July 2021 for parts of Sydney
 - 11 July 2021 for Greater Sydney.
- (b) From 18 July 2021, the COVID-19 Disaster Payment will be available to those outside Commonwealth-declared hotspots in NSW that meet the criteria for the payment. This allows those affected in regional NSW to also be eligible if the other conditions are met.
- (c) The NSW Government will fund any payments outside a Commonwealth-declared hotspot and the Federal Government will continue to fund payments to recipient in a Commonwealth-declared hotspot.

Table 1: Amount of COVID-19 Disaster Payment

Stage of lockdown	Lost less than 20 hours of work per week	Lost 20 hours or more of work per week
Amount of payment before first period of a restricted movement order (i.e. first 7 days of a lockdown)	Nil	Nil
Amount of payment in first and second periods of a restricted movement order (i.e. weeks 2 and 3 of a lockdown) (The \$10,000 liquid assets test is removed from the third week of a lockdown)	\$325	\$500
Amount of payment from third period of a restricted movement order (i.e. from week 4 of a lockdown)	\$375	\$600

On 15 July 2021, the Prime Minister [announced](#) at a press conference that a new arrangement will be taken to National Cabinet on 16 July 2021. Under the revised arrangement (see **Table 2** below):

- the COVID-19 Disaster Payment will still be paid from the second week of a lockdown but it will be at the increased amount from the second week; and
- the \$10,000 liquid assets test will be waived from the outset rather than from the third week of a lockdown.

Table 2: Expected amount of COVID-19 Disaster Payment (assuming this is endorsed by National Cabinet on 16 July 2021)

Stage of lockdown	Lost less than 20 hours of work per week	Lost 20 hours or more of work per week
Amount of payment before first period of a restricted movement order (i.e. first 7 days of a lockdown)	Nil	Nil
Amount of payment from first period of a restricted movement order (i.e. from week 2 of a lockdown) (The \$10,000 liquid assets test is no longer applicable)	\$375	\$600



COVID-19 Disaster Payments are Taxable Centrelink Payments so they will be included in the recipient's assessable income. [Arrangements](#) can be made to set up a deduction for tax to be withheld from the payment.

Applying for COVID-19 Disaster Payments

On 14 July 2021, the Prime Minister, Scott Morrison, [announced](#) that eligible workers across the first seven LGAs (see **page 2** of this article) to go into lockdown will be able to apply for the increased COVID-19 Disaster Payments from 15 July 2021, enabling payments to be made from 16 July 2021.

Eligible workers in the wider Greater Sydney region under lockdown and across NSW can apply from 18 July 2021, enabling payments to be made from 19 July 2021.

Payments will start to be paid the day after application.

Small and medium business support payments

Although equally funded by the Commonwealth and the NSW Government, the small and medium business support payments (**SMBSP**) package will be implemented and administered by the NSW Government. Full eligibility details will be released soon.

Key points

- Eligible businesses will become entitled to payments from week 4 of a lockdown.
- An entity will be eligible if:
 - its annual turnover is at least \$75,000 and no more than \$50 million; and
 - it has suffered a 30% decline in turnover, i.e. its turnover is 30% lower than an equivalent two-week period in 2019.
- Eligible entities will be required to maintain their full-time, part-time and casual staffing level as of 13 July 2021.
- Eligible entities (including not-for-profits) will receive 40% of their NSW payroll payments, with a minimum payment of \$1,500 and a maximum payment of \$10,000 per week.
- Non-employing entities, such as sole traders, will receive a flat payment of \$1,000 per week.
- SMBSP will be tax exempt.
- SMBSP will cease when current lockdown restrictions are eased or when the Commonwealth hotspot declaration is removed.
- Businesses can register their interest from 14 July 2021 at [Service NSW](#). Eligible businesses can apply from 19 July 2021.
- The ATO will not be implementing or administering these payments. Enquiries should be directed to [Service NSW](#).

Observations and matters needing clarification

Clarification and further information is required on the following aspects of the SMBSP:

1. Presumably, the reference to a 30% decline in turnover means 'at least a 30% decline'.
2. What is the meaning of 'an equivalent two-week period in 2019'?
3. The minimum turnover threshold has been set at \$75,000 which suggests that this is premised on the GST registration turnover threshold in the *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)*. However, the use of the term 'annual turnover' and the reference to a 30% decline in turnover is suggestive of a JobKeeper-style calculation, which was based on 'aggregated turnover' as worked out under s 328-115 of the *Income Tax Assessment Act 1997 (ITAA 1997)*. The calculation of GST turnover (see s 188-15 and s 188-20 of the GST Act) is very different from aggregated turnover.
4. If aggregated turnover is to be used when working out the decline in turnover, will the standard grouping rules in s 328-125 (about entities connected with the entity) and s 328-130 (about affiliates of the entity) apply?
5. How will the rules apply to GST groups, consolidated groups, service entity arrangements, those who are substantially foreign owned?
6. Do non-employing entities include, for example, a discretionary trust that carries on a business, has no employees and distributes the profits to the beneficiaries who are actively involved in carrying on the business? Would the trust be entitled to \$1,000 per week?
7. Will guidance be provided as to whether turnover is determined based only on the accounting or tax method adopted (i.e. cash or accruals), the GST attribution rules (s 29-5 of the GST Act), or the making of a supply (Div 188 of the GST Act)?
8. Given the reference to a 30% decline in turnover, which as mentioned above is suggestive of a JobKeeper-style calculation, will there be alternative turnover tests to calculate the decline in turnover as there were for JobKeeper to cater for circumstances such as:
 - the commencement of a business after 2019;
 - the acquisition or disposal of a business;
 - the restructure of a business;
 - a substantial increase in turnover;
 - a drought or natural disaster (albeit unlikely in Greater Sydney);
 - irregular turnover; or
 - a sole trader or small partnership where the sole trader or partner was unable to work in 2019 due to sickness, injury or leave.
9. It should be clarified that the requirement to 'maintain ... staffing level as of 13 July 2021' means that the level should not decrease.
10. What happens if an employee resigns, which is beyond the control of the employer, and this causes the employer to be ineligible because they have not maintained their '13 July 2021 staffing levels'? Will employers be permitted a period in which to replace an employee who has left to remain eligible, or will the departure of the employee result in the employer immediately becoming ineligible?



11. What payroll period is taken into account when calculating 40% of the NSW payroll payments? The lockdown period or a different period? What if the payroll payments in week four differ from those in the earlier weeks of the lockdown period?
12. Will the SMBSP be treated as exempt income or non-assessable non-exempt (**NANE**) income? It is expected that they would be treated as NANE income, akin to the 2020 cash flow boost payments. If this is the case, such payments would be tax-free when distributed by a trust (including a unit trust due to an exemption from CGT event E4 in s 104-71 of the ITAA 1997); however they would constitute an unfranked (but frankable) dividend if distributed by a company to shareholders. This may also impose a requirement on companies to lodge a franking return (see our related [blog](#)) under the benchmark rules.
13. To what extent will accountants be required to provide some form of assurance on behalf of their business clients that the turnover has in fact declined by the requisite amount, or will it be sufficient that the entity calculates its decline in turnover without the provision of (for example) a letter, certification or declaration by a qualified accountant, tax agent or public practitioner?
14. The SMBSP package will be implemented and administered by the NSW Government via Service NSW. Should future outbreaks result in lockdowns in other states and territories that continue for at least four weeks, the respective state or territory government would similarly be responsible for implementing and administering the payments in their jurisdiction, unlike the JobKeeper and cash flow boost programs which were administered federally by the ATO. This separate administration by each state or territory would inevitably lead to duplication and inefficiencies at a national level.

Further details on the SMBSP will be available soon.

Commonwealth business tax relief

The Federal Government will provide additional support through the tax system by:

- making NSW small business grants (see below), including the new SMBSP, tax exempt (see comment at 12. above); and
- providing administrative relief to NSW taxpayers facing hardship, including reduced payment plans, not charging interest on late payments and varying PAYG instalments on request.

COVID-19 business grants

The NSW Government announced on 13 July 2021 that businesses, including sole traders and not-for-profits impacted by the current Greater Sydney COVID-19 restrictions may be able to apply for a [Small Business COVID-19 Support Grant](#) of up to \$15,000 from 19 July 2021.

Small Business COVID-19 Support Grant — Key points

- The Small Business COVID-19 Support Grant can be used for business expenses such as rent, utilities and wages, for which no other government support is available.
- An entity will be eligible if:
 - its annual turnover is more than \$75,000;
 - its annual Australian wages are no more than \$10 million, as at 1 July 2020.¹
- Businesses will be able to apply for the grants through [Service NSW](#) from 19 July 2021.
- The level of support will depend on the decline in turnover experienced during the restrictions (see **Table 3** below).
- The business must be able to demonstrate a decline in turnover across a minimum two-week period after the commencement of major restrictions on 26 June 2021.

The observations and queries regarding the calculation of, and decline in, turnover raised above under **Small and medium business support payments** are equally relevant to the Small Business COVID-19 Support Grant.

Full eligibility criteria will be available soon.

Table 3: Amount of COVID-19 business grant

Decline in turnover	Amount of grant announced on 29 June 2021	Amount of grant announced on 13 July 2021
At least 30% to less than 50%	\$5,000	\$7,500
At least 50% to less than 70%	\$7,000	\$10,500
70% or more	\$10,000	\$15,000

Hospitality and Tourism COVID-19 Support Grant

A separate grant — the Hospitality and Tourism COVID-19 Support Grant — will be available to tourism or hospitality businesses that have a turnover of more than \$75,000 and an annual Australian wages bill of less than \$10 million, as at 1 July 2020.

These businesses must have an ABN registered in NSW or be able to demonstrate they are physically located and primarily operating in NSW.

¹ The new levels of support replace those [announced](#) on 29 June 2021. The grant was previously available to businesses and sole traders with an annual turnover of more than \$75,000 but less than the NSW Government 2020–21 payroll tax threshold of \$1.2 million as at 1 July 2020.

The announcement on 29 June 2021 advised that eligible businesses must have less than 20 full time equivalent employees and an Australian Business Number (**ABN**) registered in New South Wales or be able to demonstrate they are physically located and primarily operating in New South Wales. It is unclear whether the 'less than 20 employees rule' remains under the expanded package.



Micro business grants

As the Small Business COVID-19 Support Grant is available only for businesses with an annual turnover of more than \$75,000, a new grants program will be available for micro businesses with a turnover of between \$30,000 and \$75,000 that experience a decline in turnover of 30%.

These businesses will be eligible for a \$1,500 payment per fortnight of restrictions. The micro business grant will be available from late-July 2021.

Again, the observations and queries regarding the calculation of, and decline in, turnover raised above under **Small and medium business support payments** are equally relevant to the micro business grant.

Payroll tax relief

Payroll tax relief will be available in the form of:

- payroll tax waivers of 25% for businesses with Australian wages of between \$1.2 million and \$10 million that have experienced a 30% decline in turnover;
- payroll tax deferrals (optional deferral of payroll tax payments due in July 2021); and
- interest-free repayment plans on a case-by-case basis.

Again, the observations and queries regarding the calculation of, and decline in, turnover raised above under **Small and medium business support payments** are equally relevant to the payroll tax relief.

Land tax relief

Land tax relief will be available equal to the value of rent reductions provided by commercial, retail and residential landlords to financially distressed tenants, up to 100% of the 2021 land tax year liability.

Eviction moratorium for residential tenants

Legislative amendments will be made to introduce a short-term eviction moratorium for rental arrears where a residential tenant suffers loss of income of 25% due to COVID-19 and meets a range of criteria.

Additionally, residential landlords who reduce rent for tenants will be eligible for a grant of up to \$1,500 where they are not liable to pay land tax.

Changed rules for commercial and retail tenants

Commercial and retail landlords will be required to attempt mediation before recovering a security bond, or locking out or evicting a retail or commercial tenant impacted by the Public Health Order.



Gaming tax assessments

The NSW Government will defer gaming tax assessments for:

- clubs until 21 December 2021; and
- hotels until 21 January 2022.

Childcare gap-fee waiver

On 15 July 2021, the Prime Minister, Scott Morrison, and the Minister for Education and Youth, Alan Tudge, [jointly announced](#) that the Federal Government will provide additional support for NSW by allowing childcare services to waive gap-fees for parents keeping their children at home due to current COVID-19 restrictions.

From 19 July 2021, childcare centres in NSW LGAs subject to stay at home orders (see **page 2** of this article) can waive gap-fees on the days that parents choose to keep their children at home. The gap fee is the difference between the [Child Care Subsidy \(CCS\)](#) the Government pays to a service and the remaining fee paid by the family.

The waiving of gap-fees ensure that families will not have to pay any out-of-pocket costs for those days that their children are at home during the current stay at home period.

The measure builds on the existing gap fee waiver that is currently in place until 31 December 2021, where gap fees can be waived if a service is directed to close due to public health advice.

Mental health support

The Commonwealth and the NSW Government will deliver a \$17.35 million mental health support package for NSW (the NSW Government will provide \$5.1 million) including:

- a boost for crisis and mental health services including for Lifeline, free 24-hour support via Sonder and counselling for perinatal depression and anxiety;
- funding for mental health support for vulnerable and culturally and linguistically diverse communities;
- assistance for young people through headspace, Kids Helpline and the Butterfly Foundation.

Further guidance and information

We will provide further guidance and information as it becomes available.

If you have any specific concerns that have not been outlined above, please email taxpolicy@taxinstitute.com.au.

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