

MEMBERS UPDATE



**AUGUST
2021**



In this month's members update we look at:

- The Members Area – Calculator updates
- General Retail Award – Part time employees
- Payroll Tax – Based on where the employee performs the work
- NSW payroll tax deferral 2021
- Victorian Long Service Leave
- Time off instead of payment for overtime
- Email payroll queries

Welcome to the August 2021 member's update

On the 16th of July we all celebrated National Payroll Day, we hope that you all celebrated in one way or another, even though many of us were in lock down.

This month we have updated our payroll calculations that can be found on the Members page of our website. These includes the Redundancy and Marginal tax calculator. We also look at some queries that have been reoccurring over the last few weeks.

Lastly, to make it easier to contact us we have updated our helpdesk query section for our Members in the Members Portal.

Members Area – Calculator update

In our members area, we have updated our calculators for the new financial year. This includes the Redundancy calculator, Salary packaging worksheet, and marginal tax calculation for unused leave on termination

Go to the Members Area > Calculators

The screenshot shows the 'Membership Corporate' website. On the left is a navigation menu with the following items: Overview, Resources (+), Calculators (x, circled in red), Pay Rates (→), Salary Packaging worksheet effective 01/07/21 (→), 2021-22 Redundancy Template (→), and Unused leave marginal tax calculation on (→). The main content area is titled 'WELCOME TO OUR KNOWLEDGE PORTAL' and contains the text: 'In this area you will find many resources to help your payroll operation. If you have any questions or would like to recommend content to add to this area please contact us via our help desk.' Below this is a 'NOTICE BOARD' section with a banner for 'WATCH THE LATEST MEMBERS WEBINAR'.

General Retail Award – Part time employees

The Fair Work Commission has recently handed down a decision which amends provisions in the General Retail Industry Award 2020 from 1 July 2021 concerning overtime entitlements for part time employees.

In short, the changes will mean that part-time employees can agree to work additional hours over and above their agreed weekly hours and be paid ordinary rates of pay (rather than being paid overtime rates). This however will need to be agreed in writing before the shift starts.

You can find the details of the changes in the Fair Work determination here <https://www.fwc.gov.au/documents/awardsandorders/html/pr731097.htm>

Also a reminder that the minimum rate increases for the General Retail Award will apply from the first pay period on or after 1 September 2021.

Leave accrual on Stand down

Fair work have confirmed that Leave entitlements, such as sick and carer's leave and annual leave, still accrue while an employee is stood down without pay.

LSL will not continue to accrue during periods of stand down except in NSW where there has been an exception between 11 March 2020 to 30 September 2021. Stand down periods will not break service.

Payroll Tax - Based on where the employee performs the work.

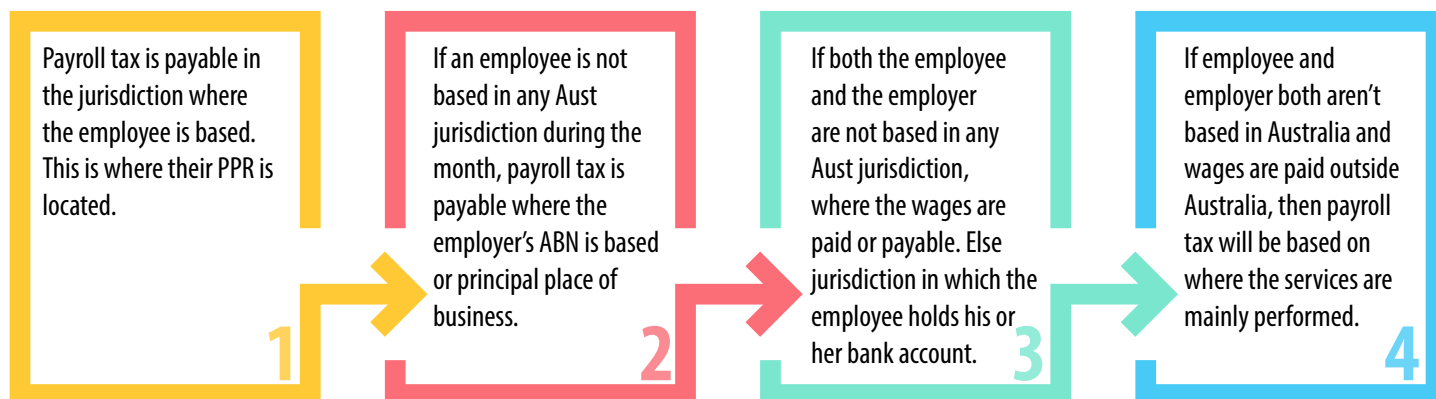
With lockdowns, some employees are working from home. This means that they could be working in another state to where their normal place of work is. When an employee provides services wholly in one state in a calendar month, payroll tax is paid in that state on the wages for that employee. However, if they work in more than one state during the month then you must review your payroll tax obligations.

Services provided in more than one jurisdiction

If service is provided in more than one state, a four-tiered test is used, called the nexus provision to determine a payroll tax liability when the employee provides services:

- in more than one Australian jurisdiction in a calendar month, or
- in one or more Australian jurisdiction and partly overseas in a calendar month.

This test uses the location of the employee's principal place of residence (PPR) as a starting point and can take into account other factors related to the employer's business:



Example: Joe normally works for ABE Company in NSW. When the lockdowns occurred, he moved back to Victoria for the month of July with his family and will work from home. His company only reports Payroll tax for NSW. As Joe is working in Victoria for the whole of July, ABE Company will now need to register payroll tax for Victoria.

NSW payroll tax deferral 2021

In response to the worsening impacts of COVID-19 in NSW the NSW Government announced a further Payroll Tax deferral and a new stimulus payment arrangement for all businesses.

- 2020/21 annual reconciliation lodgement due date has been extended to 7 October 2021.
- Employers can defer payments for July and August 2021 return periods until 7 October 2021.

- After lodging their 2021 annual reconciliation, employers can pay their outstanding liability in full or enter into a new Stimulus payment arrangement.
- If employers enter into a 2021 Stimulus Payment Arrangement, they can include tax payable from the 2020/21 annual reconciliation and any monthly liabilities for the Jul, Aug and Sept 2021 return periods.

More information will be available by the end of August 2021.

A 25% reduction for businesses:

Employers whose total grouped Australian wages for the 2021/22 financial year are \$10 million or less AND who have had a decline in revenue of 30 per cent or more will have their annual tax liability reduced by 25 per cent.

More information on this 25% reduction will be provided by Revenue NSW by the end of August 2021.

Victorian Long Service Leave

There are new penalties in Victoria for not complying with Long Service Leave requirements of paying out LSL on their last day of employment. This rule is not a new rule however penalties have increased for non-compliance, with 60 penalty units now able to be applied for each day there is a delay in payment. Penalty unit rates from the 1st of July 2021 to 30 June 2022 is \$181.74 per penalty unit.

60 penalty units (Per Day) = \$10,904.40 Per Day

Time off instead of payment for overtime

We have had a few questions about employees who have taken unpaid leave, and whether the unpaid leave counts towards the total hours in a week for the purposes of calculating overtime.

For example, if an employee who normally works Monday to Friday 38 hours per week, and takes one day of unpaid leave, and then they also work additional hours on Saturday, are the Saturday hours required to be paid at overtime rates?

As per Fair work Act 2009 section 62.4;

62 (4) *For the purposes of subsection (1), the hours an employee works in a week are taken to include any hours of leave, or absence, whether paid or unpaid, that the employee takes in the week and that are authorised:*

(a) by the employee's employer; or

(b) by or under a term or condition of the employee's employment; or

(c) by or under a law of the Commonwealth, a State or a Territory, or an instrument in force under such a law.

So for the example above, the employee would be entitled to overtime payment for the Saturday worked, because the day of unpaid leave would still count towards their ordinary 38 hours in the week.

An employee and employer may be able to agree to take time off in lieu instead of payment for overtime. Most Awards state 'An employee and employer may agree to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.' Be mindful that the employee and employer must genuinely agree to this arrangement.

Example: General Retail Industry Award

21.3 Time off instead of payment for overtime

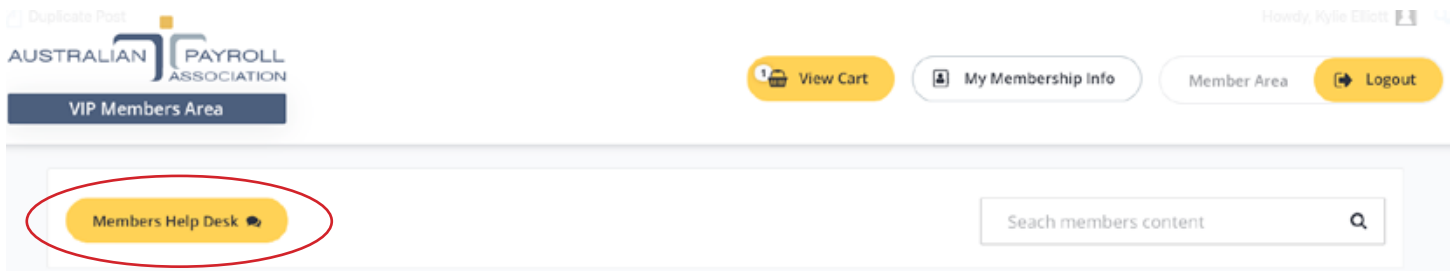
(a) An employee and employer may agree in writing to the employee taking time off instead of being paid for a particular amount of overtime that has been worked by the employee.

(b) The period of time off that an employee is entitled to take is equivalent to the overtime payment that would have been made.

Example: By making an agreement under clause 21.3 an employee who worked 2 overtime hours at the rate of 150% is entitled to 3 hours' time off.

Email payroll queries

We have really enjoyed staying in contact with our members. To make it easier we have updated the Help Desk queries section. Now you can select not only what state that your query relates to but also what Award that the employees are covered under. This means that we will be able to answer your queries quicker and with more clarity. We look forward to your next question.



Please join us for our August members webinar where we will be looking at **“Tax Treatment & Reporting Requirements for Backpays, Bonuses and other Lump Sum Payments”**.
Join us on **Wednesday 25th of August 2021 at 1pm.**

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