

# MEMBERS UPDATE



**APRIL  
2022**



In this month's members update we look at:

- Repealing the Work Test
- NSW LSL Permanent changes
- Victorian casual Sick leave Pay Guarantee
- Facilitating pre-filing of payroll tax returns through data sharing
- Increase in caps
- Legislation Compliance

## Welcome to the April 2022 member's update

We hope you enjoyed the conference as much as we did. It was great to see some familiar faces and meet new ones.

## ATO updated caps

The following caps have increased for the new financial year as per the ATO. These will be effective from 1 July 2022.

Maximum super contributions base – Per Quarter	\$60,220	
Life/Death benefit termination payments ETP cap	\$230,000	
Genuine redundancy and early retirement scheme payment limits	Base Limit \$11,591	Each complete year of service \$5,797

In addition to these, the ATO has issued a draft determination that will see the cents per kilometre reasonable amount be increased to 75 cents per kilometre from 1 July 2022. We will advise our members when this change has been confirmed.

## NSW LSL Permanent changes

On the 24th of March legislation passed to permanently change the temporary COVID-19 and Other Legislation Amendments that were due to finish at the end of March. These will now be made permanent. The COVID-19 and Other Legislation Amendment (Regulatory Reforms) Bill 2022 includes, amongst other things, the ability for:

- a worker with an entitlement to long service leave to take that leave in two or more separate periods of not less than one day;
- an employer, with the agreement of a worker, to give less than one month's notice of when it is proposed long service leave be given and taken;
- an employer and a worker to agree to a worker taking a period of long service leave, of not less than one day, in advance of the worker becoming entitled to it (previously any long service leave in advance was required to be taken for a period of not less than one month). The LSL Act contains a provision that upon termination of employment of a worker who has taken leave in advance, an employer may deduct the value of that leave if the termination of employment occurs before the worker became entitled to it.

## FBT rates updated for the new FBT year from 1 April 2022

The ATO has published the updated FBT rates along with the latest Tax Determination which covers the new

figures for items such as the benchmark interest rate and reasonable food and drink amounts for employees living away from home (LAFHA).

ATO website with the new rates:

<https://www.ato.gov.au/Rates/FBT/#MotorvehicleotherthanacarCentsperkilomet>

## Victorian casual Sick leave Pay Guarantee

The Victorian casual Sick leave Pay Guarantee started in March and is a scheme that allows casual employees to apply for sick leave.

The employee must work an average of 7.6 hours or more per week. They have 60 days to apply for the leave payment from the government. Employees can claim as many times as they need to, up to 38 hours a year.

- Hospitality workers
- Food preparation assistants
- Food trades workers
- Sales support workers
- Sales assistants
- Other labourers who work in Supermarket supply chains
- Aged and disability carers
- Cleaners and laundry workers
- Security officers and guards

Employers are not required to be involved in applications for the Sick Pay Guarantee, except:

- if your employee requests evidence of employment if they do not already have it, and
- the Department of Jobs, Precincts, and Regions may contact you as an employer to verify a workers application or claim as part of a randomised audit.

<https://www.vic.gov.au/victorian-sick-pay-guarantee-faqs>

## Facilitating pre-filling of payroll tax returns through data sharing

The Government will facilitate sharing of single touch payroll data with State and Territory Governments on an ongoing basis to cater for pre-filling payroll tax returns. This will facilitate further investments by States and Territories in their own systems to improve lodgement accuracy, reduce compliance costs and save time for the approximately 170,000 businesses that have payroll tax reporting obligations.

New South Wales, Victoria, Western Australia, South Australia, Queensland and Australian Capital Territory are already participating in a trial data transfer to understand how STP data can deliver benefits to their payroll-tax clients.

The Government is on track to complete its IT system implementation by late 2023.

## Flexible super – repealing the work test for voluntary superannuation contributions

From 1 July 2022, the existing work test (broadly a minimum of 40 hours of gainful employment within a period of 30 days) or the work test exemption for recent retirees' will no longer be required for individuals aged 67 to 75 who make/receive salary sacrifice or non-concessional contributions (NCCs).

The work test or recent retiree exemption will still be required for individuals in that age range who wish to claim a tax deduction for their personal contributions. Under the new rules, the work test can be met in

any period in the financial year of the contribution. This is different to the current rules, where the work test must be met prior to contributing.

## Compliance

The key to payroll compliance is to have it at the forefront of your mind at all times, for yourself and for your team. Regular training is vital to ensuring knowledge and best practice remains up to date, and compliance becomes second nature.

Did you know that as a member you are eligible for a discount on all of our training, including in-person classroom, virtual classroom or self-paced online learning?

<https://www.austpayroll.com.au/classroom-payroll-courses/>

## FAQ

### Q. What termination payments don't employers pay super on?

A. Many termination payments do not constitute an employee's OTE and therefore do not qualify to receive super contributions. According to the ATO, lump sum termination payments for unused annual leave, unused long service leave and unused sick leave are not part of an employee's OTE. Similarly, termination payments to compensate an employee for unfair dismissal and redundancy payments are not OTE. Therefore, none of these termination payments would attract super contributions.

Here's a quick table to summarise a few different types of termination payments and whether employers typically must pay super on them:

Termination Payment	Superannuation
Unused Annual leave, Long Service Leave or Sick Leave	No
Redundancy	No
Unfair Dismissal payments	No
Discretionary payments (ex-gratia, gratuity, golden handshake)	No
Payments in lieu of Notice	Yes

### Q. Do employees receive Notice during probation periods?

A. If an employee's employment is ended while they're on probation, they still have to be provided with notice based on their length of service.

### Q. Does an employee who is terminated because of Serious Misconduct receive notice?

A. When an employee is terminated on the grounds of serious misconduct, the employer doesn't have to provide any notice of termination. However, the employer does have to pay the employee all outstanding entitlements such as payment for time worked, annual leave and sometimes long service leave. Whether an employer needs to pay out long service leave depends on where the entitlement comes from, usually state or territory long service leave laws.

Serious misconduct involves an employee deliberately behaving in a way that is inconsistent with continuing their employment. Examples include:

- causing serious and imminent risk to the health and safety of another person or to the reputation or profits of their employer's business
- theft, fraud, assault, sexual harassment
- refusing to carry out a lawful and reasonable instruction that is part of the job.

## Members Webinar



Please join us for our April members webinar where we will be looking at **“Understanding FBT obligations for Payroll Professionals”**.  
Join us on **Wednesday 27th of April 2022 at 1pm (Sydney time)**.

[CLICK HERE TO REGISTER](#)