

Client Information Bulletin



November 2021



CONTENTS

- 1 Director identification number
- 2 Single Touch Payroll Phase 2 starts January 2022
- 3 Making a Jobmaker Hiring Credit claim
- 4 Fuel tax credits: Getting your claim right
- 5 Small businesses tax concessions: The aggregated turnover test
- 6 Are you operating your business through a 'family trust'?
- 7 Superannuation guarantee penalties: What happens if your business doesn't meet its employer obligations
- 8 New stapled superannuation fund rules started on 1 November 2021: What employers need to do
- 9 What has the ATO been up to?
- 10 Key tax dates

1. Director identification number

You may have heard or read about the new Director Identification Number (commonly referred to as **DIN** or **Director ID**). So, what exactly is a DIN or Director ID, who needs one and when are you required to apply?

Some background

As part of the Digital Business Plan announced in the Federal Budget 2020–21, the Federal Government announced the full implementation of the Modernising Business Registers (**MBR**) Program. This program unifies the Australian Business Register and 31 business registers administered by ASIC into a single platform and introduces the DIN initiative.

The [Australian Business Registry Services \(ABRS\)](#) – a newly established function of the ATO – will administer the platform and deliver its initiatives.

What is the purpose of DINs?

DINs are intended to prevent the use of false and fraudulent director identities and make it easier for external administrators and regulators to trace directors' relationships with companies over time.

DINs also help detect and eliminate director involvement in illegal phoenixing activities. Illegal phoenixing activity is when a company is liquidated, wound up or abandoned to avoid paying its debts. A new company is then started to continue the same business activities without the debt.

What is a DIN?

A DIN is a unique 15-digit identifier given to a director who has verified their identity with the ABRS.

If you are a director, here are some things to note:

- You need to apply for your own DIN;
- It is free to apply and you will only need to apply once; and
- You will have your DIN for life, even if you change companies, stop being a director or move countries.

Who needs a DIN?

You will need a DIN if you are a director or an alternate director (acting in that capacity) of:

a company, a registered Australian body or a registered foreign company under the Corporations Act 2001 (**Corporations Act**). This includes the director of the corporate trustee of a self-managed superannuation fund (**SMSF**);

an Aboriginal and Torres Strait Islander corporation registered under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (**CATSI Act**).

Note! If you are a director, you must apply for your own DIN because you will need to verify your identity. No one else can apply on your behalf.

Who doesn't need a DIN?

You don't need a DIN if you are:

- a company secretary but not a director;
- running a business as a sole trader or partnership;
- referred to as a 'director' in your job title but have not been appointed as a director under the Corporations Act or the CATSI Act;
- a director of a registered charity with an organisation type that is not registered with ASIC to operate throughout Australia;
- an officer of an unincorporated association, cooperative or incorporated association established under state or territory legislation, unless the organisation is also a registered Australian body.

When and how to apply

You will be able to apply for a DIN from November 2021 on the new [ABRS website](#). The easiest way to apply for a DIN is to do so electronically using the myGovID app (this is different to the myGov app), but telephone and paper alternatives will also be available.

When you must apply for a DIN depends on the date you become (or became) a director.

Corporations Act directors

Date you became a director	Date you must apply
On or before 31 October 2021	By 30 November 2022
Between 1 November 2021 and 4 April 2022	Within 28 days of appointment
From 5 April 2022	Before appointment

CATSI Act directors

Date you became a director	Date you must apply
On or before 31 October 2022	By 30 November 2023
From 1 November 2022	Before appointment

Tip! Although your Blaze Acumen tax adviser cannot apply for a DIN on your behalf, they can guide you through the process.



2. Single Touch Payroll Phase 2 starts 1 January 2022

If your business has employees, you are probably using Single Touch Payroll (**STP**) to report payroll and superannuation information to the ATO.

Note! Certain employers can apply for an exemption from using STP, for example, small employers (1-19 employees) with no or low digital capacity or no or unreliable internet service.

STP Phase 2: Expansion of STP

The Government announced in the Federal Budget 2019–20 that STP would be expanded to include additional information. This expansion is known as STP Phase 2.

STP Phase 2 reduces the reporting burden for employers who need to report information about their employees to multiple government agencies. It will also help Services Australia's customers, who may be your employees, get the right payment at the right time.

The mandatory start date for Phase 2 reporting is 1 January 2022.

What does STP Phase 2 mean for your business?

STP Phase 2 reporting means changes to the way you report:

- **Amounts paid to staff** – Instead of reporting a single gross amount, you'll separately show items such as overtime, paid leave, bonuses and commissions;
- **Income types** – You'll include information such as whether a payment is regular salary and wages or income for working holiday makers;
- **Employment conditions** – You'll provide additional information such as whether your employee is full-time, part-time or casual and if they leave, the reason they stop working with you;
- **Employees' TFN declarations** – You'll no longer have to send declarations to the ATO. The employee will provide it to you, and you'll need to keep it with your employee records.

Note! The ATO has said penalties will not be imposed for genuine mistakes for the first year of STP Phase 2.

What if I need more time to transition to STP Phase 2?

STP Phase 2 is due to start on 1 January 2022.

The ATO has advised that their approach to STP Phase 2 will be flexible, reasonable and pragmatic based on your business readiness and/or individual circumstances.

Digital service providers (**DSPs**) who need more time to make changes and update their solutions to support STP Phase 2 can apply for a deferral for their customers. If your DSP has a deferral, they will let you know. If you need more time in addition to your DSP's deferral, you must apply.

Tip!

- You should follow your DSP's instructions to upgrade your solution. Your DSP will tell you if you need to take any other steps, such as re-mapping pay codes.
- Your tax adviser can help you prepare for STP Phase 2.

Note!

- If your solution is ready for 1 January 2022, you should start STP Phase 2 reporting.
- You will be considered to be reporting on time if you start STP Phase 2 before **1 March 2022**. You won't need to apply for more time.



3. Making a Jobmaker Hiring Credit claim

Don't forget that if you hired a new employee aged 35 or younger between 7 October 2020 and 6 October 2021, you may be able to claim the JobMaker Hiring Credit.

To receive JobMaker Hiring Credit payments, you must:

- hold an active Australian business number (**ABN**);
- be registered for pay as you go (**PAYG**) withholding;
- be up to date with lodging your income tax and GST returns for the two years up to the end of the JobMaker period for which you are claiming.

You may be able to get payments of:

- up to \$200 a week – for each eligible employee aged 16 to 29 years old;
- up to \$100 a week – for each eligible employee aged 30 to 35 years old.

Note! JobMaker Hiring Credit payments are made every three months in arrears.

When to claim JobMaker

You make a claim for each JobMaker period you are eligible.

You can do this through ATO online services, the Business Portal or your registered tax or BAS agent.

Claims open on the first day of the month after the JobMaker period ends. They remain open for three months.

The table below shows various key dates.

JobMaker period	STP reporting due date	Claim period
7 July 2021 – 6 October 2021	28 January 2022	1 November 2021 – 31 January 2022
7 October 2021 – 6 January 2022	27 April 2022	1 February 2022 – 30 April 2022
7 January 2022 – 6 April 2022	28 July 2022	1 May 2022 – 31 July 2022
7 April 2022 – 6 July 2022	28 October 2022	1 August 2022 – 31 October 2022
7 July 2022 – 6 October 2022	28 January 2023	1 November 2022 – 31 January 2023

Tip! Talk to your Blaze Acumen tax adviser if you have any questions about the JobMaker hiring credit scheme and how to claim it.



4. Fuel tax credits: Getting your claim right

Fuel tax credits provide businesses with a credit for the fuel tax (excise or customs duty) that's included in the price of fuel used in:

- machinery
- plant and equipment
- heavy vehicles
- light vehicles travelling off public roads or on private roads.

The amount depends on when you acquire the fuel, what fuel you use and the activity you use it in. Fuel tax credits rates also change regularly so it's important to check the rates each time you prepare your business activity statement (**BAS**).

Some fuels and activities are not eligible, including fuel you use in light vehicles of 4.5 tonnes gross vehicle mass (**GVM**) or less, travelling on public roads.

The ATO states that the easiest and safest way to get fuel tax credit claims right is to use:

- the simplified methods – such as the basic method for heavy vehicles, which provides certainty and protection for claims less than \$10,000 each year;

- a global positioning system (GPS) or telematics technology product that has a current product ruling. This provides certainty, regardless of the size of the claim, provided the product is used as set out in the product ruling.

Tip! Your Blaze Acumen tax adviser can advise whether you are eligible to claim fuel tax credits and can help you claim credits.



5. Small businesses tax concessions: The aggregated turnover test

The small business entity (SBE) aggregated turnover test is used to determine a business' eligibility for a range of tax concessions. The test requires the annual turnovers of the business and its affiliates and any entities connected with it (if any) to be aggregated.

However, the applicable turnover threshold varies depending on the particular tax concession. For example:

Tax concession	Aggregated turnover threshold (less than)
Small business CGT concessions	\$2 million*
Simplified depreciation rules	\$10 million
Simplified trading stock rules	\$50 million
Lower corporate tax rate (for base rate entities)	\$50 million
Temporary full expensing of depreciating assets	\$5 billion
Company loss carry back	\$5 billion

* The \$6 million maximum net asset value test is an alternative test to the \$2 million turnover test.

The ATO recently issued one Taxation Determination, three Draft Taxation Determinations and an Addendum to a Law Companion Ruling discussing aspects of the SBE aggregated turnover test.

According to the ATO, the relevant income year for calculating aggregated turnover is the income year of the business claiming the tax concession (i.e. the taxpayer) – thus only the annual turnovers of entities that

are affiliates or entities connected with the taxpayer for the period that matches the taxpayer's income year are included.

Example!

If the taxpayer has a 30 June year end while an entity connected with the taxpayer has a 31 December year end, the annual turnover of the entity connected with the taxpayer will have to be calculated as if it were a June balancer.

As regards to qualifying for the 25% corporate tax rate, the relevant year for calculating a company's aggregated turnover is the income year in which its status as a base rate entity is being determined. The entity's aggregated turnover for any earlier income year is irrelevant for this purpose. However, for franking purposes, the aggregated turnover for the income year immediately prior to the year in which the tax rate is being determined is instead used to determine the company's franking rate.

Tip! Talk to your Blaze Acumen tax adviser about the tax concessions available to your business.



6. Are you operating your business through a 'family trust'?

Have you considered operating your business through a 'family trust' (if you don't already do so)?

What is a 'family trust'?

A 'family trust' for tax purposes is one whose trustee has made a valid family trust election (**FTE**). It is not sufficient to simply include the words 'family trust' in the trust's name.

A valid FTE can only be made if the family control test is satisfied. This test means that only a trust that is not widely held and is effectively controlled by a specific family can make a valid FTE.

A FTE must be in writing in the approved form. Once the election has been made, it cannot be varied or revoked except in limited circumstances.

The ATO has listed on its website the 5 main reasons to become a family trust.

Five reasons to become a family trust

1. Trust loss measures

A family trust only has to satisfy one test (the income injection test) to utilise tax losses or debt deductions, and it becomes easier to pass the income injection test. Trusts that have not made an FTE have to satisfy additional tests and it is more difficult to satisfy the income injection test.

2. Company loss tracing concession

Broadly, if a company has a non-fixed trust as a shareholder and the trust is a family trust, a single notional entity that is a person will be taken to own the interests. This means that there is no need to trace past the family trust. This makes it easier for the company to recoup its tax losses.

3. Access to franking credits

A concession makes it easier for franking credits to pass through to beneficiaries of a family trust where the trust has received franked distributions from a company or another trust.

4. Trustee beneficiary reporting rules

Generally, these rules require the trustee of a closely held trust to advise the ATO of certain details about each beneficiary of the trust that is also the trustee of another trust (a trustee beneficiary). Family trusts are excluded from having to comply with the rules (although trustee beneficiary non-disclosure tax may be payable in certain circumstances).

5. Small business restructure roll-over

Small business entities can restructure their business by moving active assets into, or out of, a trust, company, partnership, or a combination, without adverse capital gains tax (**CGT**) consequences. This is called CGT roll-over relief. One of the requirements to be met to access the CGT roll-over relief is that there is no material change in the ultimate economic ownership of an asset. Special rules apply in this context to family trusts.

What are the pitfalls of a family trust?

- Family trust distribution tax (**FTDT**) is imposed when distributions are made outside the family group. The rate is 47%. The meaning of 'distribution' for this purpose is very broad and includes the transfer of property, the use of an asset and debt forgiveness.
- The trustee of a family trust will be liable to pay trustee beneficiary non-disclosure tax if it makes what is called a 'circular trust distribution'. The rate is 47%.

Tip! Talk to your Blaze Acumen tax adviser about operating a business through a family trust.



7. Superannuation guarantee penalties: What happens if your business doesn't meet its employer obligations

If your business does not meet its superannuation guarantee (**SG**) obligations, it may have to pay additional penalties or charges on top of the superannuation guarantee charge (**SGC**).

Note! SG contributions are payable (that is, they must be received by the superannuation fund) by the 28th day of the month following the end of a quarter. If this is not done, the SGC is payable and an SG statement must be lodged with the ATO by the 28th day of the second month following the end of a quarter.

What are the penalties?

The ATO recently published on its website an overview of the additional penalties and charges.

- **Failure to provide an SG statement when required** – The maximum penalty is 200% of the SGC. This penalty cannot be remitted to less than 100% if the SG shortfall relates to a quarter in the period from 1 July 1992 to 31 March 2018.
- **False or misleading statement** – If your business pays less of the SGC than it should because it made a false or misleading statement, the ATO can impose an administrative penalty. The base penalty amount can be up to 75% of the shortfall, depending on the particular circumstances.
- **Avoidance** – If your business made arrangements to avoid its SG obligations, an additional penalty may be imposed (on top of the SGC avoided).
- **Director penalties** – If you are a director of a company, you need to make sure the company pays the SGC in full by the due date. If it does not, you'll be liable for a penalty equal to the unpaid amount. The penalty is reduced if the company pays the outstanding amount at any time. Under some conditions, it may be reduced if the company goes into voluntary administration or liquidation.
- **General interest charge (GIC)** – This is applied if an SGC assessment is made and the SGC is not paid by the due date. The GIC is calculated on a daily compounding basis.

- **Choice shortfall** – If your business does not comply with the choice of fund obligations, it could receive a 'choice shortfall' penalty. The penalty increases the SGC.
- **Failing to keep adequate records** – The maximum fine for an individual convicted of failing to keep records is 30 penalty units (a penalty unit is \$222 where the infringement occurred on or after 1 July 2020).
- **Failing to provide employee's TFN to their superannuation fund** – a penalty (10 penalty units) may be imposed if an eligible employee has provided a TFN to your business and your business does not provide it to the employee's superannuation fund or retirement savings account within the required time.

Tip! Discuss your business' SG and choice of fund obligations with your Blaze Acumen tax adviser to make sure the business is fully compliant.



8. New stapled superannuation fund rules started on 1 November 2021: What employers need to do

From 1 November 2021, if you have new employees start and they don't choose a superannuation fund, you may have an extra step to take to comply with the choice of fund rules. You may need to request their 'stapled superannuation fund' details from the ATO.

If you are an employer, here is everything you need to know about the new rules. The ATO has also published a handy [Reference guide for employers](#), which contains a summary of the new rules.

What is a stapled superannuation fund?

A stapled superannuation fund is an existing superannuation account that is linked, or 'stapled', to an individual employee so it follows them as they change jobs. This aims to reduce account fees and avoid new superannuation accounts being opened every time an employee starts a new job.

Note! If you don't meet your choice of superannuation fund obligations, additional penalties may apply.

When to request stapled superannuation fund details?

The new stapled superannuation fund rules commenced on 1 November 2021.

You will need to request stapled superannuation fund details for new employees who start on or after 1 November 2021, when:

- you need to make superannuation guarantee (**SG**) payments for that employee;
- they are eligible to choose a superannuation fund, but don't. This includes contractors who you pay mainly for their labour and who are employees for SG purposes.

You may need to request stapled superannuation fund details for some employees who aren't eligible to choose their own superannuation fund. This includes employees who are:

- temporary residents
- covered by an enterprise agreement or workplace determination made before 1 January 2021.

Note!

- If your new employee chooses a superannuation account they already have, or chooses your default fund, you **do not** need to request stapled superannuation fund details for them.
- Once an employee tells you their choice of superannuation fund, you have 2 months to start paying contributions into that fund.

Further information! To better understand the due dates for payments of SG contributions, speak to your Blaze Acumen tax adviser.

Things to do before you request stapled superannuation fund details

Before you request stapled superannuation fund details from the ATO, you will need to:

- check that your authorised representatives in ATO online services have the Employee Commencement Form permission so your payroll and onboarding staff can make stapled superannuation fund requests;
- establish an employment relationship link with your new employee by offering all eligible employees a choice of superannuation fund and submitting a tax file number (**TFN**) declaration or Single Touch Payroll (**STP**) pay event.

Note! There may be circumstances where you won't have an employment relationship recorded in ATO systems before you need to request stapled superannuation fund details.

How to request stapled superannuation fund details

To request a stapled superannuation fund, you (or your authorised) representative, need to:

1. Log into ATO online services
2. Navigate to the 'Employee superannuation account' screen via the 'Employees' menu and select 'Request' to open the form
3. Enter your employee's details
4. Read and click the declaration to sign it.
5. Submit your request.

Tip! There is no limit to the number of requests you can make. However, a bulk request form is available when requesting large numbers of employees.

What happens once the request is made?

To avoid additional penalties, you must pay SG contributions to a stapled superannuation fund if:

- you have requested stapled superannuation fund details for your employee; and
- the ATO has provided these to you.

There may be circumstances where you won't have an employment relationship recorded in ATO systems before you need to request stapled superannuation fund details.

If the stapled superannuation fund account provided by the ATO:

- can't accept contributions for the employee, you should make another request for the employee's stapled superannuation fund via ATO online services;
- is a self-managed superannuation fund (**SMSF**), you should get the electronic services address and bank account details from your employee.

Tip!

To avoid the choice shortfall penalty, make sure:

- you request the stapled superannuation fund details for your employee as soon as possible if they have not provided you with their choice of fund;
- you pay the employee's full SG contribution to the stapled superannuation fund the ATO returns to you in the request;
- you pay the SG contribution to the stapled superannuation fund by the quarterly due date.



9. What has the ATO been up to?

Private company directors: Lodge or review your returns

The ATO has advised private company directors to speak to a trusted adviser and lodge any overdue tax returns or correct any returns that did not report all of their income.

By matching data across a range of sources, the ATO has noticed that some directors of private companies received income but haven't lodged a tax return or reported all their income in a tax return. The ATO will soon be commencing reviews on lodgment and correct reporting for those company directors and their connected entities.

If a company director voluntarily discloses unreported income to the ATO, they can generally expect a reduction in the penalties that would normally apply.

Advising businesses through early engagement

The ATO recommends that you engage early with them to avoid mistakes if entering into complex tax and superannuation arrangements. The ATO will work with you and your tax adviser to:

- explore your tax arrangement;
- provide advice to help you arrive at the right outcome; and
- request a draft application for a ruling (if relevant).

Shareholder loans – minimum yearly repayments

If you have a loan from a private company you control (or from an interposed entity) and there is a complying loan agreement in place, you must make the minimum yearly repayment by the end of the company's income year. Failure to do so may result in your being taken to have received an unfranked dividend.

The ATO realises that, as a result of the COVID-19 situation, some borrowers are facing difficult circumstances beyond their control. If you are in that situation, and you could not make the minimum repayment for 2020–21 by the due date (30 June 2021 in most cases), the ATO will look favourably on a request to extend the repayment period (up to 30 June 2022).

You can request an extension by completing a streamlined online application form.

A similar extension was also available for the 2019–20 minimum yearly repayment. The shortfall for that year had to be made up by 30 June 2021.



10. Key tax dates

Date	Obligation
21 Nov 2021*	October monthly BAS due
25 Nov 2021	September quarterly BAS due (if lodging via a tax agent)
28 Nov 2021*	Lodge and pay September quarterly SGC (if required)
1 Dec 2021	Full self-assessment companies – pay 2020–21 income tax liability
21 Dec 2021	Non-full self-assessment companies – lodge 2020–21 tax return
21 Dec 2021	Lodge and pay November monthly BAS
21 Jan 2022	Lodge and pay December monthly BAS
28 Jan 2022	Superannuation guarantee payment due date for December quarter
31 Jan 2022	Closely held trust – lodge December quarterly TFN report
21 Feb 2022	Lodge and pay January monthly BAS
28 Feb 2022	Lodge and pay December quarterly BAS Pay second quarterly PAYG instalment for 2021–22 Lodge annual GST return (if no tax return due) Lodge and pay December quarterly SGC (if required) Lodge and pay SMSF annual return for new SMSFs (unless otherwise advised)

* These dates fall on a Sunday, so the due date is the next business day.

DISCLAIMER

The content of this newsletter does not constitute specific advice. Readers are encouraged to consult their Blaze Acumen tax adviser for advice on specific matters.