



COVID-19 STIMULUS - JOBKEEPER PAYMENT

As at 9th April 2019

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CONTENTS

1. JobKeeper Program - purpose & overview
2. Employer eligibility, testing & obligations
3. Employee eligibility
4. Sole traders and other businesses
5. Claim & payroll process
6. Next Steps

1. JOBKEEPER PROGRAM - PURPOSE AND OVERVIEW

- ▶ \$130 billion program
- ▶ Huge social welfare program
 - delivered via the tax system
- ▶ Part business subsidy, part income support payment
 - employers as Centrelink

1. JOBKEEPER PROGRAM - PURPOSE AND OVERVIEW

- ▶ Businesses impacted, measured by expected decline in turnover
- ▶ \$1,500 per eligible employee, per fortnight
- ▶ First payment in May relating to fortnights commencing 30 March & 13 April 2020
- ▶ Payment is taxable and subject to PAYG-Withholding
 - ~\$1,300 after tax
 - Must be passed on in full (before tax)
- ▶ Wages remain subject to Superannuation Guarantee, but ‘top up’ does not

1. JOBKEEPER PROGRAM - PURPOSE AND OVERVIEW

- ▶ The legislation establishes a framework for the Treasurer to make rules which provide for the Commissioner of Taxation to make payments

Legislation	Rules
How to make payments	Business eligibility
Overpayments	Recipient eligibility
Review of decisions	Amount of payment
Record keeping	Timing of payments
Anti-avoidance	

1. JOBKEEPER PROGRAM - PURPOSE AND OVERVIEW

- ▶ In order to receive a JobKeeper payment an employer* must, on or before the end of the fortnight:
 - Be an eligible employer
 - Employ an eligible employee
 - Pay gross wages of at least \$1,500 to that employee for that fortnight
 - Notify the ATO that they elect to participate in the program
 - Provide information to the ATO about the entitlement, including details of the individual

** similar requirements apply to sole traders*

2. EMPLOYER ELIGIBILITY, TESTING & OBLIGATIONS

- ▶ Employers who are eligible

Business	Decline
Annual <u>group</u> aggregate turnover less than \$1 billion	Decline in turnover of <u>employer</u> of at least 30%
Annual <u>group</u> aggregate turnover of \$1 billion or more	Decline in turnover of <u>employer</u> of at least 50%
ACNC registered charities (excluding schools)	Decline in turnover of at least 15%
Self employed individuals (businesses without employees)	Relevant turnover test above

2. EMPLOYER ELIGIBILITY, TESTING & OBLIGATIONS

▶ Employers who are not eligible

- Federal, state and territory government and their agencies
- Foreign governments and their agencies
- Local councils
- Businesses subject to the Major Bank Levy
- Company in liquidation, partnership trust or sole trader in bankruptcy
- Some sectors if specifically provided with other avenues of government support
- Entity that does not carry on business in Australia, or NFP that does not pursue objectives principally in Australia (at 1 March 2020)

2. EMPLOYER ELIGIBILITY, TESTING & OBLIGATIONS

Turnover - basic test

- ▶ Turnover as defined for GST purposes - “Australian based turnover”
- ▶ Turnover test period:
 - Calendar month March - September 2020; or
 - Quarter starting 1 April or 1 July 2020
- ▶ Comparison period is corresponding month or quarter in 2019
- ▶ Can re-test in a later month/quarter if not immediately eligible, however once eligible no need to re-test later
- ▶ \$1 billion threshold - either current or prior income year, based on ‘aggregated turnover’, likely worldwide group
- ▶ ATO will refer to Business Activity Statement (BAS) for turnover information

2. EMPLOYER ELIGIBILITY, TESTING & OBLIGATIONS

Turnover - alternative test

- ▶ Commissioner can determine an alternative test

- ▶ Discretion where atypical performance arises, for example:
 - Newly started businesses
 - Acquisitions in the year
 - Employers who were scaling up
 - Typically highly variable turnover
 - “Reasonable expectation”

- ▶ Some tolerance re good faith estimates of 30% or 50% decline

2. EMPLOYER ELIGIBILITY, TESTING & OBLIGATIONS

- ▶ To support eligibility employers will need:
 - BAS for relevant periods
 - Additional information to support atypical turnover (if applicable)
 - Employee nomination notice
 - On-going reporting to ATO
- ▶ Law requires businesses to have and retain relevant records in order to be entitled to payment

2. EMPLOYER ELIGIBILITY, TESTING & OBLIGATIONS

Other issues

- ▶ Requirement to repay if not eligible, plus GIC
- ▶ Anti-avoidance rules for any scheme to access payment
- ▶ Ability to seek review of Commissioner's decisions re eligibility
- ▶ Employers must notify eligible employees in writing within 7 days of notifying the ATO
- ▶ Eligible small businesses that receive the JobKeeper Payment will not be eligible for the 50% wage subsidy for apprentices and trainees currently being made available as part of the Government's COVID-19 relief, from 1 April 2020 onwards

3. EMPLOYEE ELIGIBILITY

- ▶ Employees need to satisfy two sets of requirements
 - 1 March 2020 requirements
 - Fortnightly requirements
- ▶ A requirement for employee eligibility is that the individual has given their employer a nomination notice confirming they satisfy these requirements

3. EMPLOYEE ELIGIBILITY

1 March 2020 requirements

- ▶ As at 1 March 2020:
 - The individual was aged 16 years or over;
 - The individual was employed as:
 - Full time or part time employee of that entity; or
 - Casual employee employed by that entity on a regular and systematic basis during the 12 month period to 1 March 2020; and
 - The individual was:
 - Australian citizen or Australian permanent resident; or
 - NZ citizen who is also resident of Australia for tax purposes.

- ▶ Employee who has been terminated or stood down since 1 March 2020 can still be eligible (back pay to March)

3. EMPLOYEE ELIGIBILITY

Fortnightly requirements

- ▶ As at the particular fortnight, the individual:
 - Satisfies the 1 March 2020 requirements;
 - Is employed by the entity at any time during the fortnight;
 - Is not an excluded employee because during that fortnight:
 - Individual receives paid parental leave;
 - Individual receives dad and partner pay; or
 - Individual is totally incapacitated and receives workers compensation; and
 - Has not given another entity a nomination notice to receive a payment
 - Has given the employer a nomination notice stating they have satisfied the eligibility requirements

4. SOLE TRADERS AND OTHER BUSINESSES

- ▶ JobKeeper payments can be made to eligible businesses which do not pay wages
- ▶ The business must satisfy the employer eligibility requirements
- ▶ In addition the entity must have had an ABN on 12 March 2020, and satisfy one of the additional integrity rules:
 - Assessable income in 2018-19 from carrying on a business, and notified to ATO on or before 12 March 2020 (or later time allowed by ATO); or
 - Taxable supply made between 1 July 2018 and 12 March 2020, and notified to the ATO on or before 12 March 2020 (or later time allowed by ATO)

4. SOLE TRADERS AND OTHER BUSINESSES

- ▶ The payment must be made by that business to a nominated individual:
 - Sole Traders - the individual
 - Partnerships - one partner of the partnership
 - Trust - one adult beneficiary of the trust
 - Company - one nominated shareholder or director of the company
- ▶ The individual must satisfy the employee eligibility requirements, apart from being an employee

5. CLAIM & PAYROLL PROCESS

- Online claims process to be made available
- Payments to be made to employees via payroll and reported to the ATO via Single Touch Payroll reporting (or manual process where STP not in place)
 - Employers to deduct PAYG Withholding from wages
 - Superannuation Guarantee applies to wages paid for work, but not top-up
 - Payroll tax - still to be determined
- First payment will be received by employers in the first week of May (for 2 fortnights in April)
- Payment by ATO will be monthly in arrears (within 14 days of end of month)

6. NEXT STEPS

- ▶ Register interest with the ATO
- ▶ Work out if you are an **eligible employer** - check BAS; consider ATO discretion for atypical circumstances
- ▶ Notify ATO of **employer election** to participate in JobKeeper scheme (ATO form)
- ▶ Work out who are you **eligible employees** - check STP reporting at 1 March 2020 and other requirements
 - Take employment law advice, significant changes to Fair Work Act to increase flexibility, and penalties for employers who do not pay JobKeeper amount to employees
 - Consider rehire of terminated employees
- ▶ Communicate with eligible employees - request, collate and retain employee **nomination forms** (ATO form) before end of the fortnight
- ▶ Set up payroll and make **wage payment** to employee before end of the fortnight (or other regular pay period)
- ▶ Apply for **JobKeeper payment** from the ATO each month (ATO form)

Timing is critical

QUESTIONS?



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