

Practice Update: Special Edition

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The proposed JobKeeper Payment

The Federal Government has announced (as part of its Coronavirus Stimulus Package) the introduction of a new JobKeeper Payment to assist eligible employers (and self-employed individuals) who have been impacted by the Coronavirus pandemic to continue to pay their workers.

The following is a broad summary of the key aspects of the proposed JobKeeper Payment, based on the Government's Joint Media Release dated 30 March 2020 and the information that is currently available on the Treasury website. The Government intends to introduce legislation into Parliament to give effect to the JobKeeper Payment measure.

The Government also announced that the partner income test will be relaxed to ensure that an eligible person can receive JobSeeker Payment (and the associated Coronavirus supplement) where their partner earns *less than* \$3,068 per fortnight (around \$79,762 per annum).

1. What is the JobKeeper Payment?

The JobKeeper payment is a subsidy that will be paid through the tax system (i.e. by applying to the ATO) to eligible employers (and self-employed individuals) impacted by the Coronavirus.

Eligible employers will be able to claim a subsidy of **\$1,500 per fortnight, per eligible employee**, from 30 March 2020 (with payments commencing from the first week of May 2020), for a maximum period of six months. This subsidy will be paid by the ATO monthly in arrears and will ensure that an eligible employee receives a gross payment (i.e. before tax) of at least \$1,500 per fortnight.

Self-employed individuals (i.e. businesses without employees) can also qualify to receive the JobKeeper Payment.

2. When is an employer or business eligible for the JobKeeper Payment?

Employers will be eligible for the JobKeeper subsidy where:

- for a business with a **turnover of less than \$1 billion** – its turnover will be reduced by more than 30% relative to a comparable period a year ago (of at least a month); **or**
- for a business with a **turnover of \$1 billion or more** – its turnover will be reduced by more than 50% relative to a comparable period a year ago (of at least a month); **and**
- the business is **not** subject to the Major Bank Levy.

Self-employed individuals (i.e. businesses without employees) and not-for-profit entities (including charities) that satisfy the above requirements will be eligible to apply for the JobKeeper Payment.

3. When can the JobKeeper Payment be claimed in respect of an employee?

Before an eligible employer can claim the JobKeeper payment in respect of an employee ('eligible employee'), the employee must satisfy the following requirements:

- The **employee is currently employed** by the employer (which includes an employee who has been stood down or re-hired after they had already lost their job).
- The **employee was employed** by the employer **as at 1 March 2020**.
- The employee is a **full-time** or **part-time** employee, or a **long-term casual** employee who has been employed by the employer on a regular basis for longer than 12 months at 1 March 2020.
- The employee is at least 16 years of age.
- The employee is an Australian citizen, or the holder of a permanent visa, a Protected Special Category Visa Holder, a non-protected Special Category Visa Holder who has been residing continually in Australia for 10 years or more, or a Special Category (Subclass 444) Visa Holder.
- The employee is **not** in receipt of a JobKeeper Payment from another employer.

In practical terms, this means that eligible employers will receive the JobKeeper Payment for each eligible employee who was on the employer's books on 1 March 2020 and continues to be engaged by that employer (including full-time, part-time, long-term casuals and stood down employees).

Employees who have multiple employers will need to notify their primary employer to claim the JobKeeper Payment on their behalf, as only one employer will be eligible to receive the payment. In most cases, the claiming of the tax-free threshold will be sufficient notification that an employer is the employee's primary employer.

4. How does a business apply for the JobKeeper Payment?

Initially, businesses can start to register their interest in applying for the JobKeeper payment **from 30 March 2020**, on the ATO's website. The first payments under this measure are expected to be made to an eligible business from the first week of May 2020.

Eligible employers that apply for the JobKeeper Payment (via an online application) will need to provide supporting information demonstrating a downturn in their business, and must report the number of eligible employees employed by the business on a monthly basis.

Businesses without employees (e.g. self-employed individuals) will need to provide an ABN for the business, nominate an individual to receive the JobKeeper payment and provide that individual's Tax File Number, as well as provide a declaration on the recent business activity (presumably, to demonstrate the downturn in the business). These businesses will also need to provide a monthly update to the ATO in order to declare their continued eligibility for the JobKeeper Payment.

It is expected that more information will be provided about applying for the JobKeeper Payment, for businesses with employees and for the self-employed, on the ATO's website.

5. How is the JobKeeper payment applied by an eligible business?

The underlying purpose of the JobKeeper Payment is to ensure that eligible workers (including eligible employees) are paid a gross minimum amount of \$1,500 per fortnight. In particular, for eligible employers who receive the JobKeeper Payment for an eligible employee, the employee will receive this payment basically as follows:

- a) **If the employee ordinarily receives at least \$1,500** in gross salary income per fortnight, they will continue to receive their regular income according to their prevailing

workplace arrangements. In this case, the JobKeeper Payment will effectively subsidise part or all of the employee's gross fortnightly salary income.

- b) **If the employee ordinarily receives less than \$1,500** in gross salary income per fortnight, their employer must pay the employee a minimum gross fortnightly salary income of \$1,500 under the JobKeeper Payment scheme.
- c) **If an employee has been stood down**, their employer must pay the employee a minimum gross fortnightly salary income of \$1,500 under the JobKeeper Payment scheme.
- d) If an employee was **employed on 1 March 2020**, has **subsequently ceased employment** with their employer, and **then has been re-engaged** by the same employer, the employee will receive a minimum gross fortnightly salary of \$1,500 under the JobKeeper payment scheme.

An eligible employer receiving the JobKeeper Payment in respect of one or more employees will be required to **notify** each employee that they have been nominated as eligible employees for the employer to receive the payment. Furthermore, an eligible employer has the option of choosing whether or not to provide superannuation guarantee support in respect of **any additional** salary income (to the extent that it relates to the JobKeeper Payment) paid to an eligible employee by an employer (refer to Example 1 below).

Where an employer receives the JobKeeper Payment for an eligible employee who has been receiving income support through Centrelink (or Services Australia) as a result of having been stood down or their hours being reduced, the employee will need to report the JobKeeper Payment as income, as this could affect their entitlement to such Centrelink support.

The following examples further illustrate how the JobKeeper Payment is expected to apply. The examples have been adapted from the Treasury publications *“JobKeeper Payment – Information for employers”* and *“Supporting businesses to retain jobs.”*

Example 1 - Employer affected by Covid-19 with multiple employees

Adam owns a business whose turnover has declined by more than 30% as a result of the downturn due to the Coronavirus. The business had the following three employees as at 1 March 2020:

- **Anne**, who is a permanent full-time employee and who continues to work in the business earning a gross salary of **\$3,000 per fortnight**.
- **Nick**, who is a permanent part-time employee and who continues to work in the business earning a gross salary of **\$1,000 per fortnight**.
- **Fred**, who was recently stood down from the business without pay.

Adam is eligible to receive the JobKeeper Payment for each employee of \$1,500 per fortnight (before tax), for a maximum period of six months (which would be paid monthly in arrears). The JobKeeper Payment would provide the following benefits for the business and its employees:

- a) The business continues to pay **Anne** her full-time gross salary of \$3,000 per fortnight, as well as superannuation guarantee support on this income. In this case, the \$1,500 per fortnight JobKeeper Payment effectively partly subsidises the cost of Anne's salary.
- b) The business continues to pay **Nick** his \$1,000 gross fortnightly salary and an additional \$500 gross amount per fortnight, resulting in a total gross fortnightly salary of \$1,500. In this case, the JobKeeper Payment fully subsidises the cost of Nick's salary. The business must continue to provide Nick with superannuation guarantee support on the \$1,000 fortnightly salary amount, but has the option of choosing to pay superannuation on the additional \$500 gross amount paid to Nick under the JobKeeper Payment scheme.
- c) The business must start paying **Fred** a gross salary of \$1,500 per fortnight, which is fully subsidised by the JobKeeper Payment.

The business has the option of choosing to pay superannuation on this amount paid to Fred under the JobKeeper Payment scheme. If Fred commenced receiving any Centrelink support (e.g. JobSeeker Payment), he will need to advise Centrelink of his JobKeeper payment.

Example 2 - Self-employed affected by Covid-19 with no employees

Melissa is a sole trader running a florist without any employees.

The economic downturn due to the Coronavirus has adversely affected Melissa's business and she expects that her business turnover will fall by more than 30% compared to a typical month one year ago (i.e. in 2019).

On this basis, Melissa will be able to apply for the JobKeeper Payment and would receive \$1,500 per fortnight (before tax), which will be paid to her on a monthly basis in arrears.

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